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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 318

[Docket No. APHIS-2012-0008]

RIN 0579-AD70

Interstate Movement of Sharwil Avocados From Hawaii

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We are proposing to amend the Hawaii quarantine regulations to allow the interstate movement of untreated Sharwil avocados from Hawaii into the continental United States. As a condition of movement, Sharwil avocados from Hawaii would have to be produced in accordance with a systems approach that would include requirements for registration and monitoring of places of production and packinghouses, an orchard trapping program, grove sanitation, limits on harvest periods and distribution areas, and harvesting and packing requirements to ensure that only intact fruit that have been protected against infestation are shipped. This action would allow for the interstate movement of Sharwil avocados from Hawaii into other States while continuing to provide protection against the introduction of quarantine pests.

DATES: We will consider all comments that we receive on or before [Insert date 60 days after date of publication in the Federal Register].

ADDRESSES: You may submit comments by either of the following methods:

- Federal eRulemaking Portal: Go to <http://www.regulations.gov/#!documentDetail;D=APHIS-2012-0008-0001>.
- Postal Mail/Commercial Delivery: Send your comment to Docket No. APHIS-2012-0008, Regulatory Analysis and Development, PPD, APHIS, Station 3A-03.8, 4700 River Road Unit 118, Riverdale, MD 20737-1238.

Supporting documents and any comments we receive on this docket may be viewed at <http://www.regulations.gov/#!docketDetail;D=APHIS-2012-0008> or in our reading room, which 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) 799-7039 before coming.

FOR FURTHER INFORMATION CONTACT: Mr. David Lamb, Regulatory Policy Specialist, Regulatory Coordination and Compliance, PPQ, APHIS, 4700 River Road Unit 133, Riverdale, MD 20737-1231; (301) 851-2103.

SUPPLEMENTARY INFORMATION:

Background

Under the regulations in 7 CFR part 318, “State of Hawaii and Territories Quarantine Notices” (referred to below as the regulations), the Animal and Plant Health Inspection Service (APHIS) of the U.S. Department of Agriculture (USDA or the Department) prohibits or restricts the interstate movement of fruits, vegetables, and other products from Hawaii, Puerto Rico, the U.S. Virgin Islands, and Guam to the continental United States to prevent the spread of plant pests that occur in Hawaii and the territories.

Among other things, the regulations allow interstate movement of Sharwil avocados from Hawaii to the continental United States only if the avocados undergo fumigation, or combined fumigation and cold treatment for fruit flies. The regulations also allow untreated Sharwil avocados to move to Alaska, which has a climate where fruit flies cannot become established. APHIS has received a request from the Hawaii Department of Agriculture to allow interstate movement of untreated mature green Sharwil avocado fruit into the lower 48 continental United States. The treatments currently required for the movement of Sharwil avocados can have unacceptable adverse effects on the quality of the fruit.

We have evaluated the plant pest risks associated with this request and have prepared a pest risk assessment¹ (PRA) and a risk management document² (RMD). The PRA identified relevant pests of Sharwil avocado in Hawaii and examined the risks associated with the movement of Sharwil avocados into the continental United States. The RMD concludes that a systems approach could effectively mitigate the pest risk associated with such movement.

System approaches have been used successfully to authorize the importation of a variety of fruits and vegetables under the regulations in 7 CFR part 319, such as tomatoes from Spain, France, Morocco, Chile, and Central America (§ 319.56-28), citrus from Chile (§ 319.56-38), and peppers and pitaya from Central America (§§ 319.56-40 and 319.56-55). We have also successfully applied such an approach to import Hass avocados from Mexico under a systems approach for Stenoma catenifer, seed and stem weevils, and fruit flies for over 8 years with no interceptions of quarantine pests. This proposed rule describes the systems approach APHIS has

¹ “Qualitative Pathway-Initiated Risk Assessment for the Movement of Mature Green Sharwil Avocado, Persea Americana Mill., from Hawaii into Continental United States.” Available at <http://www.regulations.gov/#!docketDetail;D=APHIS-2012-0008>.

