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(c) *Outdoor household articles and mobile homes and their associated equipment.* (1) Outdoor household articles and mobile homes and their associated equipment that are destined for a U.S. infested area and will not be moved through any U.S. noninfested areas may be imported from any area in Canada without restriction under this subpart.

(2) Outdoor household articles and mobile homes and their associated equipment that are being moved from a Canadian noninfested area may be imported into any area of the United States without restriction under this subpart.

(3) Outdoor household articles and mobile homes and their associated equipment that are being moved from a Canadian infested area into a U.S. noninfested area, or that will be moved through a U.S. noninfested area, may be imported into the United States only if they are accompanied by a statement, signed by their owner, stating that they have been inspected and found free of gypsy moth.

(Approved by the Office of Management and Budget under control number 0579–0142)

[64 FR 45866, Aug. 23, 1999, as amended at 65 FR 38176, June 20, 2000; 69 FR 61589, Oct. 20, 2004; 70 FR 33326, June 7, 2005; 71 FR 40878, July 19, 2006]

§ 319.77–5 Disposition of regulated articles denied entry.

Any regulated article that is denied entry into the United States because it does not meet the requirements of this subpart must be promptly safeguarded or removed from the United States. If the article is not promptly safeguarded or removed from the United States, it may be seized, destroyed, or otherwise disposed of in accordance with section 414 of the Plant Protection Act (7 U.S.C. 7714).

[64 FR 45866, Aug. 23, 1999, as amended at 66 FR 21057, Apr. 27, 2001]

PART 322—BEES, BEEKEEPING BY-PRODUCTS, AND BEEKEEPING EQUIPMENT

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AUTHORITY: 7 U.S.C. 281; 7 U.S.C. 7701–7772 and 7781–7786; 7 CFR 2.22, 2.80, and 371.3.

SOURCE: 69 FR 61747, Oct. 21, 2004, unless otherwise noted.

Subpart A—General Provisions

§ 322.1 Definitions.

Administrator. The Administrator, Animal and Plant Health Inspection Service, or an individual authorized to act for the Administrator.

Animal and Plant Health Inspection Service (APHIS). The Animal and Plant Health Inspection Service of the United States Department of Agriculture.

Bee. Any member of the superfamily *Apoidea* in any life stage, including germ plasm.

Beekeeping byproduct. Material for use in hives, including, but not limited to, beeswax for beekeeping, pollen for bee feed, or honey for bee feed.

Beekeeping equipment. Equipment used to house and manage bees, including, but not limited to, bee boards, hive bodies, bee nests and nesting material, smokers, hive tools, gloves or other clothing, and shipping containers.

Beekeeping establishment. All of the facilities, including apiaries, honey houses, and other facilities, and land that comprise a proprietor's beekeeping business.

Brood. The larvae, pupae, or postovipositional ova (including embryos) of bees.

Destination State. The State, district, or territory of the United States that is the final destination of imported bees, beekeeping byproducts, or beekeeping equipment.

Germ plasm. The semen and preovipositional ova of bees.

Hive. A box or other shelter containing a colony of bees.

Honeybee. Any live bee of the genus Apis in any life stage except germ plasm.

Inspector. Any employee of the Animal and Plant Health Inspection Service, or other individual authorized by the Administrator to carry out the provisions of this part.

Office International des Epizooties (OIE). The organization in the Food and Agriculture Organization of the United Nations responsible for the International Animal Health Code, which includes a section regarding bee diseases in international trade.

Package bees. Queen honeybees with attendant adult honeybees placed in a shipping container, such as a tube or cage.

Queen. The actively reproducing adult female in a colony of bees.

Slumgum. Residue remaining after the beeswax rendering process. It is composed of beeswax mixed with debris or refuse that accumulates when wax cappings or comb are melted. The residue can include wax moth cocoons, dead bees, bee parts, and other detritus from the colony.

Undesirable species or subspecies of honeybees. Honeybee species or subspecies including, but not limited to, *Apis mellifera scutellata*, commonly known as the African honeybee, and its hybrids; *Apis mellifera capensis*, commonly known as the Cape honeybee; and *Apis cerana*, commonly known as the Oriental honeybee.

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

§ 322.2 General requirements for interstate movement and importation.

(a) *Interstate movement*. (1) The following regions of the United States are considered pest-free areas for Varroa mite, tracheal mite, small hive beetle, and African honeybee: Hawaii.

(2) In order to prevent the introduction of Varroa mite, tracheal mite, small hive beetle, and African honeybee into the pest-free areas listed in paragraph (a)(1) of this section, interstate movement of honeybees into those areas is prohibited.

(b) *Importation*. In order to prevent the introduction into the United States of bee diseases and parasites, and undesirable species and subspecies of honeybees:

(1) You may import bees, honeybee germ plasm, and beekeeping byproducts into the United States only in accordance with this part.

