

# Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

#### 7 CFR Parts 300 and 318

[Docket No. 98–127–1]

#### Rambutan, Longan, and Litchi From Hawaii

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

**ACTION:** Proposed rule.

**SUMMARY:** We are proposing to amend the Hawaiian fruits and vegetables regulations to provide alternative treatments for rambutan, longan, and litchi moving interstate from Hawaii. This proposed action would facilitate the interstate movement of rambutan, longan, and litchi from Hawaii while continuing to provide protection against the spread of injurious plant pests from Hawaii to other parts of the United States. We are also proposing to consolidate and update the existing regulations governing the interstate movement of certain fruits from Hawaii in order to make them easier to understand.

**DATES:** We will consider all comments that we receive by September 17, 2001.

**ADDRESSES:** Please send four copies of your comment (an original and three copies) to: Docket No. 98–127–1, Regulatory Analysis and Development, PPD, APHIS, Suite 3C03, 4700 River Road, Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. 98–127–1.

You may read any comments that we receive on this docket in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690–2817 before coming.

APHIS documents published in the **Federal Register**, and related information, including the names of organizations and individuals who have commented on APHIS dockets, are available on the Internet at <http://www.aphis.usda.gov/ppd/rad/webrepor.html>.

#### FOR FURTHER INFORMATION CONTACT:

Donna L. West, Import Specialist, Phytosanitary Issues Management Team, PPQ, APHIS, 4700 River Road Unit 140, Riverdale, MD 20737–1236; (301) 734–6799.

#### SUPPLEMENTARY INFORMATION:

##### Background

The Hawaiian Fruits and Vegetables regulations, contained in 7 CFR 318.13 through 318.13–17 (referred to below as the regulations), govern, among other things, the interstate movement of fruits and vegetables from Hawaii. Regulation is necessary to prevent the spread of dangerous plant diseases and pests that exist in Hawaii, including the Mediterranean fruit fly (*Ceratitis capitata*), the melon fly (*Bactrocera cucurbitae*), and the Oriental fruit fly (*Bactrocera dorsalis*).

The regulations currently require specified fruits to undergo treatment as a condition of movement from Hawaii to other States. In some cases, the treatment schedules are set forth in the regulations, while in others, the regulations require that fruit be treated in accordance with a treatment listed in the Plant Protection and Quarantine (PPQ) Treatment Manual, which is incorporated by reference at 7 CFR 300.1(a).

In this document, we are proposing to add several treatments to the PPQ Treatment Manual, provide alternative treatments for rambutan, longan, litchi, and several other fruits, remove specific treatment schedules from § 318.13–4b of the regulations, and consolidate several sections of the regulations into a revised § 318.13–4b. The proposed changes are described below, by commodity.

##### *Bell Peppers, Eggplants, Pineapples (Other than Smooth Cayenne), Italian Squash, and Tomatoes*

Under the current regulations in § 318.13–4b, bell peppers, eggplants, pineapples (other than smooth cayenne), Italian squash, and tomatoes may be moved interstate from Hawaii if, among other things, they are treated

with the vapor heat treatment prescribed in the regulations. This treatment, which requires that fruits be treated with vapor heat at 110 °F for 8.75 hours, differs from the vapor heat treatment specified in the PPQ Treatment Manual for those fruits. The PPQ Treatment Manual specifies the following vapor heat treatment for bell peppers, eggplants, pineapples (other than smooth Cayenne), Italian squash, and tomatoes:

Vapor Heat Treatment for *Ceratitis Capitata* (Mediterranean Fruit fly), *Bactrocera Dorsalis* (Oriental Fruit fly), and *Bactrocera Cucurbitae* (Melon fly)

1. Raise temperature of article by saturated water vapor at 112 °F until approximate center of fruit reaches 112 °F within a time period designated by the PPQ officer.

2. Hold fruit temperature at 112 °F for 8.75 hours, then cool immediately. Pretreatment conditioning is optional and is the responsibility of the shipper.

