

Plant Protection and Quarantine and the Plant Protection Act

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Plant Protection and Quarantine

Agenda

- Role of PPQ
- Points to Remember
- Overview
- PPA Purpose
- PPA Definitions
- PPA Key Provisions
- PPQ Contacts

Role of PPQ

- History
- Mission
- Role as a Regulatory Agency

Points to Remember

- Statutes are fundamental authority granted by Congress to the Secretary of Agriculture
- Authority to administer statutes is delegated from the Secretary to the Agency (APHIS-PPQ) and published in the Code of Federal Regulations (CFRs)
- The Department is authorized to promulgate regulations to administer the statute, which are contained in the CFRs
- There are constitutional limitations to exercising Federal authority

Overview

- The Plant Protection Act was the result of a 17-year effort to modernize and streamline the plant quarantine laws
- Enacted in 2000 as Title IV of the Agriculture Risk Protection Act of 2000; cited as 7 U.S.C. 7701-7772
- It amended and replaced 10 laws, including the:
 - Federal Plant Pest Act of 1957
 - Plant Quarantine Act of 1912
 - Federal Noxious Weed Act of 1974
- Administering regulations are promulgated in Title 7 CFR, Parts 301-353 and 360-361

PPA Purpose . . .

- Provides a single, comprehensive statutory framework for most plant health and regulatory issues
- Provides the authority to prohibit or restrict imports, exports, or interstate movement of plant pests, plants, plant products, noxious weeds, biological control agents, articles and means of conveyance

... PPA Purpose

- Provides the authority to issue subpoenas and conduct certain inspections without a warrant
- Increased civil penalties

Important PPA Definitions . . .

- Article
- Enter, entry
- Export, exportation
- Import, importation
- Move, movement
- Interstate
- State

... PPA Definitions

- Noxious weed
- Permit
- Person
- Plant
- Plant product
- Plant pest

PPA Key Provisions

- Authority over interstate commerce
- Plant pest & biological control
- Extraordinary emergency
- Warrantless inspections
- Subpoena authority
- Civil and criminal penalties
- Cooperation

Section 411: Authority over Interstate Commerce

- Prohibits the importation, entry, exportation or movement of plant pests in interstate commerce without a permit

Section 412: Authority over Interstate Commerce

- Authorizes the Secretary to 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 the prohibition or restriction is necessary to prevent the introduction or dissemination of a plant pest or noxious weed within the United States

Section 414: Remedial Measures

- Provides the Secretary with the authority to hold, seize, quarantine, treat, apply other remedial measures to, destroy, or otherwise dispose of any plant, plant pest, noxious weed, biological control organism, plant product, article, or means of conveyance that is moving or has moved in interstate or foreign commerce that the Secretary has reason to believe is a plant pest or noxious weed or is infested with a plant pest or noxious weed. The Secretary may also take action if the movement has occurred in violation of the Act or the product has not been maintained in compliance with post-entry quarantine requirement.

Section 414: Remedial Measures

- Authority extends to progeny of any plant, biological control organism, plant product, plant pest, or noxious weed
- Least Drastic Action

Section 415: Extraordinary Emergency

- Extraordinary emergency rarely exercised
- High bar for declaration
- Consultation and publication required
- Allows regulation of *intrastate* movement
- Least drastic action

Section 421: Inspections

- Provides authority to conduct warrantless inspections based on probable cause
- Warrantless inspections may be conducted in *interstate* commerce and in *intrastate* commerce under a declared extraordinary emergency
- Enter premises to investigate, inspect, or seize, with a warrant based on probable cause
- Without a warrant, the property owner must consent to the search

Section 422: Collection of Information

- Authorizes the Secretary to gather and compile information and conduct investigations necessary for the administration and enforcement of the Act

Section 423: Subpoena Authority

- Provides authority to subpoena the attendance and testimony of witnesses and the production of documentary evidence
- Procedures for issuing subpoenas must be published

Section 424: Civil Penalties

- Increase civil penalties to a maximum of \$50,000 for any individual
- Increase civil penalties to a maximum of \$250,000 for business or group
- Established a \$1,000 civil penalty for an individual first-time offense not for monetary gain
- Alternative penalties

Section 425: Enforcement Actions of Attorney General

- May prosecute all criminal violations of this title that are referred to the Attorney General by the Secretary or are brought to the notice of the Attorney General by any person
- Bring an action to enjoin violation or compel compliance
- Cases in which the Government is not pursuing a criminal case are handled under Administrative law procedures

Court Jurisdiction

- The United States district courts are the courts of jurisdiction
- Actions arising under the Act may be brought in the judicial district where a violation or interference occurred or is about to occur, or where the person charged with the violation, interference, impending violation, impending interference, or failure to pay resides, is found, transacts business, is licensed to do business, or is incorporated

Section 431: Cooperation

- Authorizes the Secretary to cooperate with other Federal agencies or entities, States or political subdivisions of States, national governments, local governments of other nations, domestic or international organizations, domestic or international associations, and other persons to carry out this title
- The cooperator must have authority necessary to conduct operations or take measures on all land and properties within their jurisdiction other than those owned or controlled by the United States

Contacts for Information

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