(2) You may not import pollen derived from bee colonies and intended for use as bee feed into the United States.

(3)(i) You may not import used beekeeping equipment into the United States, unless that used beekeeping equipment either:

(A) Will be used solely for indoor display purposes and will not come into contact with indigenous bees; or

(B) Consists of bee boards that contain live brood of bees, other than honeybees, from a region listed in § 322.4(c).

(ii) New, unused beekeeping equipment is eligible for importation into the United States if it complies with all applicable regulations in this chapter.

(c) *Movements not in compliance.* (1) Any honeybees, honeybee germ plasm, bees other than honeybees, beekeeping byproducts, or used beekeeping equipment not in compliance with this part that are imported into the United States will be either:

(i) Immediately exported from the United States by you at your expense; or

(ii) Destroyed by us at your expense.

(2) Pending exportation or destruction, we will immediately apply any necessary safeguards to the bees, beekeeping byproducts, or used beekeeping equipment to prevent the introduction of bee diseases and parasites, and undesirable species and subspecies of honeybees into the United States.

§ 322.3 Costs and charges.

We will furnish, without cost, the services of an inspector during normal business hours and at the inspector's places of duty. You will be responsible for all costs and charges arising from inspection outside of normal business hours or away from the inspector's places of duty.[1] You are also responsible for all costs and charges related to any exportation or destruction of shipments, in accordance with § 322.2(c)(1). Further, if you import bees or germ plasm into a containment facility for research or processing, you will be responsible for all additional costs and charges associated with the importation.

[1] Information on costs for services of an inspector are contained in part 354 of this chapter.

Subpart B—Importation of Adult Honeybees, Honeybee Germ Plasm, and Bees Other Than Honeybees From Approved Regions

§ 322.4 Approved regions.

(a) *Adult honeybees.* The following regions are approved for the importation of adult honeybees into the continental United States (not including Hawaii) under the conditions of this subpart: Australia, Canada, and New Zealand.

(b) *Honeybee germ plasm.* The following regions are approved for the importation of honeybee germ plasm into the United States under the conditions of this subpart: Australia, Bermuda, Canada, France, Great Britain, New Zealand, and Sweden.

(c) *Bees other than honeybees.* The following regions are approved for the importation of bees other than honeybees into the continental United States (not including Hawaii) under the conditions of this subpart: Canada.

(d) If the name of the region from which you want to import adult honeybees, honeybee germ plasm, or bees other than honeybees into the United States does not appear in paragraphs (a), (b), or (c), respectively, of this section, refer to subpart C of this part, "Importation of Restricted Organisms," for requirements.

(e) For information on approving other regions for the importation of adult honeybees, honeybee germ plasm, or bees other than honeybees into the United States, see § 322.12.

§ 322.5 General requirements.

(a) All shipments of bees and honeybee germ plasm imported into the United States under this subpart must be shipped directly to the United States from an approved region.

(b) *Adult honeybees.* (1) You may import adult honeybees under this subpart only from regions listed in § 322.4(a).

(2) The honeybees must be package bees or queens with attending adult bees.

(c) *Honeybee germ plasm.* You may import honeybee germ plasm under this subpart only from regions listed in § 322.4(b).

(d) *Bees other than honeybees.* (1) You may import live adult bees or live brood and essential nest substrate under this subpart only from regions listed in § 322.4(c).

(2) The live bees or brood must belong to one of the following species:

(i) Bumblebees of the species *Bombus impatiens*;

(ii) Bumblebees of the species *Bombus occidentalis*;

(iii) Alfalfa leafcutter bee (*Megachile rotundata*);

(iv) Blue orchard bee (*Osmia lignaria*); or

(v) Horn-faced bee (*Osmia cornifrons*).

(3) If you want to import species of bees other than those listed in paragraph (d)(2) of this section, refer to subpart C of this part, "Importation of Restricted Organisms," for requirements.

§ 322.6 Export certificate.

Each shipment of bees and honeybee germ plasm arriving in the United States from an approved region must be accompanied by an export certificate issued by the appropriate regulatory agency of the national government of the exporting region.

(a) *Adult honeybees.* (1) For adult honeybees, the export certificate must:

(i) Certify that the hives from which the honeybees in the shipment were derived were individually inspected by an official of the regulatory agency no more than 10 days prior to export;

(ii) Identify any diseases, parasites, or undesirable species or subspecies of honeybee found in the hive during that preexport inspection; and

(iii) Certify that the bees in the shipment were produced in the exporting region and are the offspring of bees or semen also produced in the exporting region.

(2) If the export certificate identifies a bee disease or parasite of concern to the United States, including, but not limited to, Thai sacbrood virus, *Tropilaelaps clareae*, and *Euvarroa sinhai*, or an undesirable species or subspecies of honeybee, including, but not limited to, the Cape honeybee (*Apis mellifera capensis*) and the Oriental honeybee (*Apis cerana*), as occurring in the hive from which the shipment was derived, we will refuse the shipment's entry into the United States.

