

**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 0579-0197.

**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.

**Subpart—Hawaiian Fruits, Vegetables, and Flowers**

2. The heading for the subpart is revised to read as set forth above.

**§ 318.13-1 [Amended]**

3. In § 318.13-1, in the definition of *fruits and vegetables*, the word "mellons" is corrected to read "melons".

**§ 318.13-2 [Amended]**

4. In § 318.13-2, paragraph (b) is amended as follows:

a. In the introductory text, by removing the words "fruits and

vegetables" and adding the word "articles" in their place.

b. In the list of regulated articles, by adding, in alphabetical order, an entry for "Gardenia (cut blooms)".

c. At the end of the section, in the sentence following the list, by removing the words "and vegetables" and adding the words ", vegetables, or other products" in their place and by removing the words "fruits or vegetables" and adding the words "articles" in their place.

**§ 318.13-3 [Amended]**

5. In § 318.13-3, paragraph (b)(1) is amended by removing the words "gardenia, mauna loa," and adding the words "mauna loa" in their place and by adding the words ", and except any cut blooms of gardenia not grown in accordance with § 318.13-4j" after the word "thereof".

**§ 318.13-4 [Amended]**

6. Section 318.13-4 is amended as follows:

a. In paragraph (a), by removing the words "Fruits and vegetables" and adding the words "Regulated articles" in their place.

b. In paragraph (c)(2), by removing the words "fruits and vegetables" and adding the words "fruits, vegetables, or other products" in their place.

7. A new § 318.13-4j is added to read as follows:

**§ 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 area. Within the buffer area, the growing of gardenias and the following green scale host plants is prohibited: Ixora, ginger (*Alpinia purpurata*), plumeria, coffee, rambutan, litchi, guava, citrus, anthurium, avocado, banana, cocoa, macadamia, celery, *Pluto indicia* (a weed introduced into Hawaii), mango, orchids, and annona.

(c) An inspector must visually inspect the cut blooms of gardenias in each shipment prior to interstate movement from Hawaii to the mainland United States. If the inspector does not detect green scale in the shipment, the inspector would issue a certificate for the shipment in accordance with § 318.13-4(a). If the inspector finds green scale in a shipment, that shipment will be ineligible for interstate movement from Hawaii.

(Approved by the Office of Management and Budget under control number 0579-0197)

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

**Kevin Shea,**

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

[FR Doc. 03-2683 Filed 2-4-03; 8:45 am]

**BILLING CODE 3410-34-P**

**DEPARTMENT OF AGRICULTURE****Animal and Plant Health Inspection Service****9 CFR Part 94**

[Docket No. 01-037-2]

**Importation of Used Farm Equipment From Regions Affected With Foot-and-Mouth Disease**

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

**ACTION:** Affirmation of interim rule as final rule.

**SUMMARY:** We are adopting as a final rule, without change, an interim rule that amended the regulations concerning foot-and-mouth disease to prohibit the importation of used farm equipment from regions affected with foot-and-mouth disease unless the equipment has been steam-cleaned prior to export to the United States so that it is free of exposed dirt and other particulate matter. The interim rule also provided that cleaned equipment that arrives at the port of arrival with a minimal amount of exposed dirt may, under certain conditions, be cleaned at

the port of arrival. The interim rule was necessary to help prevent the introduction of foot-and-mouth disease into the United States.

**EFFECTIVE DATE:** The interim rule became effective on March 31, 2001.

**FOR FURTHER INFORMATION CONTACT:** Dr. Karen James-Preston, Assistant Director, Technical Trade Services Team, National Center for Import and Export, VS, APHIS, 4700 River Road Unit 40, Riverdale, MD 20737-1231; (301) 734-8364.

**SUPPLEMENTARY INFORMATION:**

**Background**

The regulations in 9 CFR part 94 (referred to below as the regulations) govern the importation of specified animals and animal products into the United States in order to prevent the introduction of various animal diseases, including foot-and-mouth disease (FMD). Because of the highly communicable nature of FMD, it is necessary to protect livestock that are free of the disease from any animals, animal products, or other articles that might be contaminated with the FMD virus.