The above treatment is preferable to the treatment listed in § 318.13–4b(a)(1) because research conducted by the Agricultural Research Service (ARS) has shown that certain pests of bell peppers, eggplants, pineapples (other than smooth cayenne), Italian squash, and tomatoes may not be eliminated by vapor heat treatment at less than 112 °F.

Therefore, we are proposing to remove the treatment in § 318.13–4b(a)(1) for bell peppers, eggplants, pineapples (other than smooth cayenne), Italian squash, and tomatoes and replace it with a requirement that those fruits be treated in accordance with the PPQ Treatment Manual, or any applicable treatment provided in the regulations. (Tomatoes may also be treated with methyl bromide in accordance with § 318.13–4c.)

In conjunction with this change, we would remove § 318.13–4b(e)(2), which explains that eggplants need to be properly conditioned in order to tolerate the required vapor heat treatment. Since the conditioning of eggplants is at the discretion of the shipper and is not required under the regulations, § 318.13–4b(e)(2) would not need to be included in the revised regulations.

##### *Papaya*

Under the current regulations in § 318.13–4b, papayas may be moved interstate from Hawaii if, among other things, they are treated with a vapor

heat treatment prescribed in §§ 318.13–4b(a)(1) or (a)(2). Paragraph (a)(1) requires that fruits be treated with vapor heat at 110 °F for 8.75 hours. Paragraph (a)(2) requires that fruits be treated with vapor heat until the approximate center of the fruit reaches 117 °F. This second option is referred to as a “quick run-up” treatment.

As is the case with bell peppers and the other fruits discussed above, the treatment in paragraph (a)(1) is no longer in use for papayas. The “quick run-up” vapor heat treatment provided in paragraph (a)(2) is the only vapor heat treatment currently being used in Hawaii to treat papayas. Therefore, we are proposing to remove the treatment listed in paragraph (a)(1) as a treatment for papayas, and, since the “quick run-up” treatment is not listed in the PPQ Treatment Manual, we would add it to the PPQ Treatment Manual, and remove it from the regulations in § 318.13–4b. The treatment is as follows:

Vapor Heat Treatment for *Ceratitidis Capitata* (Mediterranean Fruit fly), *Bactrocera Dorsalis* (Oriental Fruit fly), and *Bactrocera Cucurbitae* (Melon fly)

1. Raise temperature of article by saturated water vapor at 117 °F until approximate center of fruit reaches 117 °F in a minimum time period of 4 hours.

In conjunction with this change, we would amend the regulations in § 318.13–4b to provide that papayas may be moved interstate from Hawaii if treated in accordance with the PPQ Treatment Manual, or any other applicable treatment provided in the regulations. (Papayas may also be treated with irradiation in accordance with § 318.13–4f.)

Further, we would also remove § 318.13–4b(e)(3), which explains that papayas need to be properly conditioned in order to tolerate the required vapor heat treatment. Since the conditioning of papayas is at the discretion of the shipper and is not required under the regulations, § 318.13–4b(e)(3) would not need to be included in the revised regulations.

#### *Avocado and Carambola*

Currently, the regulations in §§ 318.13–4d and 318.13–4h provide for the interstate movement of avocados and carambolas, respectively, from Hawaii if the fruits are treated for certain pests in accordance with the PPQ Treatment Manual. In order to streamline the regulations, we propose to remove the regulations in §§ 318.13–4d and 318.13–4h and add avocados and carambolas to the revised § 318.13–4b, which would list certain fruits that are eligible for movement from Hawaii

if they are first treated in accordance with the PPQ Treatment Manual. Carambola could also be treated with irradiation in accordance with § 318.13–4.

