

Quarantine Programs may issue permits for the importation of soil for research, analytical, religious, ceremonial, patriotic or similar purposes, or such other purposes as he shall deem consistent with the objectives of this part, specifying in the permit or in the related correspondence, the safeguards, including methods of treatment or other conditions, which he deems necessary for the purpose of preventing the introduction of insect pests and plant diseases.

(b) *Applications for permits.* Only persons resident in the United States may apply for permits to import soil from Mexico at a port on the Mexican border. Any such person contemplating such an importation shall first make application for a permit by using the form provided therefor by the Plant Protection and Quarantine Programs or by submitting to the Plant Protection and Quarantine Programs, in the form of a letter or other written communication, the following information: Origin of the shipment, destination, quantity, method of shipment, proposed port of first arrival in the United States, approximate date of arrival in the United States, intended use, measures to be employed to prevent danger of dissemination of insect pests and plant diseases, method of final disposition, and the number of parcels expected to be moved. In acting upon the application for permit for such importation of soil, the Deputy Administrator will follow the procedures outlined in §330.202 of this chapter for the consideration of applications for permits to move plant pests, insofar as they are applicable.

(c) *Issuance of permits; special mailing labels for mail importations.* Upon the approval of an application for a permit to import soil from Mexico under this part, a permit may be issued, including any conditions which, in the opinion of the Deputy Administrator, are necessary in order to prevent the introduction of insect pests and plant diseases. The Deputy Administrator may require the applicant to agree in writing to the conditions prior to the issuance of the permit. The importer will receive with the permit information on the manner in which the importation is to be made. Permission to import soil without con-

ditions may be issued orally by the inspector, if the soil is not imported by mail. All containers for soil are to be stoutly constructed so as to prevent breakage in transit and danger of dissemination of insect pests and plant diseases and shall be appropriately labeled as to contents. If the soil is imported by mail, special mailing labels will be issued to the importer, with instructions for their use, which he is to send to the foreign shipper. The quantity of mailing labels issued will be sufficient for the foreign shipper to attach one to each parcel forwarded by mail. Such mailing labels will indicate to the postal and the plant quarantine officials that the importation is authorized under the conditions specified in the permit. Importations arriving by mail without labels will be subject to refusal of entry into the United States by the inspector unless treated, at the expense of the owner, in a manner to remove danger of introduction of insect pests and plant diseases. The Deputy Administrator may issue mailing labels for importations into the United States of earth other than soil when the importation might otherwise be impeded because of similarity to earth subject to regulation under this section.

[24 FR 10822, Dec. 29, 1959, as amended at 32 FR 8954, June 23, 1967; 36 FR 24917, Dec. 24, 1971. Redesignated at 56 FR 14844, Apr. 12, 1991]

PART 322—HONEYBEES AND HONEYBEE SEMEN

Sec.

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AUTHORITY: 7 U.S.C. 281; 7 CFR 2.22, 2.80, and 371.2(c).

SOURCE: 50 FR 25689, June 21, 1985, unless otherwise noted.

§ 322.1 Importation of honeybees and honeybee semen.

(a) No persons may import honeybees or honeybee semen, except as otherwise provided in this part.

(b) Honeybees or honeybee semen from Canada may be imported into the United States without any further restrictions under this part.

(c) Honeybee semen from any country listed below is designated as a restricted article and may be imported only in accordance with the provisions in this part.

Australia
Bermuda
France
Great Britain
Sweden

(d) Honeybees from any country or locality other than Canada, may be imported without complying with other provisions of this part if:

(1) Imported by the U.S. Department of Agriculture for experimental or scientific purposes;

(2) Imported at the Plant Germplasm Quarantine Center, Building 320, Beltsville Agricultural Research Center East, Beltsville MD 20705, or at a port of entry designated by an asterisk in § 319.37-14(b);

(3) Imported pursuant to a departmental permit issued for such honeybees and kept on file at the port of entry;

(4) Imported under conditions specified on the departmental permit and found by the Deputy Administrator to be adequate to prevent the introduction into the United States of diseases or parasites harmful to honeybees, or genetically undesirable germ plasm of honeybees, i.e., conditions of treatment, processing, shipment, disposal; and

(5) Imported with a departmental tag or label securely attached to the outside of the container, and with such tag or label bearing the name of the person to whom the permit is issued.

