

§ 318.58-11

(i) As containerized cargo on ships or other ocean-going craft or as air cargo;

(ii) The carrier has on file documentary evidence that a valid certificate or limited permit was issued for the movement; and

(iii) A notation of the existence of these documents is made by the carrier on the waybill, manifest, or bill of lading that accompanies the shipment.

(3) Cargo moved in accordance with § 318.58-12 of this subpart that does not have a limited permit attached to the cargo must have a limited permit attached to the waybill, manifest, or bill of lading accompanying the shipment.

(g) *Removal of certain cargoes in Guam.* No person shall remove or attempt to remove from a designated inspection area as provided in § 318.58-10(h), on or off the means of conveyance, any cargo moved from Puerto Rico or the Virgin Islands of the United States to Guam containing fruits, vegetables, or other articles regulated under this subpart, unless the cargo has been inspected and passed by an inspector in Guam.

(h) *Space and facilities for baggage inspection.* Baggage inspection will not be performed until the person in charge or possession of the ship, other ocean-going craft, or aircraft provides space and facilities on the means of conveyance, pier or airport that are adequate, in the inspector's judgment, for the performance of inspections.

[54 FR 3581, Jan. 25, 1989, as amended at 58 FR 7962, Feb. 11, 1993]

§ 318.58-11 Disinfection of means of conveyance.

If an inspector, through an inspection pursuant to this subpart, finds that a means of conveyance is infested with or contains any plant pest, and the inspector orders disinfection of the means of conveyance, then the person in charge or in possession of the means of conveyance shall disinfect the means of conveyance and its cargo, in accordance with an approved method contained in the Plant Protection and Quarantine Treatment Manual under the supervision of an inspector and in a manner prescribed by the inspector, prior to any movement of the means of conveyance or its cargo. The Plant Protection and Quarantine Treatment

7 CFR Ch. III (1-1-03 Edition)

Manual is incorporated by reference at § 300.1 of this chapter.

[67 FR 8465, Feb. 25, 2002]

§ 318.58-12 Transit of fruits and vegetables from Puerto Rico and the Virgin Islands of the United States into or through the continental United States.

Fruits and vegetables from Puerto Rico and the Virgin Islands of the United States that are otherwise prohibited movement from those territories into or through the continental United States by this subpart may transit the continental United States en route to a foreign destination when moved in accordance with this section and any other applicable provisions of this subpart. Any additional restrictions on such movement that would otherwise be imposed by part 301 of this chapter and §§ 318.30 and 318.30a of this part shall not apply.

(a) *Transit permit.* (1) A transit permit is required for the arrival, unloading, and movement into or through the continental United States of fruits and vegetables otherwise prohibited by this subpart from being moved into or through the continental United States from Puerto Rico or the Virgin Islands of the United States. Application for a transit permit must be made in writing.² The transit permit application must include the following information:

(i) The specific types of fruits and vegetables to be shipped (only scientific or English names are acceptable);

(ii) The means of conveyance to be used to transport the fruits and vegetables into or through the continental United States;

(iii) The port of arrival in the continental United States, and the location of any subsequent stop;

(iv) The location of, and the time needed for, any storage in the continental United States;

² Applications for transit permits should be submitted to the Animal and Plant Health Inspection Service, Plant Protection and Quarantine, Port Operations, Permit Unit, 4700 River Road Unit 136, Riverdale, Maryland 20737-1236.

(v) Any location in the continental United States where the fruits and vegetables are to be transloaded;

(vi) The means of conveyance to be used for transporting the fruits and vegetables from the port of arrival in the continental United States to the port of export;

(vii) The estimated time necessary to accomplish exportation, from arrival at the port of arrival in the continental United States to exit at the port of export;

(viii) The port of export; and

(ix) The name and address of the applicant and, if the applicant's address is not within the territorial limits of the United States, the name and address in the United States of an agent whom the applicant names for acceptance of service of process.