² “Interstate Movement of Mature Green ‘Sharwil’ Avocado, Persea americana Mill. from Hawaii into the Continental United States.” September, 2011. Available at <http://www.regulations.gov/#!docketDetail;D=APHIS-2012-0008>.

developed for movement of fresh Sharwil avocados from Hawaii into the continental United States.

APHIS previously allowed Hawaiian Sharwil avocados to move interstate to the lower 48 continental United States. This decision was based on research in the 1980s that showed that mature green Hawaiian Sharwil avocados are an extremely poor host for the Oriental fruit fly (Bactrocera dorsalis) and are not naturally infested with Mediterranean fruit (Ceratitis capitata (Wiedemann)) or melon fly (Bactrocera cucurbitae). However, in February 1992, Oriental fruit fly larvae were found in fruit that was qualified for interstate shipment from Hawaii under the previous systems approach, and APHIS ended the program based on these larval finds in an interim rule published and effective on July 15, 1992 (57 FR 31306-31307, Docket No. 92-081-1).

More recent research on Sharwil avocado host status to fruit flies has identified the weaknesses of the earlier program and suggests how a new systems approach can be made effective. Liquido et al. (1995)³ surveyed for field infestation of fruit flies in mature green Sharwil avocados on Kona in 1992 and 1993. Surveys were done in March-August 1992 and in September 1992–May 1993, with 5,004 samples, 4,888 of which were mature green fruits with pedicel firmly attached on the tree at the time of sampling. Out of 1,047 fruit samples collected in March 1992, 4 mature green fruits with pedicel firmly attached to the tree during sampling were infested with Oriental fruit flies; only 1 of these infested fruit had no morphological aberration. During this field survey, the area was experiencing a severe drought, and the only infested samples were found in what were considered late-season fruits. All fruit samples during the September 1992–May 1993 census had no fruit fly infestation. No other species of fruit flies

³ Liquido, N.J., H.T. Chan Jr., and G.T. McQuate. 1995. Hawaiian tephritid fruit flies (Diptera): Integrity of the infestation-free quarantine procedure for ‘Sharwil’ avocado. J. Econ. Entomol. 88(1): 85–96.

were found. Liquido et al. (1995) concluded that drought was the primary cause of the breakdown of resistance mechanisms in Sharwil avocados. Follett (2009)⁴ investigated puncture resistance of ‘Sharwil’ avocados, and Follett and Vargas (2010)⁵ proposed a modified version of the original systems approach which included measures adapted to this proposed rule.

Klungness et al. (2009)⁶ found that fruit fly populations were consistently low in Sharwil avocado orchards in Hawaii, and found only 4 larvae in 2 fruit from 489 fruit collected from the ground, both fruit from the same farm.

This research suggests conditions that foster infestation by fruit flies may be very localized and specific to certain areas and certain times. The natural resistance of Sharwil avocados to fruit fly infestation appears to break down with increase in fruit maturity or degree of ripeness and after harvest. Based on the research by Liquido et al. (1995), Sharwil avocados are not hosts of Oriental fruit flies under normal conditions but may become poor hosts of Oriental fruit fly under certain field conditions that may include water stress and nutritional deficiencies. Specifically, the failure in the Sharwil avocado program in 1991 involved unusual conditions that included soft fruit and uncontrolled fruit fly populations, conditions the new proposed systems approach is designed to avoid.

The PRA identified one quarantine pest with a high unmitigated risk potential, the Oriental fruit fly (B. dorsalis (Hendel)). It also identified eight quarantine pests with medium unmitigated risk potential. These include the scale insects, mealybugs, and moths Ceroplastes rubens Maskell, Dysmicoccus neobrevipes Beardsley, Maconellicoccus hirsutus (Green),

⁴ Follett, P.A. 2009. Puncture resistance in ‘Sharwil’ avocados to oriental fruit fly and Mediterranean fruit fly (Diptera: Tephritidae) oviposition. *Journal of Economic Entomology*. 102: 921-926.

⁵ Follett, P.A., Vargas, R.I., Jang, E.B. 2010. A Systems Approach to Mitigate Oriental Fruit Fly Risk in ‘Sharwil’ Avocados Exported From Hawaii. *Acta Horticulturae*. 880: 439-445.

