

bell peppers, eggplants, mangoes, pineapples (other than smooth Cayenne), Italian squash, and tomatoes before they are moved interstate. However, if there is not enough capacity at the Hawaiian plant for the fruits to be irradiated, the fruits can be sent for treatment to any of the three irradiation treatment facilities on the mainland United States.

According to SBA criteria, the facility in Hawaii mentioned in the previous paragraphs is a small entity (*i.e.*, an entity with annual sales of less than \$5 million). Another firm that provides irradiation treatments for fruits and vegetables owns two irradiation facilities in Illinois and one facility in New Jersey. This other firm, which primarily provides irradiation treatment to sanitize medical devices, is not a small entity according to SBA criteria.

This final rule benefits the Hawaiian treatment facility, and may benefit the mainland facilities if the Hawaiian facility cannot keep up with demand for treatment of fruits and vegetables moving interstate from Hawaii. The final rule could also potentially benefit U.S. mainland consumers by increasing the mainland's supply of those fruits and vegetables that will now be eligible for interstate movement with irradiation treatment.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will 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 final rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are inconsistent with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

#### Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the information collection or recordkeeping requirements included in this rule have been approved by the Office of Management and Budget (OMB) under OMB control number

0579–0198. Government Paperwork Elimination Act Compliance

The Animal and Plant Health Inspection Service is committed to compliance with the Government Paperwork Elimination Act (GPEA), which requires Government agencies in general to provide the public the option of submitting information or transacting business electronically to the maximum extent possible. For information pertinent to GPEA compliance related to this rule, please contact Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 734–7477.

#### List of Subjects in 7 CFR Part 318

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

Accordingly, we are amending 7 CFR part 318 as follows:

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

1. The authority citation for part 318 continues to read as follows:

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

2. Section 318.13–4f is amended as follows:

a. By revising paragraphs (a), (b)(2)(i), (b)(5), and (b)(6)(ii) to read as set forth below.

b. By adding, at the end of the section, the following: “(Approved by the Office of Management and Budget under control number 0579–0198)”.

#### § 318.13–4f Administrative instructions prescribing methods for irradiation treatment of certain fruits and vegetables from Hawaii.

(a) *Approved irradiation treatment.* Irradiation, carried out in accordance with the provisions of this section, is approved as a treatment for the following fruits and vegetables at the specified dose levels:

#### IRRADIATION FOR FRUIT FLIES AND SEED WEEVILS IN HAWAIIAN FRUITS AND VEGETABLES

Fruit	Dose (gray)
Abiu .....	250
Atemoya .....	250
Bell pepper .....	250
Carambola .....	250
Eggplant .....	250
Litchi .....	250
Longan .....	250
Mango .....	300
Papaya .....	250
Pineapple (other than smooth Cayenne) .....	250

#### IRRADIATION FOR FRUIT FLIES AND SEED WEEVILS IN HAWAIIAN FRUITS AND VEGETABLES—Continued

Fruit	Dose (gray)
Rambutan .....	250
Sapodilla .....	250
Italian squash .....	250
Tomato .....	250

\* \* \* \* \*

(b) \* \* \*

(2) \* \* \*

(i) Be capable of administering the minimum absorbed ionizing radiation doses specified in paragraph (a) of this section to the fruits and vegetables;<sup>2</sup>

\* \* \* \* \*

(5) *Dosage.* The fruits and vegetables must receive the minimum absorbed ionizing radiation dose specified in paragraph (a) of this section.<sup>5</sup>

(6) \* \* \*

(ii) Absorbed dose must be measured using a dosimeter that can accurately measure the absorbed doses specified in paragraph (a) of this section.

\* \* \* \* \*

Done in Washington, DC this 30th day of January 2003.

**Kevin Shea,**

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

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#### DEPARTMENT OF AGRICULTURE

#### Animal and Plant Health Inspection Service

#### 7 CFR Part 318

[Docket No. 01–042–2]

#### Interstate Movement of Gardenia From Hawaii

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

**ACTION:** Final rule.

**SUMMARY:** We are amending the Hawaiian fruits and vegetables regulations to provide for the movement of cut blooms of gardenia from Hawaii. We have determined that specific growing and inspection protocols can effectively mitigate the plant pest risks associated with gardenia grown in Hawaii. This action provides for the interstate movement of gardenia from

<sup>2</sup> The maximum absorbed ionizing radiation dose and the irradiation of food is regulated by the Food and Drug Administration under 21 CFR part 179.

<sup>5</sup> See footnote 2.