(2) A transit permit will be issued only if the following conditions are met:

(i) APHIS inspectors are available at the port of arrival, port of export, and any locations at which transloading of cargo will take place, and, in the case of air shipments, at any interim stop in the continental United States, as indicated on the application for the transit permit;

(ii) The application indicates that the proposed movement would comply with the provisions in this section applicable to the transit permit; and

(iii) During the 12 months prior to receipt of the application by APHIS, the applicant has not had a transit permit withdrawn under § 318.58–16 of this subpart, unless the transit permit has been reinstated upon appeal.

(b) *Limited Permit.* Fruits and vegetables shipped from Puerto Rico or the Virgin Islands of the United States into or through the continental United States under this section must be accompanied by a limited permit, a copy of which must be presented to an inspector at the port of arrival and the port of export in the continental United States, and at any other location in the continental United States where an air shipment is authorized to stop or where overland shipments change means of conveyance. An inspector will issue a limited permit if the following conditions are met:

(1) The inspector determines that the specific type and quantity of the fruits and vegetables being shipped are accurately described by accompanying documentation, such as the accompanying manifest, waybill, and bill of lading. (Only scientific or English names are acceptable.) The fruits and vegetables shall be assembled at whatever point and in whatever manner the inspector designates as necessary to comply with the requirements of this section; and

(2) The inspector establishes that the shipment of fruits and vegetables has been prepared in compliance with the provisions of this section.

(c) *Marking requirements.* Each of the smallest units, including each of the smallest bags, crates, or cartons, containing fruits and vegetables for transit into or through the continental United States under this section must be conspicuously marked, prior to the locking and sealing of the container in Puerto Rico or the Virgin Islands of the United States, with a printed label that includes, a description of the specific type and quantity of the fruits and vegetables (only scientific or English names are acceptable), the transit permit number under which the fruits and vegetables are to be shipped, and, in English, the fact that they were grown in Puerto Rico or the Virgin Islands of the United States and the statement "Distribution in the United States is Prohibited."

(d) *Handling of fruits and vegetables.* Fruits and vegetables shipped into or through the continental United States from Puerto Rico or the Virgin Islands of the United States in accordance with this section may not be commingled in the same sealed container with articles that are intended for entry and distribution in the continental United States. The fruits and vegetables must be kept in sealed containers from the time the limited permit required by paragraph (b) of this section is issued, until the fruits and vegetables exit the continental United States, except as otherwise provided in the regulations in this section. Transloading must be carried out in accordance with the requirements of paragraphs (a), (h), and (i) of this section.

(e) *Area of movement.* The port of arrival, the port of export, ports for air

stops, and overland movement within the continental United States of fruits and vegetables shipped under this section is limited to a corridor that includes all States of the continental United States except Alabama, Arizona, California, Florida, Georgia, Kentucky, Louisiana, Mississippi, Nevada, New Mexico, North Carolina, South Carolina, Tennessee, Texas, and Virginia, except that movement is allowed through Dallas/Fort Worth, Texas, as an authorized stop for air cargo, or as a transloading location for shipments that arrive by air but that are subsequently transloaded into trucks for overland movement from Dallas/Fort Worth into the designated corridor by the shortest route. Movement through the continental United States must begin and end at locations staffed by APHIS inspectors.³

(f) *Movement of fruits and vegetables.* Transportation through the continental United States shall be by the most direct route to the final destination of the shipment in the country to which it is exported, as determined by APHIS based on commercial shipping routes and timetables and set forth in the transit permit. No change in the quantity of the original shipment from that described in the limited permit is allowed. No remarking is allowed. No diversion or delay of the shipment from the itinerary described in the transit permit and limited permit is allowed unless authorized by an APHIS inspector upon determination by the inspector that the change will not significantly increase the risk of plant pests or diseases in the United States, and unless each port to which the shipment is diverted is staffed by APHIS inspectors.

(g) *Notification in case of emergency.* In the case of an emergency such as an accident, a mechanical breakdown of the means of conveyance, or an unavoidable deviation from the prescribed route, the person in charge of the means of conveyance must, as soon as practicable, notify the APHIS office at

³For a list of ports staffed by APHIS inspectors, contact the Animal and Plant Health Inspection Service, Plant Protection and Quarantine, Port Operations, Permit Unit, 4700 River Road Unit 136, Riverdale, Maryland 20737-1236.

the port where the cargo arrived in the continental United States.