⁶ Klungness, L.M., Vargas, R.I., Jang, E.B., Mau, R.F., Kinney, K. 2009. Susceptibility of ripe Avocado to Invasive Alien Fruit Flies (Tephritidae) on the Island of Hawaii. *Hawaiian Entomological Society Proceedings*. 41:1-13 2009.

Nipaecoccus viridis (Newstead), Paracoccus marginatus Williams and Granara de Willink, Pseudococcus cryptus Hempel, Epiphyas postvittana (Walker), and Cryptoblabes gnidiella Millière. The PRA also identified the scale insect Coccus viridis (Green) and Planococcus minor (Maskell) as quarantine pests of concern, but we recently established that these pests no longer meets our definition of a quarantine pest and added them to our list⁷ of pests that we no longer regulate.

The pests with medium unmitigated risk potential can be readily discerned during inspection of avocados, where inspectors can see either the pests themselves or evidence of their presence. We believe that spread of these pests can be prevented by inspection of a biometric sample of fruit for quarantine pests of concern at the packinghouse facility. However, APHIS has determined that measures beyond standard predeparture inspection are required to mitigate the risks posed by B. dorsalis.

Based on the recommendations of the RMD, the systems approach we are proposing would require:

- Registration, monitoring, and oversight of places of production to ensure that the fruit is produced in compliance with requirements of the systems approach;
- An orchard sanitation program under which fallen fruit and culls must be removed from the harvest area;
- Trapping and orchard control for B. dorsalis at the place of production;
- A limited harvest period and harvesting requirements to ensure that the fruit are harvested only at the mature green stage with stems attached;
- Post-harvest inspection of a biometric sample of the fruit;

⁷ This list can be viewed at http://www.aphis.usda.gov/plant_health/plant_pest_info/frsmp/non-reg-pests.shtml

- Packing only at a registered, screened packinghouse that maintains fruit identity and safeguards against infestation;
- Box marking to maintain fruit identity;
- Limited distribution areas for the fruit in the continental United States; and
- A compliance agreement executed in accordance with § 318.13-3(d) in which the grower agrees to comply with all the requirements of the systems approach.

Growers of Sharwil avocados who wish to ship to the continental United States would have to register their orchards and packinghouses with APHIS so that we can ensure that they meet the requirements of the systems approach with regard to their orchards, packinghouses, and operations, as described below. Registration also gives APHIS the opportunity to visit and inspect the premises as necessary to monitor compliance and to ensure that only Sharwil avocado trees are harvested for shipment under this program. During registration, growers also should usually be able to sign the compliance agreement discussed below.

We would require a place of production sanitation program mainly to ensure that fallen and damaged fruit and debris do not facilitate high pest populations, and to ensure that fallen fruit are not inadvertently collected during harvest and packed with intact mature fruit picked from the trees. This is needed because, while B. dorsalis infestations in mature green Sharwil with intact stems is very unlikely under natural field conditions, the nature of resistance Sharwil possesses does not ensure that infestation could not occur in overripe, soft, or damaged fruit. For the same reason, we would require that the fruit be harvested only at the mature hard green stage with stems attached.

Beginning at least 1 month before harvest begins and continuing through the completion of harvest, fruit fly traps would have to be maintained in the place of production where the

avocados were grown. Specific trapping requirements would be included in the compliance agreement and would be adjusted as necessary to ensure that trapping is effective. APHIS-approved traps baited with APHIS-approved lures would have to be used. The producer would have to keep records of the trap locations and fruit fly finds for each trap and make the records available to APHIS upon request. The records would have to be maintained for at least 1 year. This condition would ensure the earliest possible detection of increasing populations of fruit flies in and around fields where avocados are grown.

Additional specific trapping requirements and actions required if B. dorsalis is found in traps would be included in the compliance agreement and would be adjusted as necessary to ensure that trapping is effective. If B. dorsalis is detected by the trapping at an actionable rate as specified in the compliance agreement, control actions required by the compliance agreement or ordered by an inspector must be taken. Consistent with the recommendations of the RMD, the compliance agreement would initially require bait sprays approved by APHIS to be used to control fruit flies in the orchard if B. dorsalis is detected by the trapping at a rate above 0.4 flies per trap per day.

