

Animal and Plant Health Inspection Service, USDA

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protein or peptide; and (c) The regulatory region solely controls the activity of other sequences that code for protein or peptide molecules or act as recognition sites for the initiation of nucleic acid or protein synthesis.

[52 FR 22908, June 16, 1987, as amended at 53 FR 12913, Apr. 20, 1988; 55 FR 53276, Dec. 28, 1990; 58 FR 17056, Mar. 31, 1993; 62 FR 23956, May 2, 1997]

§ 340.2 Groups of organisms which are or contain plant pests and exemptions.

(a) *Groups of organisms which are or contain plant pests.* The organisms that are or contain plant pests are included in the taxa or group of organisms contained in the following list. Within any taxonomic series included on the list, the lowest unit of classification actually listed is the taxon or group which may contain organisms which are regulated. Organisms belonging to all lower taxa contained within the group listed are included as organisms that may be or may contain plant pests, and are regulated *if they meet the definition of plant pest in § 340.1*⁴

NOTE: Any genetically engineered organism composed of DNA or RNA sequences, organelles, plasmids, parts, copies, and/or analogs, of or from any of the groups of organisms listed below shall be deemed a regulated article if it also meets the definition of plant pest in § 340.1.

⁴ Any organism belonging to any taxa contained within any listed genera or taxa is only considered to be a plant pest if the organism "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." Thus a particular unlisted species within a listed genus would be deemed a plant pest for purposes of § 340.2, if the scientific literature refers to the organism as a cause of direct or indirect injury, disease, or damage to any plants, plant parts or products of plants. (If there is any question concerning the plant pest status of an organism belonging to any listed genera or taxa, the person proposing to introduce the organism in question should consult with APHIS to determine if the organism is subject to regulation.)

GROUP

VIROIDS

Superkingdom Prokaryotae

Kingdom Virus

All members of groups containing plant viruses, and all other plant and insect viruses

Kingdom Monera

DIVISION BACTERIA

Family Pseudomonadaceae

Genus *Pseudomonas*

Genus *Xanthomonas*

Family Rhizobiaceae

Genus *Rhizobium*

Genus *Bradyrhizobium*

Genus *Agrobacterium*

Genus *Phyllobacterium*

Family Enterobacteriaceae

Genus *Erwinia*

Family Streptomycetaceae

Genus *Streptomyces*

Family Actinomycetaceae

Genus *Actinomyces*

Coryneform group

Genus *Clavibacter*

Genus *Arthrobacter*

Genus *Curtobacterium*

Genus *Corynebacteria*

Gram-negative phloem-limited bacteria associated with plant diseases

Gram-negative xylem-limited bacteria associated with plant diseases

And all other bacteria associated with plant or insect diseases

Rickettsiaceae

Rickettsial-like organisms associated with insect diseases

Class Mollicutes

Order Mycoplasmatales

Family Spiroplasmataceae

Genus *Spiroplasma*

Mycoplasma-like organisms associated with plant diseases

Mycoplasma-like organisms associated with insect diseases

Superkingdom Eukaryotae

Kingdom Plantae

Subkingdom Thallobionta

Division Chlorophyta

Genus *Cephaleuros*

Genus *Rhodochytrium*

Genus *Phyllosiphon*

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Division Myxomycota
Class Plasmodiophoromycetes
Division Eumycota
Class Chytridiomycetes
Order Chytridiales
Class Oomycetes
Order Lagenidiales
Family Lagenidiaceae
Family Olpidiopsidaceae
Order Peronosporales
Family Albuginaceae
Family Peronosporaceae
Family Pythiaceae
Order Saprolegniales
Family Saprolegniaceae
Family Leptolegniellaceae
Class Zygomycetes
Order Mucorales
Family Choanephoraceae
Family Mucoraceae
Family Entomophthoraceae
Class Hemiascomycetes
Family Protomycetaceae
Family Taphrinaceae
Class Loculoascomycetes
Order Myriangiales
Family Elsinoeaceae
Family Myriangiaceae
Order Asterinales
Order Dothideales
Order Chaetothyriales
Order Hysteriales
Family Parmulariaceae
Family Phillipsiellaceae
Family Hysteriaceae
Order Pleosporales
Order Melanommatales
Class Plectomycetes
Order Eurotiales
Family Ophiostomataceae
Order Ascophariales
Class Pyrenomycetes
Order Erysiphales
Order Meliolales
Order Xylariales
Order Diaporthales
Order Hypocreales
Order Clavicipitales
Class Discomycetes
Order Phacidiales
Order Helotiales
Family Ascocorticaceae
Family Hemiphacidiaceae
Family Dermataceae
Family Sclerotiniaceae
Order Cyttariaceae

