

§ 352.1

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AUTHORITY: 7 U.S.C. 7701-7772 and 7781-7786; 21 U.S.C. 136 and 136a; 31 U.S.C. 9701; 7 CFR 2.22, 2.80, and 371.3.

SOURCE: 25 FR 1929, Mar. 5, 1960, unless otherwise noted.

§ 352.1 Definitions.

(a) This part may be cited by the short title: "Safeguard Regulations." This title shall be understood to include both the regulations and administrative instructions in this part.

(b) Words used in the singular form in this part shall be deemed to import the plural and vice versa as the case may demand. For purposes of this part, unless the context otherwise requires, the following terms shall be construed, respectively, to mean:

Administrative instructions. Published documents set forth in this part relating to the enforcement of this part, and issued under authority thereof by the Deputy Administrator.

Brought in for temporary stay where unloading or landing is not intended. Brought in by carrier but not intended to be unloaded or landed from such carrier. This phrase includes movement (i) departing from the United States on the same carrier directly from the point of arrival therein; and (ii) transiting a part of the United States before departure therefrom, and applies whether movement under Customs procedure is as residue cargo or follows some form of Customs entry.

Carrier; means of conveyance. Automobile, truck, animal-drawn vehicle, railway car, aircraft, ship, or other means of transportation.

Customs. The U.S. Customs Service, Department of the Treasury, or, with reference to Guam, the Customs Office of the Government of Guam.

Deputy Administrator. The Deputy Administrator of the Plant Protection and Quarantine Programs, or any officer or employee of the Plant Protection and Quarantine Programs to whom authority has heretofore been delegated or may hereafter be delegated to act in his stead.

Foreign trade zone. A formally prescribed area containing various physical facilities located in or adjacent to ports of entry under the jurisdiction of the United States and established, operated, and maintained as a foreign

trade zone pursuant to the Foreign-Trade Zones Act of June 18, 1934 (48 Stat. 998-1003; 19 U.S.C. 81a-81u), as amended, wherein foreign merchandise, as well as domestic merchandise, may be deposited for approved purposes. Movement into and from such area is subject to applicable customs, plant quarantine, and other Federal requirements.

Immediate (export, trans-shipment, or transportation and exportation). The period which, in the opinion of the inspector, is the shortest practicable interval of time between the arrival of an incoming carrier and the departure of the outgoing carrier transporting a consignment of prohibited or restricted products or articles.

Inspector. Any individual authorized by the Administrator of APHIS or the Commissioner of Customs and Border Protection, Department of Homeland Security, to enforce the regulations in this part.

Intended for unloading and entry at a port other than the port of first arrival. Brought in by carrier at a port for movement to the port of entry under residue cargo procedure of Customs.

Other product or article. Any product or article of any character whatsoever (other than plants, plant products, soil, plant pests, and means of conveyance), which an inspector considers may be infested or infected by or contain a plant pest.

Owner. The owner, or his agent (including the operator of a carrier), having responsible custody of a plant, plant product, plant pest, soil, or other product or article subject to this part.

Person. Any individual, corporation, company, association, firm, partnership, society, or joint stock company.

Plant pest. "Plant pest" means any living stage of: Any insects, mites, nematodes, slugs, snails, protozoa, or other invertebrate animals, bacteria, fungi, other parasitic plants or reproductive parts thereof, viruses, or any organisms similar to or allied with any of the foregoing, or any infectious substances, which can directly or indirectly injure or cause disease or damage in any plants or parts thereof, or any processed, manufactured, or other products of plants.

Plant Protection Act. Title IV of Public Law 106-224, 114 Stat. 438, 7 U.S.C. 7701-7772, which was enacted June 20, 2000.

Plant Protection and Quarantine Programs. The Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service, of the U.S. Department of Agriculture.

Plants and plant products. Nursery stock, other plants, plant parts, roots, bulbs, seeds, fruits, nuts, vegetables, and other plant products, and any product constituted, in whole or in part, of plant material which has not been so manufactured or processed as to eliminate pest risk.

Port. Any place designated by the President, Secretary of the Treasury, or Congress at which a Customs officer is assigned with authority to accept entries of merchandise, to collect duties, and to enforce the various provisions of the Customs and Navigation laws in force at that place.

Port of arrival. Any port in the United States at which a prohibited or restricted product or article arrives.

Port of entry. A port at which a specified shipment or means of conveyance is accepted for entry or admitted without entry into the United States.

Residue cargo. Shipments authorized by Customs to be transported under the Customs bond of the carrier on which the shipments arrive, without entry being filed, for direct export from the first port of arrival, or to another port for entry or for direct export at that port without entry being required.

Safeguard. A procedure for handling, maintaining, or disposing of prohibited or restricted products and articles subject to this part so as to eliminate the risk of plant pest dissemination which the prohibited or restricted products and articles may present.

Ship. Any means of transportation by water.

Soil. The loose surface material of the earth in which plants grow, in most cases consisting of disintegrated rock with an admixture of organic material and soluble salts.

Stores and furnishings. Plants and plant products for use on board a carrier; e.g. as food or decorative material.

United States. The States, the District of Columbia, Guam, Puerto Rico, and the Virgin Islands of the United States, and the territorial waters of the United States adjacent to those land areas.

Unloaded or landed for transportation and exportation. Brought in by carrier and transferred to another carrier for transportation to another port for exportation, whether or not some form of Customs entry is made.

Unloaded or landed for transshipment and exportation. Brought in by carrier and transferred to another carrier for exportation from the same port, whether or not some form of Customs entry is made.

[25 FR 1929, Mar. 5, 1960, as amended at 36 FR 24917, Dec. 24, 1971; 37 FR 10554, May 25, 1972; 62 FR 65009, Dec. 10, 1997; 66 FR 21059, Apr. 27, 2001; 71 FR 49325, Aug. 23, 2006]

§ 352.2 Purpose; relation to other regulations; applicability.

(a) Importations of plants, plant products, plant pests, soil, and other products and articles that may be infested or infected by or contain plant pests or noxious weeds are exempt from the prohibitions or restrictions contained in parts 319 and 330 of this chapter if they meet one of the conditions in paragraphs (a)(1) through (a)(4) of this section and are moved into the United States and handled in compliance with this part. *Provided:* That these exemptions do not apply to cotton and covers imported into the United States from any country for exportation or transshipment and exportation or transportation and exportation as provided in §§ 319.8 through 319.8-26 of this chapter. Moreover, the applicable provisions of §§ 330.100 through 330.109 and 330.400 of this chapter also apply to products and articles subject to this part.

(1) They are brought in temporarily where loading and landing is not intended;

(2) They are unloaded or landed for transshipment and exportation;

(3) They are unloaded or landed for transportation and exportation; or

(4) They are intended for unloading and entry at a port other than the port of arrival.

(b) Prohibited or restricted products and articles offered for and refused