The harvest period would be limited to November 1 through March 31. Limiting the harvest season will prevent overripe fruit that are more susceptible to pests from entering the pathway. Late in the harvest season, overripe fruit are more likely to be found in the orchard and might be picked by accident.

Packing could be performed only at a registered, screened packinghouse that maintains fruit identity and safeguards against infestation. The fruit would be packed in boxes marked “Distribution limited to the following States: CO, CT, DE, DC, ID, IL, IN, IA, KS, KY, ME, MD, MA, MI, MN, MO, MT, NE, NH, NJ, NY, ND, OH, PA, RI, SD, UT, VT, VA, WA, WV,

WI, and WY.” The consignment also would be identified in accordance with the requirements of §318.13-3(g).

Distribution of Sharwil avocados in the continental United States would be limited to 32 northern-tier States and the District of Columbia. The limited distribution would ensure that if any fruit with fruit flies are shipped, the hosts and climate conditions at their destination will not allow them to reproduce.

The allowed destinations would be Colorado, Connecticut, Delaware, District of Columbia, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Montana, Nebraska, New Hampshire, New Jersey, New York, North Dakota, Ohio, Pennsylvania, Rhode Island, South Dakota, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin, and Wyoming.

We would also require that persons who move avocados in accordance with the regulations would have to sign a compliance agreement agreeing to comply with such conditions as may be required by an inspector in each specific case to prevent infestation of the avocados and spread of B. dorsalis. This compliance agreement is needed both to aid enforcement and to adapt implementation of the regulations to each distinct situation. Individual compliance agreements would help to ensure that growers are not burdened by requirements if they are not necessary due to the situation or operations at their particular premises. Compliance agreements can also provide detailed guidance on how to comply with regulatory requirements in a grower’s particular situation. The nature and operations of compliance agreements are described in the current regulations in § 318.13–3(d). Each compliance agreement will specify safeguards necessary for the particular situation.

Following harvest, a biometric sample of the fruit would be inspected by APHIS following any post-harvest processing. A biometric sample of a size determined by APHIS would be visually inspected for quarantine pests, and a portion of the fruit will be cut open to detect internal pests, including B. dorsalis. If any B. dorsalis are found, the entire consignment of avocados would be prohibited from movement to the destination States allowed by this rule, and the place of production producing that fruit will be suspended from the interstate shipment program until APHIS conducts an investigation and appropriate remedial actions have been implemented. If any other quarantine pests, but not B. dorsalis, are found, the entire consignment of avocados will be prohibited from interstate movement unless it is treated with an approved quarantine treatment monitored by APHIS.

Sharwil avocados produced under this systems approach will be inspected by APHIS as part of predeparture clearance inspections in Hawaii. Infested consignments will be rejected, and APHIS will conduct traceback to identify and correct problems. When necessary, corrective action will include removal of the packinghouse and orchard from the interstate movement program.

Executive Order 12866 and Regulatory Flexibility Act

This proposed rule has been determined to be not significant for the purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget.

In accordance with the Regulatory Flexibility Act, we have analyzed the potential economic effects of this action on small entities.

This proposed rule would allow the interstate movement of untreated Sharwil avocados from Hawaii into the continental United States if the avocados are produced in accordance with a systems approach to prevent the spread of B. dorsalis and other pests.

The 2007 Census of Agriculture reported that there were a total of 8,245 avocado farms in the United States, with about 76 percent in California, 13 percent in Hawaii, and 11 percent in Florida. Average gross receipts for California avocado producers for the 2007-08 season was about \$52,700, compared to average receipts of about \$12,700 for Florida's growers and about \$750 for Hawaii's growers. The Small Business Administration's small-entity standard for avocado farms is annual receipts of not more than \$750,000. While nearly all U.S. avocado operations are small entities, it is evident that there is significant variation among the three States in average farm size.

We anticipate that Sharwil avocado consignments from Hawaii to the mainland would total about 180 metric tons per year, equivalent to about one-half of 1 percent of the U.S. supply of non-Hass avocados and to less than one-twentieth of 1 percent of the U.S. supply of all avocado varieties. They would be shipped between November and March, supplementing winter supplies.