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Order Medeolariales
Order Pezziziales
Family Sarcosomataceae
Family Sarcoscyphaceae
Class Teliomycetes
Class Phragmobasidiomycetes
Family Auriculariaceae
Family Ceratobasidiaceae
Class Hymenomycetes
Order Exobasidiales
Order Agaricales
Family Corticiaceae
Family Hymenochaetaceae
Family Echinodontiaceae
Family Fistulinaceae
Family Clavariaceae
Family Polyporaceae
Family Tricholomataceae
Class Hyphomycetes
Class Coelomycetes
And all other fungi associated with plant or
insect diseases
Subkingdom Embryobionta
*NOTE: Organisms listed in the Code of Federal
Regulations as noxious weeds are regulated
under the Federal Noxious Weed Act*
Division Magnoliophyta
Family Balanophoraceae—parasitic species
Family Cuscutaceae—parasitic species
Family Hydnoraceae—parasitic species
Family Krameriaceae—parasitic species
Family Lauraceae—parasitic species
Genus *Cassytha*
Family Lennoaceae—parasitic species
Family Loranthaceae—parasitic species
Family Myzodendraceae—parasitic species
Family Olacaceae—parasitic species
Family Orobanchaceae—parasitic species
Family Rafflesiaceae—parasitic species
Family Santalaceae—parasitic species
Family Scrophulariaceae—parasitic species
Genus *Alectra*
Genus *Bartsia*
Genus *Buchnera*
Genus *Buttonia*
Genus *Castilleja*
Genus *Centranthera*
Genus *Cordylanthus*
Genus *Dasistoma*
Genus *Euphrasia*
Genus *Gerardia*
Genus *Harveya*
Genus *Hyobanche*
Genus *Lathraea*
Genus *Melampyrum*
Genus *Melasma*
Genus *Orphantha*
Genus *Orthocarpus*

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Genus Pedicularis
Genus Rhamphicarpa
Genus Rhinanthus
Genus Schwalbea
Genus Seymeria
Genus Siphonostegia
Genus Sopubia
Genus Striga
Genus Tozzia
Family Viscaceae—parasitic species

Kingdom Animalia

Subkingdom Protozoa

Genus Phytomonas

And all Protozoa associated with insect diseases

Subkingdom Eumetazoa

PHYLUM NEMATA

CLASS SECERNENTEA

Order Tylenchida
Family Anguinidae
Family Belonolaimidae
Family Caloosiidae
Family Criconematidae
Family Dolichodoridae
Family Fergusobiidae
Family Hemicycliophoridae
Family Heteroderidae
Family Hoplolaimidae
Family Meloidogynidae
Family Nacobbiidae
Family Neotylenchidae
Family Nothotylenchidae
Family Paratylenchidae
Family Pratylenchidae
Family Tylenchidae
Family Tylenchulidae
Order Aphelenchida
Family Aphelenchoididae

CLASS ADENOPHOREA

Order Dorylaimida
Family Longidoridae
Family Trichodoridae

PHYLUM MOLLUSCA

CLASS GASTROPODA

Subclass Pulmonata
Order Basommatophora
Superfamily Planorbacea
Order Stylommatophora
Subfamily Strophocheilacea
Family Succineidae
Superfamily Achatinacae
Superfamily Arionacae
Superfamily Limacacea
Superfamily Helicacea
Order Systellommatophora
Superfamily Veronicellacea

Phylum Arthropoda

Class Arachnida

Order Parasitiformes
Suborder Mesostigmata
Superfamily Ascoidea
Superfamily Dermanyssoidea
Order Acariformes
Suborder Prostigmata
Superfamily Eriophyoidea
Superfamily Tetranychidae
Superfamily Eupodoidea
Superfamily Tydeidae
Superfamily Erythraeidae
Superfamily Trombidioidea
Superfamily Hydrphantoidea
Superfamily Tarsonemoidea
Superfamily Pyemotoidea
Suborder Astigmata
Superfamily Hemisarcoptidae
Superfamily Acaroidea

