

CHAPTER 2
Customs and Quarantine Division
Department of Commerce

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Article 1
Customs & Quarantine Regulations

§2100. Rules and Regulations Incorporated By Reference.

NOTE: Sections 6 and 9(c) of the Organic Act of Guam authorize the Governor to periodically examine the organization of the Executive Branch of the government of Guam and to carry out all changes necessary to promote effective management.

Pursuant to the above authorization, the Port Security Division was created on October 16, 1952. On September 24, 1971, Executive Order Number 71-21 changed the name and organization of the Port Security Division to the Customs and Quarantine Division, Department of Commerce.

In 1994, the Division was separated into a new Agency. See 5 GCA §3127 and 5 GCA Chapter 73.

The Customs and Quarantine Agency has not made rules and regulations on customs on its own authority, but rather is responsible for the administration and enforcement of customs regulations, both federal and local, which have statutory force and effect in Guam. The local regulations are promulgated by the agencies responsible for their oversight.

The Customs and Quarantine Division is delegated, in cooperation with other agencies of the government of Guam, the powers and duties for the enforcement and administration of certain laws and regulations which pertain to the control and quarantine of plants and animals, inspection of food stuffs, the control of communicable diseases and the importation of controlled substances (drugs) and other matters as may be assigned to it.

§2100. Rules and Regulations Incorporated By Reference. Rules and regulations governing customs and quarantine are incorporated herein by reference.

(a) Importation of Plants and Plant Products. (Regulations for the importation of plants and plant products can be found in Title VIII, Food and Agriculture, Division II, Chapter 1, Subchapter A, Guam Admin. Rules.)

(b) Requirements for Introduction of All Species of Animals Into the Territory. (Regulations for the introduction of all species of animals into the Territory can be found in Title VIII, Food and Agriculture, Division II, Chapter 2, Subchapter A, Guam Admin. Rules.)

(c) **Control of Animals And Animal Diseases Within the Territory.** (Regulations for the control of animals and animal diseases can be found in Title VIII, Food and Agriculture, Division II, Chapter 2, Subchapter B, Guam Admin. Rules.)

(d) **Public Health Quarantine Regulations.** (Quarantine regulations of the Department of Public Health and Social Services can be found in Title XIX, Public Health and Social Services, Division I, Chapter 4, Subchapter D, Guam Admin. Rules.)

(e) **Customs Regulations.** (Customs regulations of the Department of Commerce can be found in 5 GCA Chapter 73.)

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International Health Regulations

§2200. Rules and Regulations Incorporated Herein By Reference. The International Health regulations are incorporated herein by reference. (Regulations can be found in Title XIX, Public Health and Social Services, Division I, Chapter 4, Subchapter A, Guam Admin. Rules.)

Article 3

National Traffic and Motor Safety Act of 1966

§2300. Standards Prescribed By the Department of Transportation.

§2301. Requirements for Entry and Release.

§2302. Release Under Bond.

§2303. Merchandise Refused Entry.

§2304. Disposition of Merchandise Refused Entry Into Guam; Redelivered Merchandise.

NOTE: Federal motor vehicle safety standards (FMVSS) have been promulgated by the U.S. Department of Transportation in 23 CFR Part 255 pursuant to the provisions of the National Traffic and Motor Vehicle Safety Act of 1966. (Public Law 89-563) Whereas the National Traffic and Motor Vehicle Safety Act of 1966 applies to Guam and regulations are necessary and desirable to cover the importation of motor vehicles and items of motor vehicle equipment to insure compliance with the Act, the Governor of Guam established the following regulations through Executive Order Number 68-19 and by virtue of the authority vested in him by the Organic Act of Guam.

§2300. Standards Prescribed By the Department of Transportation. Motor vehicles and motor vehicle equipment manufactured on or after January 1, 1968, offered for sale, or introduction or delivery in interstate commerce, or importation into the United States are subject to Federal Motor Vehicle Safety Standards (hereafter referred to in this Section as "safety standards") prescribed by the Secretary of Transportation under Sections 103 and 119 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. §1392, §1407) as set forth in regulations in 23 CFR. A motor vehicle (hereafter referred to in this Section as "vehicle") or item of motor vehicle equipment (hereafter referred to in this Article as "equipment item"), manufactured on or after February 1, 1968, is not permitted entry into Guam unless (with certain exceptions set forth in Paragraph (b) of this Article it is in conformity with applicable safety standards in effect at the time the vehicle or equipment item was manufactured.

