

processor requests in writing the withdrawal of approval.

(2) The Administrator will deny or withdraw approval of an irradiation treatment facility when any provision of this section is not met. Before withdrawing or denying approval, the Administrator will inform the irradiation processor in writing of the reasons for the proposed action and provide the irradiation processor with an opportunity to respond. The Administrator will give the irradiation processor an opportunity for a hearing regarding any dispute of a material fact, in accordance with rules of practice that will be adopted for the proceeding. However, the Administrator will suspend approval pending final determination in the proceeding, if he or she determines that suspension is necessary to prevent the spread of any dangerous insect infestation. The suspension will be effective upon oral or written notification, whichever is earlier, to the irradiation processor. In the event of oral notification, written confirmation will be given to the irradiation processor within 10 days of the oral notification. The suspension will continue in effect pending completion of the proceeding and any judicial review of the proceeding.

(e) *Department not responsible for damage.* This treatment is approved to assure quarantine security against the Trifly complex and other plant pests. From the literature available, the fruits and vegetables authorized for treatment under this section are believed tolerant to the treatment; however, the facility operator and shipper are responsible for determination of tolerance. The Department of Agriculture and its inspectors assume no responsibility for any loss or damage resulting from any treatment prescribed or supervised. Additionally, the Nuclear Regulatory Commission is responsible for ensuring that irradiation facilities are constructed and operated in a safe manner. Further, the Food and Drug Administration is responsible for ensuring that irradiated foods are

safe and wholesome for human consumption.

(Approved by the Office of Management and Budget under control number 0579-0198)

[62 FR 36974, July 10, 1997, as amended at 63 FR 65648, Nov. 30, 1998; 68 FR 5800, Feb. 5, 2003; 68 FR 37935, June 26, 2003]

**§ 318.13-4g Administrative instructions governing movement of avocados from Hawaii to Alaska.**

Avocados may be moved interstate from Hawaii to Alaska without being certified in accordance with § 318.13-4 (a) or (b) only under the following conditions:

(a) *Distribution and marking requirements.* The avocados may be moved interstate for distribution in Alaska only, the boxes of avocados must be clearly marked with the statement "Distribution limited to the State of Alaska", and the shipment must be identified in accordance with the requirements of § 318.13-6.

(b) *Commercial shipments.* The avocados may be moved in commercial shipments only.

(c) *Packing requirements.* The avocados must have been sealed in the packing house in Hawaii in boxes with a seal that will break if the box is opened.

(d) *Ports.* The avocados may enter the continental United States only at the following ports: Portland, Oregon; Seattle, Washington; or any port in Alaska.

(e) *Shipping requirements.* The avocados must be moved either by air or ship and in a sealed container. The avocados may not be commingled in the same sealed container with articles that are intended for entry and distribution in any part of the United States other than Alaska. If the avocados arrive at either Portland, Oregon or Seattle, Washington, they may be transloaded only under the following conditions:

(1) *Shipments by sea.* The avocados may be transloaded from one ship to another ship at the port of arrival, provided they remain in the original sealed container and that APHIS inspectors supervise the transloading. If the avocados are stored before reloading, they must be kept in the original sealed container and must be in an

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area that is either locked or guarded at all times the avocados are present.

(2) *Shipments by air.* The avocados may be transloaded from one aircraft to another aircraft at the port of arrival, provided 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 of the shipment is within the secure area of the airport, and is either locked or guarded at all times the avocados are present. The avocados must be kept in a sealed container while stored in the continental United States en route to Alaska; and

(iv) APHIS inspectors supervise the transloading.

(3) *Exceptions.* No transloading other than that described in paragraphs (e) (1) and (2) of this section is allowed except under extenuating circumstances (such as equipment breakdown) and when authorized and supervised by an APHIS inspector.

(f) *Limited permit.* Shipments of avocados must be accompanied by a limited permit issued by an APHIS inspector in accordance with § 318.13-4(c) of this subpart. The limited permit will be issued only if the inspector examines the shipment and determines that the shipment has been prepared in compliance with the provisions of this section.

[59 FR 66642, Dec. 28, 1994]

**§ 318.13-4h [Reserved]**

**§ 318.13-4i Administrative instructions; conditions governing the movement of green bananas from Hawaii.**

Green bananas (*Musa* spp.) of the cultivars “Williams,” “Valery,” “Grand Nain,” and standard and dwarf “Brazilian” may be moved interstate from Hawaii with a certificate issued in accordance with §§ 318.13-3 and 318.13-4 of this subpart if the bananas meet the following conditions:

(a) The bananas must be picked while green and packed for shipment within

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24 hours after harvest. If the green bananas will be stored overnight during that 24-hour period, they must be stored in a facility that prevents access by fruit flies;

(b) No bananas from bunches containing prematurely ripe fingers (i.e., individual yellow bananas in a cluster of otherwise green bananas) may be harvested or packed for shipment;

(c) The bananas must be inspected by an inspector and found free of plant pests as well as any of the following defects: prematurely ripe fingers, fused fingers, or exposed flesh (not including fresh cuts made during the packing process); and

(d) The bananas must be safeguarded from fruit fly infestation from the time that they are packaged for shipment until they reach the port of arrival on the mainland United States.

[63 FR 65648, Nov. 30, 1998]

**§ 318.13-4j Administrative instructions governing the interstate movement of cut blooms of gardenia from Hawaii.**

Cut blooms of gardenia may be moved interstate from Hawaii if grown and inspected in accordance with the provisions of this section.

(a) The grower's production area must be inspected annually by an inspector and found free of green scale. If green scale is found during an inspection, a 2-month ban will be placed on the interstate movement of cut blooms of gardenia from that production area. Near the end of the 2 months, an inspector will reinspect the grower's production area to determine whether green scale is present. If reinspection determines that the production area is free of green scale, shipping may resume. If reinspection determines that green scale is still present in the production area, another 2-month ban on shipping will be placed on the interstate movement of gardenia from that production area. Each ban will be followed by reinspection in the manner specified, and the production area must be found free of green scale prior to interstate movement.

(b) The grower must establish a buffer area surrounding gardenia production areas. The buffer area must extend 20 feet from the edge of the production