

movement or possession in the United States of any product or article shall apply to any person who, respectively, brings into, maintains, unloads, lands, transships, exports, transports and exports, or otherwise moves or possesses in the United States such product or article, whether he is the person who was required to have a permit for the product or article or a subsequent custodian of such product or article, and failure to comply with all applicable restrictions and requirements under this part by any such person shall be deemed to be a violation of this part.

[25 FR 1929, Mar. 5, 1960, as amended at 62 FR 65009, Dec. 10, 1997; 66 FR 21059, Apr. 27, 2001]

§ 352.3 Enforcement and administration.

(a) Plants, plant products, plant pests, soil, and other products and articles subject to the regulations in this part that are unloaded, landed, or otherwise brought or moved into or through the United States in violation of this part may be seized, destroyed, or otherwise disposed of in accordance with section 414 of the Plant Protection Act (7 U.S.C. 7714). Any person who unloads, lands, or otherwise brings or moves into or through the United States any regulated plants, plant products, plant pests, soil, or other products or articles in violation of this part will be subject to prosecution under the applicable provisions of law.

(b) Whenever the Deputy Administrator of the Plant Protection and Quarantine Programs shall find that existing conditions of danger of plant pest escape or dissemination involved in the arrival, unloading, landing, or other movement, or possession in the United States of plants, plant products, plant pests, soil, or other products or articles subject to the regulations in this part, make it safe to modify by making less stringent the restrictions contained in any such regulation, he shall publish such findings in administrative instructions, specifying the manner in which the regulations shall be made less stringent with respect thereto, whereupon such modification shall become effective; or he may, upon request in specific cases, when the public interests will permit, authorize arrival, unloading, landing, or other

movement, or possession in the United States under conditions that are less stringent than those contained in the regulations in this part.

(c) The Deputy Administrator also may set forth and publish, in administrative instructions, requirements and conditions for any class of products or articles supplemental to the regulations in this part, and may promulgate interpretations of this part.

(d) The Deputy Administrator shall employ procedures to carry out the purposes of this part which will impose a minimum of impediment to foreign commerce, consistent with proper precaution against plant pest dissemination.

[25 FR 1929, Mar. 5, 1960, as amended at 66 FR 21059, Apr. 27, 2001]

§ 352.4 Documentation.

(a) *Manifest.* Immediately upon the arrival of a carrier in the United States the owner shall make available to the inspector for examination a complete manifest or other documentation from which the inspector may determine whether there are on board any prohibited or restricted products or articles subject to this part, other than accompanied baggage and mail.

(b) *Other documentation.* Any notifications, reports, and similar documentation not specified in the regulations in this part, but necessary to carry out the purpose of the regulations, will be prescribed in administrative instructions.

(c) *Procedure after examination of documents.* After examination of the carrier cargo manifest or other documentation the inspector may notify the owner and the Customs officer that certain products or articles on board the carrier are subject to this part and may not be unloaded or landed for any purpose pending plant quarantine inspection. In such case the owner shall not unload or land such products or articles without authorization by an inspector.

§ 352.5 Permit; requirement, form and conditions.

(a) *General.* (1) Permits are required for the arrival, unloading or landing, or other movement into or through the United States of plants, plant products,

plant pests, and soil subject to this part. The permit may consist of a general authorization as set out in paragraph (b), (c), or (d) of this section or § 352.11, or it may be a specific permit. A specific permit may be formal or oral except as a formal permit is required by paragraph (c) or (e) of this section. The Deputy Administrator may in administrative instructions require specific or formal permits for any class of products or articles subject to this part.

(2) A formal permit may be issued in prescribed form, in letter form, or a combination thereof. A rubber stamp impression or other endorsement made by the inspector on pertinent Customs documents covering the products or articles involved may constitute the formal permit in appropriate cases.

(b) *Permit for prohibited or restricted products or articles brought in for temporary stay where unloading or landing in the United States is not intended.* No permit other than the authorization contained in this paragraph shall be required for bringing into the United States any plants, plant products, plant pests, or soil subject to this part for temporary stay where unloading or landing in the United States is not intended, e.g., in connection with residue cargo movement under Customs procedure, or in connection with Customs entry for exportation or for transportation and exportation. This authorization also includes transshipment of products and articles under this paragraph from a carrier directly to another carrier of the same company when necessitated by an emergency or operating requirement and effected in accordance with safeguards prescribed in writing or orally by the inspector under § 352.10.

(c) *Permit for prohibited or restricted products or articles unloaded or landed for immediate transshipment and exportation, or immediate transportation and exportation.* When in the opinion of the inspector it is unnecessary to specify in a formal permit the safeguards required to prevent plant pest dissemination, plants, plant products, plant pests, or soil subject to this part may be unloaded or landed for immediate transshipment and exportation or for

immediate transportation and exportation, as provided in § 352.10, with the approval of the inspector and no further permit than the authorization contained in this paragraph; otherwise a formal permit shall be required for such unloading or landing.

(d) *Permit for restricted products or articles moving as residue cargo from port of first arrival to port of entry.* Restricted plants, plant products, plant pests, or soil subject to this part arriving in the United States for movement under residue cargo procedures of Customs from a port of first arrival to another port for Customs entry into the United States may be allowed to so move without permit other than the authorization contained in this paragraph, if the inspector finds that apparently they can meet the applicable requirements of parts 319 of this chapter at the port where entry is to be made; otherwise a formal permit shall be required for such movement. Such restricted products and articles shall become subject to the applicable permit and other requirements of parts 319 of this chapter upon arrival at the port where Customs entry is to be made and shall not be unloaded or landed unless they comply with the applicable requirements.

(e) *Formal permits required for certain prohibited or restricted products or articles brought into a foreign trade zone.* A formal permit must be obtained to bring any prohibited or restricted plants, plant products, plant pests, or soil subject to the provisions in this part, into a foreign trade zone for storage, manipulation, or other handling, except for immediate transshipment and exportation or for immediate transportation and exportation. Special conditions to safeguard such storage, manipulation, or other possession or handling may be specified in the permit, and when so specified shall be in addition to any other applicable requirements of this part or the safeguards prescribed by the inspector or otherwise under this part.

[25 FR 1929, Mar. 5, 1960, as amended at 62 FR 65009, Dec. 10, 1997; 66 FR 21059, Apr. 27, 2001]