§2301. Requirements for Entry and Release. (a) Any vehicle or equipment item offered for importation into Guam shall not be refused entry under this Article if:

(1) it bears a valid certification as required by Section 114 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1403) and regulations issued thereunder by the Secretary of Transportation (in the case of a vehicle, in the form of a label or tag permanently affixed to such vehicle or in the case of

an equipment item, in the form of a label or tag on such item or on the outside of a container in which such item is delivered), or

(2) it is intended solely for export, such vehicle or equipment item and the outside of its container, if any, to be so labeled and tagged.

(b) Any such vehicle or equipment item not bearing such certification or export label shall be refused entry unless there is filed with the entry, in duplicate, a declaration verified by the importer or consignee which states that:

(1) Such vehicle or equipment item was manufactured on a date when there were no applicable safety standards in force.

(2) Such vehicle or equipment item was not manufactured in conformity with applicable standards but has since been brought into conformity, such declaration to be accompanied by the certificate of the manufacturer, contractor, or other person who has brought such vehicle or equipment item into conformity which described the nature and extent of the work performed; or

(3) Such vehicle or equipment item does not conform with applicable standards, but that the importer or consignee will bring such vehicle or equipment item into conformity with such standards; or

(4) Such vehicle is a new vehicle being imported for purposes of resale which does not presently conform to all applicable safety standards because readily attachable equipment items are not attached, but that there is affixed to its windshield a label stating the standard with which and the manner in which such vehicle does not conform and that the vehicle will be brought into conformity by attachment of such equipment items before it will be offered for sale to the first purchaser for purposes other than resale; or

(5) The importer or consignee is a member of the armed forces of a foreign country on assignment in the United States, or is a member of the Secretariat of a public international organization so designated pursuant to 59 Stat. 669 on assignment in the United States, or is a member of the personnel of a foreign government on assignment in the United States who comes within the class of persons for whom free entry of motor vehicles has been authorized by the Department of State and that he is importing such vehicle or equipment item for purposes other than resale. The importer or consignee shall declare that

the import is in fact for a temporary period, such period to end on or about a certain date. If this period should extend beyond the specified date, the applicable standards shall be complied with, and the importer or consignee may be required to furnish a bond to insure such compliance; or

(6) The importer or consignee is importing such vehicle or equipment item solely for the purposes of show, test, experiment, competition repairs, or alterations and that such vehicle or equipment item will not be sold or licensed for use on the public roads.

(c) Any declaration given under this section shall state the name and address of the importer or consignee, the date and the entry number, a description of any equipment item, the make and model, engine serial, and body serial numbers of any vehicle or other identification numbers, and the city and state in which it is to be registered and principally located if known. The Director of Commerce shall immediately forward the original of such declaration to the Federal Highway Administration of the Department of Transportation.

§2302. Release Under Bond. If a declaration filed in accordance with Paragraph (b) of this Article states that the entry is being made under circumstances described in §2301(b)(2)(iii), the entry shall be accepted only if the importer gives a bond for the production of a statement verified by the importer or consignee that the vehicle or equipment item described in the declaration filed by the importer has been brought into conformity with applicable safety standards and identifying the manufacturer, contractor, or other person who has brought such vehicle or equipment item into conformity with such standards and describing the nature and extent of the work performed. The bond shall be in the amount determined by the Director of Commerce. Within ninety (90) days after such entry, or such additional period as the Director of Commerce may allow for good cause shown, the importer or consignee shall deliver to the Director of Commerce the statement described in this Paragraph which the Director of Commerce shall forward to the Federal Highway Administration. If such statement is not delivered to the Director of Commerce for the port of entry of such vehicle or equipment item within ninety (90) days of the date of entry or such additional period as may be

allowed by the Director of Commerce, for good cause shown, the importer or consignee shall deliver or cause to be delivered to the Director of Commerce those vehicles or equipment items, which were released in accordance with this Paragraph. In the event that any such vehicle or equipment item is not redelivered within five (5) days following the date specified in the preceding sentence, liquidated damages shall be assessed in the full amount of a bond given.