In an interim rule effective March 31, 2001, and published in the **Federal Register** on May 13, 2002 (67 FR 31935-31938, Docket No. 01-037-1), we amended the regulations to prohibit the importation of used farm equipment from regions affected with FMD unless the equipment was steam-cleaned prior to export to the United States so that it is free of exposed dirt and other particulate matter. Such equipment must also be accompanied by an original certificate signed by an authorized official of the national animal health service of the country of origin stating that such cleaning was done. We also provided that cleaned equipment that arrives at a U.S. port with the required certification from the exporting region but is found upon Animal and Plant Health Inspection Service (APHIS) inspection to contain a minimal amount of exposed dirt or other particulate matter may be cleaned at the port of arrival should the APHIS inspector determine that there are adequate facilities and personnel at the port to conduct such cleaning without the risk of disease contamination.

Comments on the interim rule were required to be received on or before July 12, 2002. We received two comments by that date, from a farmer and a representative of a dairy industry organization. Both commenters supported the interim rule but requested that additional steps be taken to prevent the introduction of FMD into the United States. One commenter asked APHIS to ensure that dirt or other particulate matter trapped in large tires on farm equipment would be adequately cleaned. We believe that the cleaning and inspection requirements established by the interim rule will be adequate to ensure that any such residue will be eliminated.

The second commenter supported the requirement for pre-export steam cleaning, but suggested that if an APHIS inspector notes exposed dirt on the equipment at the port of arrival and determines that the equipment can be cleaned, APHIS should require not only that the equipment be steam-cleaned but disinfected as well, using an approved disinfectant. The interim rule provides that all used farm equipment imported into the United States must be steam-cleaned free of all exposed dirt and other particulate matter. If such equipment were to arrive at the port of entry with more than a minimal amount of exposed soil present, it would be clear to an inspector that the required cleaning was not properly conducted and the equipment would be denied entry. The inspector may only allow cleaning at the port of entry if the amount of exposed soil is minimal enough to allow cleaning and there are adequate facilities and personnel at the port to accomplish the cleaning. Thus any cleaning that might take place at a port of entry would be necessary to address the presence of only minimal amounts of exposed soil. Steam-cleaning, whether conducted in the equipment's country of origin or at a U.S. port, is sufficient to disinfect the equipment. Therefore, we do not believe that it is necessary to prescribe the use of a disinfectant in addition to the cleaning that would be conducted.

Therefore, for the reasons given in the interim rule and in this document, we are adopting the interim rule as a final rule without change.

This action also affirms the information contained in the interim rule concerning Executive Orders 12866 and 12988 and the Paperwork Reduction Act.

Further, this action 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.

**Regulatory Flexibility Act**

This rule affirms an interim rule that amended the regulations by prohibiting the importation of used farm equipment from regions affected with FMD unless the equipment is steam-cleaned prior to export to the United States so that it is free of exposed dirt and other particulate matter and the equipment is accompanied by an original certificate from an authorized official of the national animal health service of the region of origin stating that such cleaning was done. The interim rule also provided that cleaned equipment that arrives at the port of arrival with a minimal amount of exposed dirt may, under certain conditions, be cleaned at the port of arrival.

The following analysis addresses the economic effect of the interim rule on small entities, as required by the Regulatory Flexibility Act.

While the term "farm equipment," as defined in § 94.0 of the regulations, refers to a variety of vehicles and machinery used in agriculture, tractors are the one category of farm equipment for which trade data are maintained on previously used items.<sup>1</sup> Between 1996 and 2001, U.S. imports of used tractors were valued at about \$62 million annually, and comprised about 4 percent of the value of all U.S. agricultural tractor imports (table 1). U.S. exports of used tractors were worth a little more than half that amount, about \$34 million per year. Net imports of used tractors were thus worth about \$28 million per year, about 10 percent of the value of net imports of tractors.<sup>2</sup>

<sup>1</sup> Harmonized tariff code 8701901090: Tractors, suitable for agricultural use, used, except track-laying type.

<sup>2</sup> The term "net imports" refers to the total value of tractor imports minus the total value of tractor exports.

TABLE 1.—VALUE OF U.S. IMPORTS AND EXPORTS OF TRACTORS AND USED TRACTORS SUITABLE FOR AGRICULTURAL USE, 6-YEAR AVERAGES (1996–2001)

[Tractor values are in millions of dollars]

	New and used tractors <sup>1</sup>	Used tractors <sup>2</sup>	Percent used tractors, by value
Imports .....	\$1,483.12	\$62.01	4.2
Exports .....	1,190.79	33.79	2.8
Net imports .....	292.33	28.22	9.7

Source: U.S. Department of Commerce, Bureau of the Census, as reported by the World Trade Atlas.