(e) Honeybees and honeybee semen from New Zealand may transit the United States en route to another country under the following conditions:

(1) The honeybees or honeybee semen must be accompanied by a certificate issued by the New Zealand Department

of Agriculture certifying that the honeybees or honeybee semen were derived in or shipped from an apiary in New Zealand;

(2) The honeybees or honeybee semen must be shipped nonstop to the United States for transit to another country;

(3) The honeybees must be contained in cages that are completely enclosed by screens with mesh fine enough to prevent the honeybees from passing through. Each pallet of cages must then be covered by an escape-proof net that is secured tightly to the pallet so that no honeybees can escape from underneath the net;

(4) The honeybees must be shipped by air through a port staffed by an inspector.¹ The honeybees may be transloaded from one aircraft to another at the port of arrival in the United States, provided the transloading is done under the supervision of an inspector and the area used for any storage of the honeybees between flights is within a completely enclosed building.

(5) At least 2 days prior to the expected date of arrival of honeybees at a port in the United States, the shipper must notify the APHIS Officer in Charge at the port of arrival of the following: the date of arrival and departure; the name and address of both the shipper and receiver; the quantity of queens and the number of cages of package honeybees in the shipment; and, the name of the airline carrying the shipment.

(f) Any honeybees or honeybee semen offered for import or intercepted entering the United States and not in compliance with this part shall be immediately exported from the United States by the importer or shall be destroyed by an inspector. Pending exportation or destruction, the honeybees or honeybee semen shall be subject to the immediate application of such safeguards against escape of diseases or parasites harmful to honeybees, or undesirable species or subspecies of honeybees, as the inspector

¹For a list of ports staffed by inspectors, contact the Animal and Plant Health Inspection Service, Plant Protection and Quarantine, Port Operations, Permit Unit, 4700 River Road Unit 136, Riverdale, Maryland 20737-1236.

determines necessary to prevent the introduction into the United States of diseases or parasites harmful to honeybees, or undesirable species or subspecies of honeybees.

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[50 FR 25689, June 21, 1985, as amended at 59 FR 656, Jan. 6, 1994; 59 FR 67133, Dec. 29, 1994; 60 FR 6000, Feb. 1, 1995]

§ 322.2 Definitions.

Terms used in the singular form in this part shall be construed as the plural, and vice versa, as the case may demand. The following terms, when used in this part, shall be construed respectively, to mean:

Deputy Administrator. The Deputy Administrator of the Animal and Plant Health Inspection Service for Plant Protection and Quarantine, U.S. Department of Agriculture, or any other officer or employee of the Department to whom authority to act in his or her stead has been or may hereafter be delegated.

Diseases harmful to honeybees. Honeybee diseases, including but not limited to diseases caused by *Aspergillus* spp., *Bacillus* spp., *Ascospaera* spp., Kashmir virus, and *Saccharomyces* spp.

Honeybee. Any live honeybee of the genus *Apis* in any life stage and the germplasm of honeybees of the genus *Apis*, except honeybee semen.

Import (importation, imported). To import or move into the United States.

Inspector. Any employee of Plant Protection and Quarantine, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, or other person authorized by the Deputy Administrator in accordance with the law to enforce the provisions of this part.

Parasites harmful to honeybees. Honeybee parasites, including but not limited to *Varroa jacobsoni*, *Eugarrao sinhai*, *Tropilaelaps clareae*, and *Acarapis woodi*.

Person. Any individual, corporation, company, society, association, or any other organized group.

Plant Protection and Quarantine. The organizational unit within the Animal and Plant Health Inspection Service, U.S. Department of Agriculture, delegated responsibility for enforcing provisions of the Honeybee Act, as amend-

ed, and regulations promulgated thereunder.

Restricted article. Any honeybee semen from countries listed in § 322.1(c).

Undesirable species of subspecies of honeybees. *Apis mellifera adansonii*, commonly known as the African honeybee, and its hybrids; and *Apis mellifera capensis*, commonly known as the Cape honeybee.

United States. The States, District of Columbia, American Samoa, Guam, Northern Mariana Islands, Puerto Rico, and the Virgin Islands of the United States.

§ 322.3 Permits.

(a) A restricted article may be imported only after issuance of a written permit by Plant Protection and Quarantine.

(b) An application for a written permit must be submitted to the Animal and Plant Health Inspection Service, Plant Protection and Quarantine, Biological Assessments and Taxonomic Support, 4700 River Road, Unit 133, Riverdale, Maryland 20737-1236, and should be submitted at least 30 days prior to arrival of the article at the port of entry. The completed application does not have to be on any particular form but must indicate that it is an application for a written permit and include the following information:

- (1) Name, address, and telephone number of the importer;
- (2) Amount of semen indicated to be imported and species or subspecies of the honeybees from which the semen was collected;
- (3) Country or locality of origin;
- (4) Intended United States port of entry;
- (5) Means of transportation; and
- (6) Expected date of arrival.