Class Diplopoda

Order Polydesmida

Class Insecta

Order Collembola
Family Sminthoridae
Order Isoptera
Order Thysanoptera
Order Orthoptera
Family Acrididae
Family Gryllidae
Family Gryllacrididae
Family Gryllotalpidae
Family Phasmatidae
Family Ronaleidae
Family Tettigoniidae
Family Tetrigidae
Order Hemiptera
Family Thaumastocoridae
Family Aradidae
Superfamily Piesmatoidea
Superfamily Lygaeoidea
Superfamily Idiostoloidea
Superfamily Coreoidea
Superfamily Pentatomoidea
Superfamily Pyrrhocoroidea
Superfamily Tingidae
Superfamily Miroidea
Order Homoptera
Order Coleoptera
Family Anobiidae
Family Apionidae
Family Anthribidae
Family Bostrichidae
Family Brentidae
Family Bruchidae
Family Buprestidae
Family Byturidae
Family Cantharidae
Family Carabidae
Family Cerambycidae
Family Chrysomelidae
Family Coccinellidae
Subfamily Epilachninae

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Family Curculionidae
Family Dermestidae
Family Elateridae
Family Hydrophilidae
 Genus *Helophorus*
Family Lyctidae
Family Meloidae
Family Mordellidae
Family Platypodidae
Family Scarabaeidae
 Subfamily Melolonthinae
 Subfamily Rutelinae
 Subfamily Cetoniinae
 Subfamily Dynastinae
Family Scolytidae
Family Selytidae
Family Tenebrionidae
Order Lepidoptera
Order Diptera
Family Agromyzidae
Family Anthomyiidae
Family Cecidomyiidae
Family Chloropidae
Family Ephydriidae
Family Lonchaeidae
Family Muscidae
 Genus *Atherigona*
Family Otitidae
 Genus *Euxeta*
Family Syrphidae
Family Tephritidae
Family Tipulidae
Order Hymenoptera
Family Apidae
Family Caphidae
Family Chalcidae
Family Cynipidae
Family Eurytomidae
Family Formicidae
Family Psilidae
Family Siricidae
Family Tenthredinidae
Family Torymidae
Family Xylcopidae

Unclassified organisms and/or organisms whose classification is unknown.

(b) *Exemptions.* (1) A limited permit for interstate movement shall not be required for genetic material from any plant pest contained in *Escherichia coli* genotype K-12 (strain K-12 and its derivatives), sterile strains of *Saccharomyces cerevisiae*, or asporogenic strains of *Bacillus subtilis*, provided that all the following conditions are met:

(i) The microorganisms are shipped in a container that meets the requirements of § 340.8(b)(3);

(ii) The cloned genetic material is maintained on a nonconjugation proficient plasmid and the host does not contain other conjugation proficient plasmids or generalized transducing phages;

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(iii) The cloned material does not include the complete infectious genome of a known plant pest;

(iv) The cloned genes are not carried on an expression vector if the cloned genes code for:

(A) A toxin to plants or plant products, or a toxin to organisms beneficial to plants; or

(B) Other factors directly involved in eliciting plant disease (i.e., cell wall degrading enzymes); or

(C) Substances acting as, or inhibitory to, plant growth regulators.

(2) A limited permit for interstate movement is not required for genetic material from any plant pest contained in the genome of the plant *Arabidopsis thaliana*, provided that all of the following conditions are met:

(i) The plants or plant materials are shipped in a container that meets the requirements of § 340.8(b) (1), (2), and (3);

(ii) The cloned genetic material is stably integrated into the plant genome;

(iii) The cloned material does not include the complete infectious genome of a known plant pest.

[52 FR 22908, June 16, 1987, as amended at 53 FR 12913, Apr. 20, 1988; 55 FR 53276, Dec. 28, 1990; 58 FR 17056, Mar. 31, 1993]

§ 340.3 Notification for the introduction of certain regulated articles.⁵

(a) *General.* Certain regulated articles may be introduced without a permit, provided that the introduction is in compliance with the requirements of this section. Any other introduction of regulated articles require a permit under § 340.4, with the exception of introductions that are conditionally exempt from permit requirements under § 340.2(b) of this part.

⁵APHIS may issue guidelines regarding scientific procedures, practices, or protocols which it has found acceptable in making various determinations under the regulations. A person may follow an APHIS guideline or follow different procedures, practices, or protocols. When different procedures, practices, or protocols are followed, a person may, but is not required to, discuss the matter in advance with APHIS to help ensure that the procedures, practices, or protocols to be followed will be acceptable to APHIS.