#### *Litchi*

Under the current regulations in § 318.13–4e, litchi may be moved interstate from Hawaii to all States except Florida if, among other things, they are inspected for, and found free of, the litchi fruit moth (*Cryptophlebia* spp.) and are then treated for certain pests in accordance with the PPQ Treatment Manual, which calls for a hot water treatment. Litchi may also be moved interstate from Hawaii to all States except Florida if treated with irradiation in accordance with the regulations in § 318.13–4f. In both cases, the regulations specify that litchi may not be moved into Florida because one pest, the litchi rust mite (*Eriophyes litchi*), would not be easily detected by an inspector. Therefore, the entry of litchi from Hawaii into Florida, where most mainland litchi is grown, is prohibited as a precaution against the possible introduction of the litchi rust mite. Accordingly, the regulations require that cartons in which the litchi are packed be stamped “Not for importation into or distribution in FL.”<sup>1</sup>

In order to streamline the regulations, we are proposing to remove the requirements in § 318.13–4e and add litchi to the revised § 318.13–4b, which would list fruits that are eligible for movement from Hawaii if they are first treated in accordance with the PPQ Treatment Manual or in accordance with any applicable treatment provided in the regulations. We would also add requirements to the revised § 318.13–4b to make it clear that litchi and any other fruits moving interstate from Hawaii under the regulations in § 318.13–4b must be inspected and found free of plant pests prior to treatment. Further, we would amend § 318.13–4b to state that litchi would not be eligible for movement into Florida, and cartons in which the litchi are packed would be required to be stamped “Not for movement into or distribution in FL.”

Based on research and recommendations by ARS, we are also proposing to add a new vapor heat treatment, which is explained below, to the PPQ Treatment Manual for litchi moving interstate from Hawaii. Research

conducted by ARS indicates that this treatment would provide probit 9 quarantine security (99.997 percent mortality or no more than 3 individuals surviving from an estimated treatment population of 100,000) against any potential infestations of Mediterranean fruit fly or Oriental fruit fly.

ARS has determined, however, that this new vapor heat treatment, like the existing hot water treatment, may not affect other pests that may be carried by litchi (i.e., the litchi rust mite). Because the litchi rust mite would not be easily detected by an inspector, the movement of vapor heat-treated litchi from Hawaii into Florida would, as is the case with hot water-treated litchi, be prohibited.

Other pests that may be carried by litchi could be easily detected by inspection. Therefore, we would require that prior to treatment, the litchi must be inspected for the presence of scales, mealybugs, thrips, and other plant pests. If the litchi are found free of such pests, the following vapor heat treatment would be applied under the supervision of an inspector of the Animal and Plant Health Inspection Service (APHIS):

1. The internal temperature of the fruits is to be raised to 117 °F (or above) until the fruit seed surface temperature (largest fruits) reaches 117 °F. The total run-up time (all sensors) must take at least 60 minutes.

2. Fruit is to be held at a temperature of 117 °F (or above) at 90 percent relative humidity or above for 20 minutes.

3. Fruit is to be hydrocooled under a cool water spray until probed fruit return to ambient temperature.

4. The inspector must perform a careful visual inspection of the treated fruit to confirm the absence of other live pest species of quarantine significance. If any of the following are found live, the inspector will reject the treatment: *Cryptophlebia illepidia* (koa seed worm), *Cryptophlebia ombrodelta* (litchi fruit moth), *Epiphyas postvittana* (light brown apple moth), *Eriophyes litchi* (litchi rust mite).

This treatment would provide an alternative to the existing hot water treatment provided in the PPQ Treatment Manual and the irradiation treatment provided in § 318.13–4f.

#### *Rambutan*

Rambutan (*Nephelium lappaceum* L.) fruit is a recorded host of the Mediterranean fruit fly and Oriental fruit fly, among other pests, but is not a recorded host of melon fly. Currently, rambutan is only allowed to move interstate from Hawaii if it is treated with irradiation in accordance with the regulations in § 318.13–4f.

<sup>1</sup> The current regulations uses the term “importation” incorrectly. Products moving to the mainland from Hawaii are being “moved” in interstate commerce, and are not being “imported” into the United States. This proposed rule would amend the regulations to reflect the proper terminology.