Hawaii avocado production is estimated at 1.0 million pounds for the 2008-09 season, and 660,000 pounds for the 2009-10 season. The decline appears to be associated with adverse weather conditions.

Avocado production in the United States largely takes place in California, where nearly all of the fruit grown is of the small, dark-colored, rough-skinned Hass variety. In Florida and Hawaii, varieties like the Sharwil, which is much larger and bright green in color, are predominant. Most avocado imports and exports by the United States are Hass. Given our

limited understanding of the strength of consumers' preferences for the various avocado varieties (that is, their degree of substitutability), we consider potential effects of the proposed rule for producers of non-Hass varieties as well as for all U.S. avocado farmers.⁸

While the proposed rule would benefit Hawaiian avocado producers by allowing them to use a systems approach to mitigate pest risk, making the sale of Sharwil avocados to the continental United States more economically feasible, the quantity that is expected to be shipped would not significantly affect the mainland avocado market overall or the more limited market for non-Hass varieties. With imports providing one-third of the U.S. supply of non-Hass avocados and two-thirds of the U.S. supply of all avocados, any effects of the proposed rule for U.S. mainland producers would be further muted. Moreover, the Sharwil avocados from Hawaii would be shipped between November and March, when there is increased reliance on foreign suppliers. Any market effects of the proposed rule could be expected to be borne proportionately by avocados supplied from abroad during the winter months.

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.)

⁸ One indicator of distinct markets is sizable price differences. For the four production years 2006-07 through 2009-10, California avocados had an average wholesale price of 96 cents per pound, compared to 70 cents per pound for Hawaii avocados and 30 cents per pound for Florida avocados. (2011 Agricultural Statistics Annual, Table 5-16. http://www.nass.usda.gov/Publications/Ag_Statistics/2011/Chapter05.pdf)

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

In accordance with section 3507(d) of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.), the information collection or recordkeeping requirements included in this proposed rule have been submitted for approval to the Office of Management and Budget (OMB). Please send written comments to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for APHIS, Washington, DC 20503. Please state that your comments refer to Docket No. APHIS-2012-0008. Please send a copy of your comments to: (1) Docket No. APHIS-2012-0008, Regulatory Analysis and Development, PPD, APHIS, Station 3A-03.8, 4700 River Road Unit 118, Riverdale, MD 20737-1238, and (2) Clearance Officer, OCIO, USDA, room 404-W, 14th Street and Independence Avenue SW., Washington, DC 20250. A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication of this proposed rule.

Allowing the interstate movement of Sharwil avocados from Hawaii into the continental United States would require production and packinghouse site registrations, box markings, and compliance agreements. We are soliciting comments from the public (as well as affected agencies) concerning our proposed information collection and recordkeeping requirements. These comments will help us:

(1) Evaluate whether the proposed information collection is necessary for the proper performance of our agency's functions, including whether the information will have practical utility;

(2) Evaluate the accuracy of our estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the information collection on those who are to respond (such as through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology; e.g., permitting electronic submission of responses).

Estimate of burden: Public reporting burden for this collection of information is estimated to average 0.037540 hours per response.

Respondents: Producers and importers of avocados.

Estimated annual number of respondents: 30.

Estimated annual number of responses per respondent: 51.5.

Estimated annual number of responses: 1,545.

Estimated total annual burden on respondents: 58 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

Copies of this information collection can be obtained from Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 851-2908.

E-Government Act Compliance

The Animal and Plant Health Inspection Service is committed to compliance with the E-Government Act to promote the use of the Internet and other information technologies, to provide increased opportunities for citizen access to Government information and services, and for other purposes. For information pertinent to E-Government Act compliance related to this proposed rule, please contact Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 851-2908.

Lists 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 propose to amend 7 CFR part 318 as follows:

PART 318—STATE OF HAWAII AND TERRITORIES QUARANTINE NOTICES

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

Authority: 7 U.S.C. 7701-7772 and 7781-7786; 7 CFR 2.22, 2.80, and 371.3.

2. A new § 318.13-20 is added to read as follows:

§ 318.13-20 Sharwil avocados from Hawaii to continental United States.

