

for the movement of any other personal property.

(9) Move and related terms

The terms “move”, “moving”, and “movement” mean—

- (A) to carry, enter, import, mail, ship, or transport;
- (B) to aid, abet, cause, or induce the carrying, entering, importing, mailing, shipping, or transporting;
- (C) to offer to carry, enter, import, mail, ship, or transport;
- (D) to receive to carry, enter, import, mail, ship, or transport;
- (E) to release into the environment; or
- (F) to allow any of the activities described in a preceding subparagraph.

(10) Noxious weed

The term “noxious weed” means any plant or plant product that can directly or indirectly injure or cause damage to crops (including nursery stock or plant products), livestock, poultry, or other interests of agriculture, irrigation, navigation, the natural resources of the United States, the public health, or the environment.

(11) Permit

The term “permit” means a written or oral authorization, including by electronic methods, by the Secretary to move plants, plant products, biological control organisms, plant pests, noxious weeds, or articles under conditions prescribed by the Secretary.

(12) Person

The term “person” means any individual, partnership, corporation, association, joint venture, or other legal entity.

(13) Plant

The term “plant” means any plant (including any plant part) for or capable of propagation, including a tree, a tissue culture, a plantlet culture, pollen, a shrub, a vine, a cutting, a graft, a scion, a bud, a bulb, a root, and a seed.

(14) Plant pest

The term “plant pest” means any living stage of any of the following that can directly or indirectly injure, cause damage to, or cause disease in any plant or plant product:

- (A) A protozoan.
- (B) A nonhuman animal.
- (C) A parasitic plant.
- (D) A bacterium.
- (E) A fungus.
- (F) A virus or viroid.
- (G) An infectious agent or other pathogen.
- (H) Any article similar to or allied with any of the articles specified in the preceding subparagraphs.

(15) Plant product

The term “plant product” means—

- (A) any flower, fruit, vegetable, root, bulb, seed, or other plant part that is not included in the definition of plant; or
- (B) any manufactured or processed plant or plant part.

(16) Secretary

The term “Secretary” means the Secretary of Agriculture.

(17) State

The term “State” means any of the several States of the United States, the Commonwealth of the Northern Mariana Islands, the Commonwealth of Puerto Rico, the District of Columbia, Guam, the Virgin Islands of the United States, or any other territory or possession of the United States.

(18) Systems approach

For the purposes of section 7712(e) of this title, the term “systems approach” means a defined set of phytosanitary procedures, at least two of which have an independent effect in mitigating pest risk associated with the movement of commodities.

(19) This chapter

Except when used in this section, the term “this chapter” includes any regulation or order issued by the Secretary under the authority of this chapter.

(20) United States

The term “United States” means all of the States.

(Pub. L. 106-224, title IV, § 403, June 20, 2000, 114 Stat. 438.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original “this title”, meaning title IV of Pub. L. 106-224, June 20, 2000, 114 Stat. 438, known as the Plant Protection Act, which is classified principally to this chapter. For complete classification of title IV to the Code, see Short Title note set out under section 7701 of this title and Tables.

SUBCHAPTER I—PLANT PROTECTION

§ 7711. Regulation of movement of plant pests

(a) Prohibition of unauthorized movement of plant pests

Except as provided in subsection (c), no person shall import, enter, export, or move in interstate commerce any plant pest, unless the importation, entry, exportation, or movement is authorized under general or specific permit and is in accordance with such regulations as the Secretary may issue to prevent the introduction of plant pests into the United States or the dissemination of plant pests within the United States.

(b) Requirements for processes

The Secretary shall ensure that the processes used in developing regulations under subsection (a) governing consideration of import requests are based on sound science and are transparent and accessible.

(c) Authorization of movement of plant pests by regulation

(1) Exception to permit requirement

The Secretary may issue regulations to allow the importation, entry, exportation, or movement in interstate commerce of specified plant pests without further restriction if the

Secretary finds that a permit under subsection (a) is not necessary.

(2) Petition to add or remove plant pests from regulation

Any person may petition the Secretary to add a plant pest to, or remove a plant pest from, the regulations issued by the Secretary under paragraph (1).