Based on research and recommendations by ARS, we are proposing to add two treatments to the PPQ Treatment Manual for rambutan moving interstate from Hawaii. ARS research indicates that these high temperature forced air and vapor heat treatments, which are described below, would provide probit 9 quarantine security against any potential infestations of Mediterranean fruit fly or Oriental fruit fly.

Prior to treatment, the rambutan would have to be inspected for the presence of scales, mealybugs, thrips, and other plant pests. If the rambutan is found free of such pests, the following treatment would be applied using either high temperature forced air or vapor heat, under the supervision of an APHIS inspector:

1. The internal temperature of rambutan is to be raised by high temperature forced air or saturated water vapor to 117 °F (47.2 °C) during a period of 1 hour or longer.
2. Fruits are to be held at or above 117 °F (47.2 °C) or above for 20 minutes. (For vapor heat treatment, fruits must also be held at 90 percent relative humidity during the same 20 minutes).
3. Cooling the fruits is optional.

In conjunction with this change, we would also amend the regulations to say that rambutan may be moved interstate from Hawaii if treated in accordance with the PPQ Treatment Manual, or any applicable treatment provided in the regulations. These treatments would provide alternatives to the existing irradiation treatment for rambutan provided in § 318.13–4f.

#### Longan

Longan (*Dimocarpus longan* Lour.) fruit is a recorded host of the Mediterranean fruit fly and Oriental fruit fly, among other pests, but is not a recorded host for melon fly. Currently, longan is only allowed to move interstate from Hawaii to all States except Florida if it is treated with irradiation in accordance with the regulations in § 318.13–4f.

Based on research and recommendations by ARS, we are proposing to add a hot water treatment to the PPQ Treatment Manual for longan moving interstate from Hawaii. ARS research indicates that this treatment, which is described below, would provide probit 9 quarantine security against any potential infestations of Mediterranean fruit fly or Oriental fruit fly.

ARS has determined, however, that the hot water treatment may not affect other pests that may be carried by longan (i.e., the litchi rust mite).

Because the litchi rust mite would not be easily detected by an inspector, the entry of longan from Hawaii into Florida, where most mainland longan and other hosts of the litchi rust mite are grown, would be prohibited and cartons in which longan from Hawaii are packed would be required to be stamped “Not for movement into or distribution in FL.” This prohibition would be consistent with the requirement in § 318.13–4f that irradiated longan may not be moved into Florida due to the litchi rust mite.

Other pests that may be carried by longan could be easily detected by inspection. Therefore, we would require that prior to treatment, the longan must be inspected for the presence of scales, mealybugs, thrips, and other plant pests. If the longan are found free of such pests, the following treatment would be applied, under the supervision of an APHIS inspector:

1. Fruits must be at ambient temperature before treatment begins.
2. Fruits must be submerged at least 4 inches below the surface in a certified hot water immersion treatment tank.
3. Water must circulate constantly, and be kept at 120.2 °F (or above) for 20 minutes. Treatment time begins when the water temperature reaches at least 120.2 °F in all locations throughout the tank. Note: Temperatures exceeding 121.1 °F can cause phytotoxic damage.
4. Hydrocooling for 20 minutes at 75.2°F is recommended, though not required, to prevent injury to the fruit from the hot water immersion treatment.

In conjunction with this change, we would also amend the regulations to provide that longan may be moved interstate from Hawaii to all States except Florida if treated in accordance with the PPQ Treatment Manual, or any other applicable treatment provided in the regulations. This treatment would provide an alternative to the existing irradiation treatment for longan provided in § 318.13–4f.

#### Miscellaneous

We are also proposing to correct an error in § 318.13–2 of the regulations. Under paragraph (b) of that section, all species of the genus *Allium* may be moved from Hawaii in accordance with the regulations in the subpart. We are proposing to amend the regulations to provide that only Chinese chives (*Allium tuberosum*) and bulb forms of *Allium* spp. are eligible to move from Hawaii in accordance with the regulations. We are proposing this change because some species of the genus *Allium* (including leeks and some other species not typically shipped or otherwise traded in bulb form) are

known to host a leaf miner (*Acrolepiopsis sapporensis*) that does not exist in the mainland United States and that may present a risk to mainland agriculture.