Commercial shipments of Sharwil avocados may be moved interstate from Hawaii to the continental United States without treatment under the following conditions:

(a) Registration. Persons wishing to move Sharwil avocados in accordance with this section must register the avocados' place of production and the packinghouse that packs the avocados. A registration form may be obtained from local APHIS offices in Hawaii. Persons registering places of production or packinghouses must agree to allow inspectors access to the places of production and packinghouses as necessary to monitor compliance with this section.

(b) Grove sanitation. Avocado fruit that has fallen from the trees must be removed from each place of production at least once every 7 days and in compliance with any schedule specified in the compliance agreement required in paragraph (h) of this section. Fallen avocado fruit may not be included in field containers of fruit brought to the packinghouse to be packed for interstate movement.

(c) Trapping and orchard control. (1) Beginning at least 1 month before harvest, the place of production of the avocados must have a trapping system in place for B. dorsalis that complies with all conditions specified in the compliance agreement required in paragraph (h) of this section. APHIS-approved traps and APHIS-approved lures must be used, and the place of production or the packinghouse must retain for at least 1 year data regarding the number and location of the traps, as well as any fruit flies that have been caught, and make this information available to APHIS upon request.

(2) If B. dorsalis is detected by the trapping at an actionable rate as specified in the compliance agreement, control actions required by the compliance agreement or ordered by an inspector must be taken.

(d) Harvesting requirements. Avocados may only be harvested between November 1 and March 31. Avocados must be hard ripe fruit at the mature green stage with stems attached. Fruit must not indent with moderate finger pressure and no part of the fruit shall be soft. The fruit must be moved to a registered packinghouse within 12 hours of harvest or must be protected from fruit fly infestation until moved. The fruit must be safeguarded by an insect-proof screen or plastic tarpaulin while in transit to the packinghouse and while awaiting packing.

(e) Packinghouse requirements. During the time registered packinghouses are in use for packing avocados for movement to the continental United States, the packinghouses may only

accept avocados that are from registered places of production and that are produced in accordance with the requirements of this section and of the compliance agreement required in paragraph (h) of this section.

(1) Avocados must be packed within 24 hours of harvest in an insect-exclusionary packinghouse. All openings to the outside of the packinghouse must be covered by screening with openings of not more than 1.6 mm or by some other barrier that prevents pests from entering.

(2) Fruit must be packed in insect-proof packaging, or covered with insect-proof mesh or a plastic tarpaulin, for transport to the continental United States. These safeguards must remain intact until arrival in the continental United States.

(3) Fruit boxes must be clearly marked “Distribution limited to the following States: CO, CT, DE, DC, ID, IL, IN, IA, KS, KY, ME, MD, MA, MI, MN, MO, MT, NE, NH, NJ, NY, ND, OH, PA, RI, SD, UT, VT, VA, WA, WV, WI, and WY” and each consignment must be identified in accordance with the requirements of § 318.13-3(g).

(f) Inspection. A biometric sample of a size determined by APHIS will be visually inspected for quarantine pests by an inspector, and a portion of the fruit will be cut open to detect internal pests, including B. dorsalis. If any quarantine pests are found, the entire consignment of avocados will be prohibited from interstate movement unless it is treated with an approved quarantine treatment monitored by APHIS. If any B. dorsalis are found, the entire consignment of avocados will be prohibited from interstate movement, and the place of production producing that fruit will be suspended from the interstate shipment program until APHIS conducts an investigation and appropriate remedial actions have been implemented.

(g) Limited distribution. No Sharwil avocados moved under this program may be shipped to locations in the continental United States other than Colorado, Connecticut, Delaware, District of Columbia, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Montana, Nebraska, New Hampshire, New Jersey, New York, North Dakota, Ohio, Pennsylvania, Rhode Island, South Dakota, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin, and Wyoming.

(h) Compliance agreement. Persons wishing to move avocados in accordance with this section must sign a compliance agreement in accordance with § 318.13–3(d) of this part in which he or she agrees to comply with such conditions as may be required by the inspector in each specific case to prevent infestation.

Done in Washington, DC, this 4th day of February 2013.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2013-02781 Filed 02/06/2013 at 8:45 am; Publication Date: 02/07/2013]