§2303. Merchandise Refused Entry. If a vehicle or equipment item is denied entry under the provisions of §2301(b), the Director of Commerce shall refuse to release the merchandise for entry into Guam and shall issue a notice of such refusal to the importer or consignee.

§2304. Disposition of Merchandise Refused Entry Into Guam; Redelivered Merchandise. Vehicle or equipment items which are denied entry under §2301(b) or which are redelivered in accordance with §2310(c) and which are not exported under supervision within 90 days from the date of notice or refusal of admission or date of redelivery shall be disposed of; Provided, however, that any such disposition shall not result in an introduction into Guam of a vehicle or equipment item in violation of the National Traffic and Motor Vehicle Safety Act of 1966.

Article 4

Container Freight Stations and Inspections

- §2400. Authority.
- §2401. Definitions.
- §2402. Policy.
- §2403. Removal of Container Seal.
- §2404. Sealing.
- §2405. Tampering or Altering of Customs Seal.
- §2406. Provisional Inspection Site.
- §2407. Special Request.
- §2408. Requirements for CFS Facility.
- §2409. Documentation Requirement.
- §2410. Inspection.
- §2411. Prohibited or Restricted Items.
- §2412. Penalties.
- §2413. Investigation.
- §2414. Payment of Charges and Fees.
- §2415. Reviews and Audits.

NOTE: This Article was received by the Compiler of Laws on 4/9/90 and became effective 45 days after receipt by the Legislature.

§2400. Authority. Pursuant to 5 GCA §73144, the Director of Commerce is empowered to promulgate rules and regulations to carry out the purpose of Chapter 2, Title XLIV, Government Code. Such rules and regulations may prescribe the terms and conditions necessary to administer the functions of Customs & Quarantine of the Department of Commerce, Government of Guam in enforcing federal and local laws.

§2401. Definitions. The following definitions and interpretations shall apply to this Article unless the text otherwise requires:

(a) *Container* means any method of conveyance used in the shipment or transportation of merchandise or goods in international traffic.

(b) *Container Freight Station (CFS)* means a structure designated for the receiving, handling or storage of cargo and that area within the surrounding perimeter fence.

(c) *Customs/Agricultural Seal* means a band, strap(s), button, tag, string, or adhesive tag used for the purpose of sealing/ securing containers.

(d) *Customs Inspector* means any individual duly authorized by the Director to enforce the Customs and Quarantine laws and other applicable laws.

(e) *Department* means the Department of Commerce,

Government of Guam.

(f) *Director* means the Director of Commerce.

(g) *Documentation* means bills of lading, airway bill, invoice(s), permit(s), certificate(s) and consumption entry permit(s).

(1) *Bill of Lading* - a receipt given by a surface carrier of goods accepted to be transported.

(2) *Airway Bill* - a receipt given by an airline for goods accepted for transportation.

(3) *Invoice* - a detailed list of goods sold or services provided together with the charges, description and quantity.

(4) *Consumption Entry Permit* - a permit for merchandise, usually valued over \$250.00, which is free of duty or upon which duty has been paid by the consignee or importer.

(h) *Guam Customs Territory* means the territory to which the customs laws of Guam are applicable.

(i) *Movement* means the act, process, or result of moving a container, commodity or goods from the port of entry.

(j) *Person* means a consignee, owner, declarant, partnership, corporation, or association which deals in the import and export of goods.

(k) *Provisional Inspection Site* means a temporary location which is approved by the Director of Commerce for the inspection of air or surface shipments of inbound cargo.

§2402. Policy. The purpose of these rules and regulations is to facilitate and movement and inspection of containers from the original port of entry to provisional inspection sites or to a CFS.