#### Executive Order 12866 and Regulatory Flexibility Act

This proposed rule has been reviewed under Executive Order 12866. For this action, the Office of Management and Budget has waived its review process required by Executive Order 12866.

In this document, we are proposing to amend the Hawaiian fruits and vegetables regulations to provide for the interstate movement of rambutan, litchi, and longan from Hawaii after the fruit is treated, under certain conditions, for fruit flies. Under our proposal, those fruits would be allowed to move interstate from Hawaii if they are first inspected and then treated for pests using the following types of treatments:

Fruit	Treatments
Rambutan .....	High temperature forced air or vapor heat.
Litchi .....	Vapor heat.
Longan .....	Hot water.

This proposed action would facilitate the interstate movement of rambutan, longan, and litchi from Hawaii while continuing to provide protection against the spread of injurious plant pests from Hawaii to other parts of the United States.

The above fruits are already allowed to move interstate from Hawaii if treated with irradiation in accordance with the regulations in § 318.13–4f. Litchi may also be moved interstate from Hawaii if treated with hot water in accordance with the PPQ Treatment Manual; however, there are currently no hot water treatment facilities in use in Hawaii. Longan and litchi are not allowed to be moved into Florida due to the risk of introducing the litchi rust mite into areas in Florida where longan and litchi are commercially grown.

Providing alternative pest treatment methods for rambutan, litchi, and longan fruits from Hawaii is expected to stimulate growth of the industry and provide access to the larger mainland market.

Production of rambutan in Hawaii decreased from 264,300 pounds in 1997 to about 139,200 pounds in 1998. Rambutan farm prices increased from \$2.71 per pound to \$3.03 per pound during that period. There are approximately 50 farms in Hawaii that produce rambutan, and each of those farms can be considered to be small entities according to Small Business

Administration (SBA) criteria (i.e., a producer with less than \$500,000 in annual sales).

In 1998, the United States produced approximately 2.3 million pounds of litchi, with Hawaii producing 157,000 pounds of litchi, valued at \$309,000, during that same period. There are approximately 75 farms in Hawaii that produce litchi, and each is a small entity according to SBA criteria.

The United States produces approximately 1.4 million pounds of longan (mostly in Florida) annually, with a market value of approximately \$767,000. Hawaii produced approximately 17,000 pounds of longan in 1998. Any producers of longan in Hawaii are likely to be small entities according to SBA criteria. However, given that Hawaii produces small volumes of longan, it is unlikely that a significant amount of longan would be moved interstate from Hawaii if this proposed rule is adopted.

Currently, there are nine treatment firms in Hawaii that perform the treatments required under the regulations. Four firms use the vapor heat treatment method, four use the dry heat or high temperature forced air method, and one uses the irradiation method. There are no hot water treatment facilities in operation in Hawaii.

Vapor heat and high temperature forced air treatments require between 4 and 6 hours of treatment. The cost of treatment ranges from 0.92 to 2.3 cents per pound (approximately \$18.40 to \$46.00 per ton with capital construction cost of about \$0.9 million to \$1.2 million), while irradiation requires about 40 minutes of treatment at a cost of approximately 0.93 to 1.58 cents per pound (approximately \$18.60 to \$31.60 per ton with capital construction cost of about \$2.8 million to \$3.8 million for a freestanding facility).

A hot water treatment tank fitted with four baskets costs about \$75,000 and has a useful life of about 10 years. Using hot water treatment as an alternative would cost, taking into account the opportunity cost of capital, labor cost, and fuel cost, about \$13.95 per ton. A hot water treatment tank fitted with four bins has capacity to treat about 8 tons of fruit per hour. Unless there is a large volume of fruit available for treatment, the equipment would likely be underutilized.

