

Territory, State, or District of the United States.¹

(c) The inspector in Hawaii shall determine that such fruits and vegetables are in a satisfactory frozen state before issuing a certificate. The inspector on the mainland will release the shipment on the basis of the certificate issued in Hawaii.

(d) The movement from Hawaii of frozen fruits and vegetables is not authorized when such fruits and vegetables are subject to attack, in the area of origin, by plant pests that may not, in the judgment of the Administrator of the Animal and Plant Health Inspection Service, be destroyed by freezing.

(e) Freezing of fruits and vegetables as authorized in this section is considered necessary for the elimination of pest risk, and no liability shall attach to the United States Department of Agriculture or to any officer or representative of that Department in the event of injury resulting to fruits or vegetables offered for movement in accordance with the instructions of this section.

[24 FR 10777, Dec. 29, 1959, as amended at 55 FR 38979, Sept. 24, 1990]

§ 318.13-4b Administrative instructions; conditions governing the interstate movement from Hawaii of certain fruits for which treatment is required.

(a) *General restrictions.* Fruits listed in this section may only be moved interstate from Hawaii in accordance with this section or in accordance with other applicable sections in this subpart.

(b) *Eligible fruits.* The following fruits may be moved interstate from Hawaii if, prior to interstate movement, they are inspected for plant pests by an inspector and are then treated for fruit flies under the supervision of an inspector with a treatment prescribed in the Plant Protection and Quarantine (PPQ) Treatment Manual, which is incorporated by reference at §300.1 of this chapter: Avocados, bell peppers, carambolas, eggplants, Italian squash,

¹ Applications for certificates to move frozen fruits and vegetables from Hawaii under this subpart may be made to Plant Protection and Quarantine Programs, P.O. Box 9067, Honolulu, Hawaii 96820.

litchi, longan, papayas, pineapples (other than smooth cayenne), rambutan, and tomatoes.

(c) *Subsequent handling.* All handling of fruits subsequent to treatment in Hawaii must be carried out under the supervision of an inspector and according to the inspector's instructions.

(d) *Destination restrictions.* Litchi and longan that are moved interstate from Hawaii under this section may not be moved into Florida due to the litchi rust mite (*Eriophyes litchi*). Cartons used to carry such fruits must be stamped: "Not for movement into or distribution in FL."

(e) *Costs and charges.* All costs of treatment and any post-treatment safeguards prescribed by an inspector must be borne by the owner of the fruits or the owner's representative. The services of an inspector during regularly assigned hours of duty and at the usual place of duty are furnished by APHIS without charge.

(f) *Department not responsible for damages.* Treatments prescribed in the PPQ Treatment Manual are judged from experimental tests to be safe for use with the fruits listed in paragraph (b) of this section. However, the Department assumes no responsibility for any damage sustained through or in the course of the treatment, or because of safeguards required by an inspector.

[67 FR 41157, June 17, 2002]

§ 318.13-4c Administrative instructions approving methyl bromide fumigation as a condition for certification of tomatoes for movement from Hawaii.

The Administrator of the Animal and Plant Health Inspection Service hereby approves methyl bromide fumigation, applied in accordance with the provisions of this section, as a treatment for tomatoes from Hawaii. Tomatoes treated and handled as provided in this section may be certified for movement from Hawaii to other parts of the United States.

(a) *Approved fumigation.* (1) The approved fumigation shall consist of fumigation with methyl bromide at normal atmospheric pressure, in a fumigation chamber which has been approved for that purpose by the Animal and Plant Health Inspection Service. The