(c) After receipt and review of the application by Plant Protection and Quarantine, a written permit indicating the applicable conditions in this subpart for importation shall be issued for the importation of the articles specified in the application if such articles appear to be eligible to be imported. Even though a written permit has been issued for the importation of an article, it may be moved into the United States from the port of entry

only if all requirements of this subpart are met and only if an inspector at the port of entry does not determine that emergency measures are necessary with respect to such article to assure that diseases or parasites harmful to honeybees and that undesirable species or subspecies of honeybees are not introduced into the United States.

(d) Any permit which has been issued may be withdrawn by an inspector or the Deputy Administrator if he or she determines that the permit holder has not complied with any condition for the use of the permit. The reasons for the withdrawal shall be confirmed in writing as promptly as circumstances allow. Any person whose permit has been withdrawn may appeal the decision in writing to the Deputy Administrator within 20 days after receiving the written notification of the withdrawal. The appeal must state all of the facts and reasons upon which the person relies to show that the permit was wrongfully withdrawn. The Deputy Administrator shall grant or deny the appeal in writing, stating the reasons for the decision, as promptly as circumstances allow. If there is a conflict as to any material fact, a hearing shall be held to resolve the conflict.

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[50 FR 25689, June 21, 1985, as amended at 59 FR 67133, Dec. 29, 1994; 59 FR 67610, Dec. 30, 1994]

§ 322.4 Inspections.

Any restricted article is subject to inspection by an inspector at the time of importation for the purpose of determining whether such article is eligible to be imported.

§ 322.5 Marking and shipping.

(a) Any restricted article for importation by means other than mail shall at the time of importation bear on the outer container the following information:

(1) Amount of semen and species or subspecies of the honeybees from which the semen was collected,

(2) Country or locality of origin,

(3) Name and address of shipper, owner, or person shipping or forwarding the article,

(4) Name and address of consignee, and

(5) Identifying shipper's mark and number.

(b) Any restricted article for importation by mail must be addressed and mailed to Plant Protection and Quarantine at a place specified in § 322.8; must be accompanied by a separate sheet of paper within the package bearing the name, address, and telephone number of the intended recipient; and must bear on the outer container the following information:

(1) Species or subspecies of the honeybees from which the semen was collected,

(2) Country or locality of origin, and

(3) Name and address of shipper, owner, or person shipping or forwarding the article.

(c) Any restricted article must be accompanied at the time of importation by an invoice or packing list indicating the contents of the shipment.

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[50 FR 25689, June 21, 1985, as amended at 59 FR 67133, Dec. 29, 1994]

§ 322.6 Arrival notification.

Promptly upon arrival of any restricted article at a port of entry, except for mail shipments, the importer must notify Plant Protection and Quarantine of the arrival by such means as a manifest, Customs entry document, commercial invoice, waybill, a broker's document, or a notice form provided for that purpose.

(Approved by the Office of Management and Budget under control number 0579–0049)

§ 322.7 Costs and charges.

The services of the inspector during regularly assigned hours of duty and at the usual places of duty shall be furnished without cost to the importer.² Plant Protection and Quarantine will not be responsible for any costs or charges, other than those indicated in this section.

²Provisions relating to costs for other services of an inspector are contained in 7 CFR part 354.

§ 322.8 Ports of entry.

(a) Any restricted article may be imported only at a port of entry listed in § 319.37-14(b) of this chapter.

PART 330—FEDERAL PLANT PEST REGULATIONS; GENERAL; PLANT PESTS; SOIL, STONE, AND QUARRY PRODUCTS; GARBAGE

Subpart—General Provisions

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330.301 Stone and quarry products from certain areas in Canada.

330.302 Domestic movements of earth (including soil), stone, etc.

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330.400 Regulation of certain garbage.

AUTHORITY: 7 U.S.C. 147a, 149, 150bb, 150dd-150ff, 161, 162, 164a, 450, 2260; 19 U.S.C. 1306; 21 U.S.C. 111, 114a; 136 and 136a; 31 U.S.C. 9701; 42 U.S.C. 4331 and 4332; 7 CFR 2.22, 2.80, and 371.2(c).

SOURCE: 24 FR 10825, Dec. 29, 1959, unless otherwise noted.

Subpart—General Provisions

§ 330.100 Definitions.

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

Administrative instructions. Published documents relating to the enforcement of the regulations in this part, issued under authority of such regulations by the Deputy Administrator.

Administrator. The Administrator of the Animal and Plant Health Inspection Service of the Department, or any officer or employee of the Animal and Plant Health Inspection Service to whom authority has heretofore been delegated or may hereafter be delegated to act in his/her stead.

Continental United States. The 49 States located on the continent of North America and the District of Columbia.

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

Department. The U.S. Department of Agriculture.

Deputy Administrator. The Deputy Administrator of the Plant Protection and Quarantine Programs of the Animal and Plant Health Inspection Service of the Department, or any officer or employee of the Plant Protection and