Producers would be able to utilize existing facilities in Hawaii to treat fruits under the conditions specified in this proposed rule. The proposed rule would likely result in increased revenue for the existing vapor heat and dry heat facilities in Hawaii. Additionally,

growers in Hawaii would benefit from the increased opportunity for selling their products in a larger and more diverse market and from potential decreases in the cost of treating fruits. If producers respond by planting and harvesting more acreage of these fruits, both consumers and firms that provide treatment services are likely to benefit.

All of the treatment methods would be more economical for owners of facilities and sellers of fruits if the treatments are applied to larger shipments. Initial investment associated with the treatments considered here would depend on the number, capacity, and complexity of required facilities. Costs per pound of fruit treated can rise dramatically when capital-intensive facilities are operated at less than design capacity. This would happen when the commodity is not shipped year round, or when production decreases dramatically (as in the case of a freeze), or if trade patterns or the regulatory environment changes substantially. The effect of underutilized capital equipment on per-unit treatment costs tends to be greater the more expensive the initial capital investment. For example, a recent study estimated that operating strawberry irradiators at 25 percent of their annual throughput capacity can increase the cost of irradiating strawberries by 212 percent, from \$0.034/lb treated (when plant is operated at 100 percent annual capacity) to \$0.106/lb treated (when plant is operated at only 25 percent of capacity).

The economic effects of this proposed rule on mainland growers and prices on the mainland are not expected to be significant. However, mainland consumers of fresh rambutan, litchi, and longan would likely benefit from increased seasonal and regional availability and from the increased variety of fresh fruits, as well as from more stable prices.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action would not have a significant economic impact on a substantial number of small entities.

#### Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No.10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

#### Executive Order 12988

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. If this proposed rule is

adopted: (1) All State and local laws and regulations that are inconsistent with this rule will be preempted; (2) no retroactive effect will be given to this rule; and (3) administrative proceedings will not be required before parties may file suit in court challenging this rule.

#### Paperwork Reduction Act

This proposed rule contains no new information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

#### List of Subjects

##### 7 CFR Part 300

Incorporation by reference, Plant diseases and pests, Quarantine.

##### 7 CFR Part 318

Cotton, Cottonseeds, Fruits, Guam, Hawaii, Incorporation by reference, Plant diseases and pests, Puerto Rico, Quarantine, Transportation, Vegetables, Virgin Islands.

Accordingly, we propose to amend 7 CFR parts 300 and 318 as follows:

#### PART 300—INCORPORATION BY REFERENCE

1. The authority citation for part 300 would continue to read as follows:

**Authority:** 7 U.S.C. 7701–7772; 7 CFR 2.22, 2.80, and 371.3.

2. In § 300.1, paragraph (a), the introductory text would be revised to read as follows:

##### § 300.1 Materials incorporated by reference.

(a) *Plant Protection and Quarantine Treatment Manual.* The Plant Protection and Quarantine Treatment Manual, which was reprinted November 30, 1992, and includes all revisions through [date], has been approved for incorporation by reference in 7 CFR chapter III by the Director of the Office of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

\* \* \* \* \*

#### PART 318—HAWAIIAN AND TERRITORIAL QUARANTINE NOTICES

3. The authority citation for part 318 would be revised to read as follows:

**Authority:** U.S.C. 7711, 7712, 7714, 7731, 7754, and 7756; 7 CFR 2.22, 2.80, and 371.3.

4. In § 318.13–2, paragraph (b), the entry for *Allium* spp. would be removed and the following entries would be added in its place:

##### § 318.13–2 Regulated articles.

\* \* \* \* \*

(b) \* \* \*

Allium spp. (bulb only)

Allium tuberosum

\* \* \* \* \*

5. Section 318.13–4b, would be revised to read as follows:

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

(a) *General instructions.* 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, 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.