(h) *Shipments by sea.* Except as authorized by this paragraph, shipments arriving in the continental United States by sea from Puerto Rico or the Virgin Islands of the United States may be transloaded once from a ship to another ship or, alternatively, once to a truck or railcar at the port of arrival and once from a truck or railcar to a ship at the port of export, and must remain in the original sealed container, except under extenuating circumstances and when authorized by an inspector upon determination by the inspector that the transloading would not significantly increase the risk of the introduction of plant pests or diseases into the continental United States, and provided that APHIS inspectors are available to provide supervision. No other transloading of the shipment is allowed, except under extenuating circumstances (e.g., equipment breakdown) and when authorized by an inspector upon determination by the inspector that the transloading would not significantly increase the risk of the introduction of plant pests or diseases into the continental United States, and provided that APHIS inspectors are available to provide supervision.

(i) *Shipments by air.* (1) Shipments arriving in the continental United States by air from Puerto Rico or the Virgin Islands of the United States may be transloaded only once in the continental United States. Transloading of air shipments must be carried out in the presence of an APHIS inspector. Shipments arriving by air that are transloaded may be transloaded either into another aircraft or into a truck trailer for export by the most direct route to the final destination of the shipment through the designated corridor set forth in paragraph (e) of this section. This may be done at either the port of arrival in the United States or at the second air stop within the designated corridor, as authorized in the transit permit and as provided in paragraph (1)(2) of this section. No other transloading of the shipment is allowed, except under extenuating circumstances (e.g., equipment breakdown) and when authorized by an

APHIS inspector upon determination by the inspector that the transloading would not significantly increase the risk of the introduction of plant pests or diseases into the continental United States, and provided that APHIS inspectors are available to provide supervision. Transloading of air shipments will be authorized only if the following conditions are met:

(i) The transloading is done into sealable containers;

(ii) The transloading is carried out within the secure area of the airport—*i.e.*, that area of the airport that is open only to personnel authorized by the airport security authorities;

(iii) The area used for any storage is within the secure area of the airport; and

(iv) APHIS inspectors are available to provide the supervision required by paragraph (i)(1) of this section.

(2) Except as authorized by paragraph (f) of this section, shipments that continue by air from the port of arrival in the continental United States may be authorized by APHIS for only one additional stop in the continental United States, provided the second stop is within the designated corridor set forth in paragraph (e) of this section and is staffed by APHIS inspectors. As an alternative to transloading a shipment arriving in the United States into another aircraft, shipments that arrive by air may be transloaded into a truck trailer for export by the most direct route to the final destination of the shipment through the designated corridor set forth in paragraph (e) of this section. This may be done at either the port of arrival in the United States or at the second authorized air stop within the designated corridor. No other transloading of the shipment is allowed, except under extenuating circumstances (e.g., equipment breakdown) and when authorized by an APHIS inspector upon determination by the inspector that the transloading would not significantly increase the risk of the introduction of plant pests or diseases into the continental United States, and provided that APHIS inspectors are available to provide supervision.

(j) *Duration and location of storage.* Any storage in the continental United

States of fruits and vegetables shipped under this section must be for a duration and in a location authorized in the transit permit required by paragraph (a) of this section. Areas where such fruits and vegetables are stored must be either locked or guarded at all times the fruits and vegetables are present. Cargo shipped under this section must be kept in a sealed container while stored in the continental United States.

(k) *Temperature requirement.* Except for time spent on aircraft and except during storage and transloading of air shipments, the temperature in the sealed containers containing fruits and vegetables moved under this section must be 60 °F or lower from the time the fruits and vegetables leave Puerto Rico or the Virgin Islands of the United States until they exit the continental United States.

(1) *Prohibited materials.* (1) The person in charge of or in possession of a sealed container used for movement into or through the continental United States under this section must ensure that the sealed container is carrying only those fruits and vegetables authorized by the transit permit required under paragraph (a) of this section; and

(2) The person in charge of or in possession of any means of conveyance or container returned to the United States without being reloaded after being used to export fruits and vegetables from the United States under this section must ensure that the means of conveyance or container is free of materials prohibited importation into the United States under this chapter.