(3) Response to petition by the Secretary

In the case of a petition submitted under paragraph (2), the Secretary shall act on the petition within a reasonable time and notify the petitioner of the final action the Secretary takes on the petition. The Secretary's determination on the petition shall be based on sound science.

(d) Prohibition of unauthorized mailing of plant pests

(1) In general

Any letter, parcel, box, or other package containing any plant pest, whether sealed as letter-rate postal matter or not, is non-mailable and shall not knowingly be conveyed in the mail or delivered from any post office or by any mail carrier, unless the letter, parcel, box, or other package is mailed in compliance with such regulations as the Secretary may issue to prevent the dissemination of plant pests into the United States or interstate.

(2) Application of postal laws and regulations

Nothing in this subsection authorizes any person to open any mailed letter or other mailed sealed matter except in accordance with the postal laws and regulations.

(e) Regulations

Regulations issued by the Secretary to implement subsections (a), (c), and (d) may include provisions requiring that any plant pest imported, entered, to be exported, moved in interstate commerce, mailed, or delivered from any post office—

(1) be accompanied by a permit issued by the Secretary prior to the importation, entry, exportation, movement in interstate commerce, mailing, or delivery of the plant pest;

(2) be accompanied by a certificate of inspection issued (in a manner and form required by the Secretary) by appropriate officials of the country or State from which the plant pest is to be moved;

(3) be raised under post-entry quarantine conditions by or under the supervision of the Secretary for the purposes of determining whether the plant pest—

(A) may be infested with other plant pests;

(B) may pose a significant risk of causing injury to, damage to, or disease in any plant or plant product; or

(C) may be a noxious weed; and

(4) be subject to remedial measures the Secretary determines to be necessary to prevent the spread of plant pests.

(Pub. L. 106-224, title IV, §411, June 20, 2000, 114 Stat. 440.)

TRANSFER OF FUNCTIONS

For transfer of functions of the Secretary of Agriculture relating to agricultural import and entry in-

spection activities under this chapter to the Secretary of Homeland Security, and for treatment of related references, see sections 231, 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§ 7712. Regulation of movement of plants, plant products, biological control organisms, noxious weeds, articles, and means of conveyance

(a) In general

The Secretary may prohibit or restrict the importation, entry, exportation, or movement in interstate commerce of any plant, plant product, biological control organism, noxious weed, article, or means of conveyance, if the Secretary determines that the prohibition or restriction is necessary to prevent the introduction into the United States or the dissemination of a plant pest or noxious weed within the United States.

(b) Policy

The Secretary shall ensure that processes used in developing regulations under this section governing consideration of import requests are based on sound science and are transparent and accessible.

(c) Regulations

The Secretary may issue regulations to implement subsection (a), including regulations requiring that any plant, plant product, biological control organism, noxious weed, article, or means of conveyance imported, entered, to be exported, or moved in interstate commerce—

(1) be accompanied by a permit issued by the Secretary prior to the importation, entry, exportation, or movement in interstate commerce;

(2) be accompanied by a certificate of inspection issued (in a manner and form required by the Secretary) by appropriate officials of the country or State from which the plant, plant product, biological control organism, noxious weed, article, or means of conveyance is to be moved;

(3) be subject to remedial measures the Secretary determines to be necessary to prevent the spread of plant pests or noxious weeds; and

(4) with respect to plants or biological control organisms, be grown or handled under post-entry quarantine conditions by or under the supervision of the Secretary for the purposes of determining whether the plant or biological control organism may be infested with plant pests or may be a plant pest or noxious weed.

(d) Notice

Not later than 1 year after June 20, 2000, the Secretary shall publish for public comment a notice describing the procedures and standards that govern the consideration of import requests. The notice shall—

(1) specify how public input will be sought in advance of and during the process of promulgating regulations necessitating a risk assessment in order to ensure a fully transparent and publicly accessible process; and

(2) include consideration of the following:

(A) Public announcement of import requests that will necessitate a risk assessment.