**§ 318.13–4d [Removed and reserved]**

6. Section 318.13–4d would be removed and reserved.

**§ 318.13–4e Removed and reserved]**

7. Section 318.13–4e would be removed and reserved.

**§ 318.13–4h Removed and reserved]**

8. Section 318.13–4h would be removed and reserved.

Done in Washington, DC, this 11th day of July 2001.

Bobby R. Acord,

*Acting Administrator, Animal and Plant Health Inspection Service.*

[FR Doc. 01–17803 Filed 7–17–01; 8:45 am]

BILLING CODE 3410–34–U

## DEPARTMENT OF JUSTICE

### Immigration and Naturalization Service

#### 8 CFR Parts 211 and 212

[INS No. 2047–00]

RIN 1115–AF65

#### Entry Requirements for Citizens of the Republic of the Marshall Islands, the Federated States of Micronesia, and Palau

**AGENCY:** Immigration and Naturalization Service, Justice.

**ACTION:** Proposed rule.

**SUMMARY:** This rule is designed to remedy two problems that have arisen in connection with section 141(a) of the Compact of Free Association between the United States of America and the Republic of the Marshall Islands and with the Federated States of Micronesia (48 U.S.C. 1910 note), and the Compact of Free Association between the United States of America and Palau (48 U.S.C. 1931, note) (Compacts, Compact countries). That section confers on citizens of the Compact countries certain privileges to enter the United States as *nonimmigrants*, subject, however, to several exceptions set forth in section 141(a)(3)(c) and section 143 of the Compacts.

This rule will clarify the entry requirements for citizens of the Compact countries who have been adopted by citizens or lawful permanent residents of the United States. The purpose of this aspect of the rule is to prevent the abuse of the entry privileges of section 141(a) of the Compacts as a means of circumventing statutory provisions designed to protect adopted children from abuse or exploitation.

In addition, this rule will correct an omission in the codification of section 141(a) of the Compacts in 8 CFR 212.1(d). That Codification inadvertently failed to include the exceptions to entry privileges of citizens

of the Compact countries. By incorporating those exceptions in 8 CFR 212.1(d)(2), the rule will bring the Immigration and Naturalization Service (Service) regulations into compliance with the Compacts.

**DATES:** Written comments must be submitted on or before August 17, 2001.

**ADDRESSES:** Please submit written comments to the Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, 425 I Street, NW., Room 4034, Washington, DC 20536. To ensure proper handling, please reference INS No. 2047–00 on your correspondence. Comments may also be submitted electronically to the Service at [insregs@usdoj.gov](mailto:insregs@usdoj.gov). When submitting comments electronically please include INS No. 2047–00 in the subject box. Comments are available for public inspection at the above address by calling (202) 514–3048 to arrange for an appointment.

**FOR FURTHER INFORMATION CONTACT:** Michael Biggs, Assistant Director, Residence and Status Services, Office of Adjudications, Immigration and Naturalization Service, 425 I Street, NW., Room 3214, Washington, DC 20536, telephone (202) 514–4754.

#### SUPPLEMENTARY INFORMATION:

#### What Are the Entry Privileges of Citizens of the Compact Countries Under the Compacts, and How Does This Rule Affect Those Privileges?

The Compacts both provide in section 141(a), with certain exceptions discussed *infra*, for the following privileges for most citizens of the Compact countries who seek to enter into the United States as *nonimmigrants*. Such citizens of the Compact countries may enter into the United States, lawfully engage in occupations, accept employment, and establish residence as *nonimmigrants* in the United States, its territories and possessions, without regard to section 212(a)(5)(A) (labor certification), (7)(A) (immigrant visa) and (B) (nonimmigrant visa) of the Immigration and Nationality Act (Act). (Previously sections 212(a)(14), (20) and (26) of the Act). This rule does not affect the existing Compact entry privileges.

The Service notes that sections 212(a)(7)(A) and (B) of the Act which are waived by section 141(a) of the Compacts contain not only visa requirements, but also a passport requirement. The waiver contained in section 141(a) of the Compacts therefore appears to include a waiver of the need to present a passport upon entry into the United States. However, practical