(m) Authorization by APHIS of the movement of fruits and vegetables into or through the continental United States under this section does not imply that the fruits and vegetables are enterable into the destination country. Shipments returned to the United States from the destination country shall be subject to all applicable regulations, including “Subpart—Fruits and Vegetables” of part 319 of this chapter, and part 352 of this chapter.

(n) Any restrictions and requirements with respect to the arrival, temporary stay, unloading, transloading,

§ 318.58-13

transiting, exportation, or other movement or possession in the United States of any fruits or vegetables under this section shall apply to any person who, respectively, brings into, maintains, unloads, transloads, transports, exports, or otherwise moves or possesses in the United States such fruits or vegetables, whether or not that person is the one who was required to have a transit permit or limited permit for the fruits or vegetables or is a subsequent custodian of the fruits or vegetables. Failure to comply with all applicable restrictions and requirements under this section by such a person shall be deemed to be a violation of this section.

(Approved by the Office of Management and Budget under control number 0579-0088)

[58 FR 7962, Feb. 11, 1993; 58 FR 40190, July 27, 1993, as amended at 59 FR 67133, Dec. 29, 1994; 59 FR 67609, Dec. 30, 1994]

§ 318.58-13 Movements by the Department of Agriculture.

Notwithstanding any other restrictions of this subpart, articles subject to the requirements of the regulations in this subpart may be moved if they are moved:

- (a) By the United States Department of Agriculture for experimental or scientific purposes;
- (b) Pursuant to a Departmental permit issued for the article and kept on file at the port of departure;
- (c) Under conditions specified on the Departmental permit and found by the Administrator to be adequate to prevent the spread of plant pests and diseases; and,
- (d) With a Departmental tag or label bearing the number of the Departmental permit issued for the article securely attached to the outside of the container of the article or securely attached to the article itself if not in container.

[54 FR 3582, Jan. 25, 1989]

§ 318.58-14 Parcel post inspection.

Inspectors are authorized to inspect, with the cooperation of the U.S. Post Office Department, parcel post packages placed in the mails in Puerto Rico or the Virgin Islands of the United States, to determine whether such

7 CFR Ch. III (1-1-03 Edition)

packages contain products the movement of which is not authorized under this subpart, to examine products so found for insect infestation, and to notify the postmaster in writing of any violation of this subpart in connection therewith.

[24 FR 10777, Dec. 29, 1959, as amended at 28 FR 13281, Dec. 7, 1963. Redesignated at 54 FR 3582, Jan. 25, 1989]

§ 318.58-15 Costs and charges.

Plant Protection and Quarantine shall furnish the services of the inspector during regularly assigned hours of duty at the usual places of duty without cost to the person requesting the services. Plant Protection and Quarantine will not assume responsibility for any costs or charges, other than those indicated in this paragraph, in connection with the inspection, treatment, conditioning, storage, forwarding, or any other operation incidental to the movement of regulated articles under this subpart.

[54 FR 3583, Jan. 25, 1989]

§ 318.58-16 Cancellation of certificates, transit permits, or limited permits.

Any certificate, transit permit, or limited permit that has been issued or authorized under this subpart may be withdrawn by an inspector orally or in writing if he or she determines that the holder of the certificate, transit permit, or limited permit has not complied with all conditions under the regulations for the use of the document. If the cancellation is oral, the decision and the reasons for the withdrawal shall be confirmed in writing as promptly as circumstances allow. Any person whose certificate, transit permit, or limited permit has been withdrawn may appeal the decision in writing to the Administrator within ten (10) days after receiving written notification of the withdrawal. The appeal must state all of the facts and reasons upon which the person relies to show that the certificate, transit permit, or limited permit was wrongfully withdrawn. As promptly as circumstances allow, the Administrator will grant or deny the appeal, in writing, stating the reasons for the decision. A hearing will be held to resolve any conflict as to