regulated article moved interstate from Hawaii, and that the movement must comply with any applicable compliance agreement under § 318.13–4(d). Section 318.13–4(b) provides, among other things, that a certificate may be issued if the article is treated under the observation of a PPQ inspector in accordance with an administratively approved procedure, and is subsequently handled either under such supervision as the inspector may require or in accordance with a compliance agreement.

Nonsubstantive Changes

We are also proposing two nonsubstantive editorial changes to simplify the regulations. Section 318.13-4d provides that avocados from Hawaii may be eligible for interstate movement if treated with methyl bromide fumigation in accordance with that section. Section 318.13-4e provides that avocados from Hawaii may be eligible for interstate movement if treated with a combination of methyl bromide fumigation and refrigeration in accordance with that section. We are proposing to remove these treatment provisions from the regulations at §§ 318.13–4d and 318.13–4e. These treatments are already included in the PPQ Treatment Manual. Instead, proposed §318.13-4d would state that avocados may be moved interstate from Hawaii if treated in accordance with the PPQ Treatment Manual. Thus, the treatments listed in §§ 318.13-4d and 318.13-4e would remain as options but would appear in the PPQ Treatment Manual.

We are also proposing to amend the definition of "Inspector" to read "An inspector of Plant Protection and Quarantine, Animal and Plant Health Inspection Service, United States Department of 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.

Ĥawaii produced approximately 500,000 pounds of avocados during 1993, down approximately 29 percent from the 1992 level due, in part, to the interruption of avocado shipments to the U.S. mainland because of Oriental fruit fly infestation in 1992. Sharwil variety accounted for 75 percent of this total, or 375,000 pounds. Shipments of Sharwil avocados from Hawaii to the U.S. mainland and to Canada before the 1992 suspension peaked at 100,000 pounds. Total production of avocados in the United States, excluding Hawaii, was approximately 302.8 million pounds in 1993. Of this total, California accounted for approximately 97 percent of the production. California continues to supply the major share of the U.S. avocado market. Total Hawaiian avocado production in 1993 accounted for less than two-tenths of a percent of the total U.S. production.

The total value of Hawaiian avocado production (\$220,000 in 1993) is less than three-tenths of a percent of the total U.S. production, and all of the Hawaiian entities involved are considered small. The proposed rule could reverse the downward trend in Hawaiian avocado production by providing a commercially feasible method of treating Sharwil avocados to be moved interstate. This would have a positive economic effect on Hawaiian avocado producers. Although a major share of the U.S. market is supplied by California producers, the addition of a Hawaiian supply would be unlikely to have a significant negative impact upon California producers, as the two dominant avocado varieties, Sharwil (Hawaii) and Hass (California) have different peak seasons of production. The peak season for the Sharwil variety is between November and May; the peak season for the Hass variety is April through October. As a result, the proposed rule would be expected to have a complementary rather than competitive effect. The change would not be expected to have any significant impact upon supply and price. Nevertheless, it would be expected to have a positive impact upon consumers by providing for a more continuous and varied avocado supply.

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 12778

This proposed rule has been reviewed under Executive Order 12778, 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 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, Plant diseases and pests, Puerto Rico, Quarantine, Transportation, Vegetables, Virgin Islands.

Accordingly, 7 CFR parts 300 and 318 would be amended 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., 150ee, 154, 161, 162, and 167; 7 CFR 2.17, 2.51, and 371.2(c).

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

§ 300.1 Materials incorporated by reference; availability.

(a) *Plant Protection and Quarantine Treatment Manual.* The Plant Protection and Quarantine Treatment Manual, which was reprinted on November 30, 1992, and includes all revisions through [insert 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 continue to read as follows:

Authority: 7 U.S.C. 150bb, 150dd, 150ee, 150ff, 161, 162, 164a, and 167; 7 CFR 2.17, 2.51, and 371.2(c).

4. Section 318.13–1 would be amended by revising the definition for *Inspector* to read as follows:

*

§318.13–1 Definitions.

*

Inspector. An inspector of Plant Protection and Quarantine, Animal and Plant Health Inspection Service, United States Department of Agriculture.

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