<sup>1</sup> Harmonized tariff code 870190: Tractors, not elsewhere specified or included.<sup>2</sup> Harmonized tariff code 8701901090: Tractors, suitable for agricultural use, used, except track-laying type.

The United Kingdom is the largest supplier of used tractors to the United States, followed by Japan and Germany (table 2). These three countries have, on

average, supplied nearly three-fourths of annual used tractor imports by the United States over the past 6 years. Canada, Netherlands, France, and

Belgium supplied about 20 percent of imports combined.

TABLE 2.—VALUE OF USED TRACTOR IMPORTS<sup>1</sup> FROM THE LEADING SOURCES, 6-YEAR AVERAGES (1996–2001)

[Tractor values are in millions of dollars]

Country	Average value	Percentage of total
United Kingdom .....	\$18.766	30.3
Japan .....	13.875	22.4
Germany .....	13.524	21.8
Canada .....	5.481	8.8
Netherlands .....	3.411	5.5
France .....	1.960	3.2
Belgium .....	1.509	2.4
Total from above sources .....	58.526	94.3
Total from all sources .....	62.014	—

Source: U.S. Department of Commerce, Bureau of the Census, as reported by the World Trade Atlas.

<sup>1</sup> Harmonized tariff code 8701901090: Tractors, suitable for agricultural use, used, except track-laying type.

Imports of used farm equipment from several of these countries have already been restricted by the interim rule because of FMD outbreaks in those countries after the rule became effective on March 31, 2001. However, import levels suggest that the interim rule has had little impact on trade volumes. For example, the value of used tractor imports from the United Kingdom (Great Britain and Northern Ireland) during 2001—throughout which its FMD-free status was revoked, except for the first 14 days of January—totaled \$18.025 million. This amount compares closely with its 1996–2001 annual average of \$18.766 million. Used tractor imports in the same year from Netherlands and France, both of which had their FMD-free status revoked at different times during 2001, were valued at \$2.977 million and \$1.800 million, respectively, amounts not very different from their 1996–2001 annual averages of \$3.411 million and \$1.960 million. Finally, used tractor imports from Japan in 2001, which had its FMD-free status revoked throughout the year, were valued at \$15.071 million, an

amount larger than its 1996–2001 annual average of \$13.875 million.

Used tractors entering the United States from regions affected with FMD must be certified by the national animal health service of their region of origin as having been steam-cleaned before being exported. APHIS does not have information on steam-cleaning costs overseas, but costs at U.S. ports provide a basis for assessing the impact of the interim rule. The cost for steam-cleaning all the tractors shipped in a 40-foot container holding approximately 16 tractors with rotary tillers is roughly \$2,000.<sup>3</sup> We expect the cost of certification would likely be less than \$50. The average price of imported used tractors is about \$4,940 each.<sup>4</sup> Thus, the value of the tractors in a container would total about \$79,040, of which the \$2,050 cost of cleaning and certification represents about 2.6 percent.

The principal cost component in both cleaning and certification is labor. It is

<sup>3</sup> APHIS cost estimates for the port of Long Beach, CA.

<sup>4</sup> Six-year average, 1996–2001. U.S. Department of Commerce, Bureau of the Census, as reported by the World Trade Atlas.

expected, therefore, that cleaning and certification costs would not be any higher overseas, and could well be lower, depending on relative labor costs. The 2.6 percent may represent an upper bound of the additional import expenses that would be attributable to the interim rule.

The two groups that can be expected to incur some costs as a result of the interim rule are importers of used farm equipment and farmers; if passed along by the exporter, importers and farmers will likely split the additional cost of the required cleaning and certification depending on the demand elasticity in the market for used farm equipment. Most importers likely employ fewer than 100 people, the threshold the Small Business Administration has set for such firms to be called small entities. Most farms earn \$750,000 or less in annual receipts, the corresponding threshold for agricultural operations to be called small entities. Therefore, most businesses likely to be affected by the interim rule are small entities. However, the data on used tractors, currently the only data available on used farm equipment, indicate that the effects will

not be large; cleaning and certification expenses will add less than 3 percent to the cost of imported used tractors.

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

#### List of Subjects in 9 CFR Part 94

Animal diseases, Imports, Livestock, Meat and meat products, Milk, Poultry and poultry products, Reporting and recordkeeping requirements.