§2403. Removal of Container Seal. Seals affixed on a container or cargo at the port of origin shall be removed only under Customs supervision.

§2404. Sealing. Any container seal found broken after being unloaded from a vessel shall be reported immediately to a Customs officer and the Customs officer shall immediately reseal the container.

§2405. Tampering or Altering of Customs Seal. The breaking or tampering with the Customs seal on a container prior to its official release from Customs custody, except under the direction of a Customs

inspector, is in violation of 5 GCA §73143.

§2406. Provisional Inspection Site. A. An importer may request for a container to be inspected at a provisional inspection site located at the owner's premises. Such inspection may be authorized by the Director of Commerce or Chief of Customs under the following conditions:

(1) The applicant is required to provide the following particulars:

- name, address, and telephone number of applicant.
- map to business establishment.

(2) The Special request shall be granted based on availability of Customs and Quarantine personnel (regular office hours).

(3) Requests will be entertained on a case- by-case basis.

(4) Priority will be given on a first-come-first-served basis.

(5) The owner or importer is responsible for providing adequate manpower and equipment of off-load goods in a timely manner for inspection.

(b) Any person(s) wishing to move a container to a provisional inspection site or CFS must submit Customs Form 30 to the Chief of Customs or Director of Commerce for approval prior to movement of the container from the port of entry.

§2407. Special Request. At the request of the declarant, Guam customs inspectors may permit goods to be cleared outside business hours, including Sundays and holidays, provided the owner/consignee pays Customs overtime services under 5 GCA §73138.

§2408. Requirements for CFS Facility. (a) An application for the operation of a CFS facility shall be submitted to the Department of Commerce, Customs & Quarantine Division, in order to verify the eligibility of the applicant and facility for approval. The application must contain the following:

(1) The applicant must submit a completed CFS facility application form (CQ Form 31).

(2) The person must attach a copy of a valid Government of Guam business license issued by the Department of Revenue & Taxation.

(3) A certified blueprint of the facility(ies) must be submitted with the application to the Director for approval.

(b) The facility shall be completely secured by a perimeter fence with a locked gate.

(c) The facility must have a safety area marked or zoned for cargo examination and adequate lighting so as to permit the inspector to conduct his examination, without straining his eyes.

(d) If approved, a permit will be issued within thirty (30) working days from the time the application is received.

§2409. Documentation Requirement. The owner or importer shall submit the necessary documentation to the Customs Office prior to the inspection in order to facilitate the movement of goods to its destination for Customs inspection. Those documents are as follows:

- (1) Bill of lading or airway bill.
- (2) Invoice.
- (3) Permit/Certificate.
- (4) Consumption entry permits if required.

§2410. Inspection. Inspection shall be conducted and performed in accordance with Customs and Quarantine rules and regulations (see Art. 1 of this Chapter). Priority shall be given to perishable goods and other urgent consignments.

§2411. Prohibited or Restricted Items. Any goods, articles, or merchandise found in any container which are prohibited or restricted will be seized by Customs pursuant to 5 GCA §73101 or any other statute or rule or regulation prohibiting its entrance.

§2412. Penalties. Should a seal on a container or cargo be broken or tampered with prior to its official release from Customs custody, except under the direction of a Customs Inspector, then the person or firm that has accepted delivery of the sealed container or cargo, shall be liable for the following administrative penalties levied by the Collector of

Customs under 5 GCA §73143.

(1) A fine of not less than Twenty-Five Thousand Dollars (\$25,000.00) and the confiscation of the cargo involved; and

(2) The suspension of the business license(s) of all principals involved in the violation of this action for one (1) year.

§2413. Investigation. The Director may order an investigation to be conducted in the event that a sealed container is found opened.

§2414. Payment of Charges and Fees. Any person(s) requesting Customs services as provided in these rules and regulations shall immediately make payment to the Customs and Quarantine Division for services rendered or upon receipt of customs bill. If payment is not received, services will no longer be provided until full payment is made.

§2415. Reviews and Audits. The Director of Commerce or his designee may conduct from time to time periodic reviews and audits of CFS, sites [sic] and all documents relating to the handling of import and export merchandise.