#### PART 94—RINDERPEST, FOOT-AND-MOUTH DISEASE, FOWL PEST (FOWL PLAGUE), EXOTIC NEWCASTLE DISEASE, AFRICAN SWINE FEVER, HOG CHOLERA, AND BOVINE SPONGIFORM ENCEPHALOPATHY: PROHIBITED AND RESTRICTED IMPORTATIONS

Accordingly, we are adopting as a final rule, without change, the interim rule that amended 9 CFR part 94 and that was published at 67 FR 31935–31938 on May 13, 2002.

**Authority:** 7 U.S.C. 450, 7711–7714, 7751, 7754, 8303, 8306, 8308, 8310, 8311, and 8315; 21 U.S.C. 136 and 136a; 31 U.S.C. 9701; 42 U.S.C. 4331 and 4332; 7 CFR 2.22, 2.80, and 371.4.

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

**Kevin Shea,**

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

[FR Doc. 03–2682 Filed 2–4–03; 8:45 am]

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## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. 2002–NM–316–AD; Amendment 39–13044; AD 2003–03–19]

RIN 2120–AA64

#### Airworthiness Directives; Boeing Model 747 Series Airplanes

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Final rule; request for comments.

**SUMMARY:** This amendment adopts a new airworthiness directive (AD) that is applicable to all Boeing Model 747 series airplanes. This action requires a one-time inspection of the fuselage skin of the aft lower body for certain repair doublers, and follow-on inspections and

corrective actions if such doublers are installed. For certain airplanes, this action includes optional repetitive inspections of the fuselage skin for scratches or cracking. This action is necessary to find and fix possible fatigue cracking of the fuselage skin concealed under certain repair doublers, which could result in rapid decompression of the airplane. This action is intended to address the identified unsafe condition.

**DATES:** Effective February 20, 2003.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of February 20, 2003.

Comments for inclusion in the Rules Docket must be received on or before April 7, 2003.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2002–NM–316–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: *9-anm-iarcomment@faa.gov*. Comments sent via fax or the Internet must contain “Docket No. 2002–NM–316–AD” in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in this AD may be obtained from Boeing Commercial Airplane Group, PO Box 3707, Seattle, Washington 98124–2207. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** Rick Kawaguchi, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–1153; fax (425) 227–1181.

**SUPPLEMENTARY INFORMATION:** In May 2002, a Boeing Model 747–200 series airplane was involved in an in-flight breakup. A portion of the fuselage skin with a repair doubler attached was recovered, and investigation revealed that the repair doubler was installed after a tail strike that occurred in 1980

and caused scratches to the skin. Examination of the skin underneath the doubler revealed longitudinal scratches, which could have been caused by the tail strike event, and a 15-inch crack found underneath the repair doubler that originated from and extended along these scratches. Further investigation of the affected area revealed that certain damage (scratches) may not have been found and removed after the tail strike, which led to fatigue cracking over time. The probable cause of the accident has not yet been determined.

The FAA recently received a second report indicating that scratches were found under a repair doubler on a Model 747–200 series airplane during an inspection requested by the manufacturer. It has been determined that the aft “belly” portion of the section 46 fuselage on Model 747 series airplanes is susceptible to tail strike damage during landing and takeoff. Repair procedures in the Boeing 747 structural repair manual describe blending out such damage on the skin and installing a repair doubler over the affected area. Any unremoved damage could result in fatigue cracking of the fuselage skin concealed under certain repair doublers, and consequent rapid decompression of the airplane.

#### Explanation of Relevant Service Information

The FAA has reviewed and approved Boeing Alert Service Bulletin 747–53A2489, dated November 26, 2002, which describes procedures for a one-time external visual inspection of the fuselage skin at body stations 1961 through 2360 inclusive, between stringers S–46L and S–46R, for repair doublers. If a repair doubler is installed, and the repair doubler meets all four criteria (external repair doubler, at least 8 inches long longitudinally (in the forward and aft direction), has fasteners common to a frame, and was installed due to a tail strike or for unknown reasons) specified in Figure 2 of the service bulletin, the service bulletin describes procedures for follow-on inspections and corrective actions.

The follow-on inspections and corrective actions include removal of the doubler, a one-time assessment (inspection) of the skin under the doubler for damage (scratches, cracking), and repair of any damage found. For certain airplanes, as an alternative to removal of the doubler and assessment of the skin underneath, the service bulletin describes procedures for repetitive inspections of the fuselage skin for damage. These inspections are either internal mid-frequency eddy current, or external