(b) *Honeybee germ plasm.* (1) For honeybee germ plasm, the export certificate must:

(i) Certify that the hives from which the germ plasm in each shipment was derived were individually inspected by an official of the regulatory agency no more than 10 days prior to export;

(ii) Identify any diseases, parasites, or undesirable species or subspecies of honeybee found in the hive during that preexport inspection; and

(iii) Certify that the bees in the hives from which the shipment was derived were produced in the exporting region and are the offspring of bees or semen also produced in the exporting region.

(2) If the export certificate identifies a bee disease or parasite of concern to the United States, including, but not limited to, Thai sacbrood virus, *Tropilaelaps clareae*, and *Euvarroa sinhai*, or an undesirable species or subspecies of honeybee, including, but not limited to, the Cape honeybee (*Apis mellifera capensis*) and the Oriental honeybee (*Apis cerana*), as occurring in the hive from which the shipment was derived, we will refuse the shipment's entry into the United States.

(c) *Bees other than honeybees.* For bees other than honeybees, the export certificate must certify that the bees in the shipment were produced in the exporting region and are the offspring of bees or semen also produced in the exporting region.

(Approved by the Office of Management and Budget under control number 0579–0207)

§ 322.7 Notice of arrival.

(a) At least 10 business days prior to the arrival in the United States of any shipment of bees or honeybee germ plasm imported into the United States under this subpart, you must notify APHIS of the impending arrival. Your notification must include the following information:

(1) Your name, address, and telephone number;

(2) The name and address of the receiving apiary;

(3) The name, address, and telephone number of the producer;

(4) The U.S. port where you expect the shipment to arrive. The port must

be staffed by an APHIS inspector (see § 322.11);

(5) The date you expect the shipment to arrive at that U.S. port;

(6) The scientific name(s) of the organisms in the shipment;

(7) A description of the shipment (*i.e.*, package bees, queen bees, nest boxes, etc.); and

(8) The total number of organisms you expect to receive.

(b) You must provide the notification to APHIS through one of the following means:

(1) By mail to the Permit Unit, PPQ, APHIS, 4700 River Road Unit 133, Riverdale, MD 20737–1236; or

(2) By facsimile at (301) 734–8700; or

(3) By electronic mail to *Notification@usda.gov*.

(Approved by the Office of Management and Budget under control number 0579–0207)

§ 322.8 Packaging of shipments.

(a) *Adult honeybees.* All shipments of adult honeybees imported into the United States under this subpart:

(1) Must be packaged to prevent the escape of any bees or bee pests;

(2) Must not include any brood, comb, pollen, or honey; and

(3) May include sugar water or crystallized sugar (*e.g.*, candy) for use as food during transit.

(b) *Bees other than honeybees*—(1) *Adult bees.* All adult bees other than honeybees imported into the United States must be packaged to prevent the escape of any bees or bee pests.

(2) *Live brood.* For live brood of bees other than honeybees, packages:

(i) Must be securely closed;

(ii) May not include any soil, except for that which is present in nest cells that include developing, immature bees;

(iii) May include only packing materials that were grown or produced in the exporting region and that meet all other applicable requirements of this chapter, such as the regulations pertaining to unmanufactured wood in part 319 of this chapter and the plant pest regulations in part 330 of this chapter; and

(iv) May consist of brood housed in new or used bee boards, provided the bee boards meet all applicable requirements of this part.

§ 322.9 Mailed packages.

(a) If you import a package of honeybees, honeybee germ plasm, or bees other than honeybees under this subpart through the mail or through commercial express delivery, you must mark all sides of the outside of that package with the contents of the shipment, *i.e.*, "Live Bees," "Bee Germ Plasm," or "Live Bee Brood," and the name of the exporting region. The marking must be clearly visible using black letters at least 1 inch in height on a white background.

(b) If you import a package of honeybees, honeybee germ plasm, or bees other than honeybees under this subpart through commercial express delivery, you must provide an accurate description of the complete contents of the shipment, *i.e.*, "Live Bees," "Bee Germ Plasm," or "Live Bee Brood," for the shipment's delivery manifest entry.

(c) In addition to the export certificate required in § 322.6, a package of honeybees, honeybee germ plasm, or bees other than honeybees imported under this subpart by commercial express delivery must be accompanied at the time of arrival in the United States by an invoice or packing list accurately indicating the complete contents of the shipment.

§ 322.10 Inspection; refusal of entry.

(a) Shipments of honeybees, honeybee germ plasm, and bees other than honeybees imported into the United States under this subpart will be inspected at the port of entry in the United States for:

(1) Proper documentation (see § 322.6);

(2) Timely notice of arrival (see § 322.7); and

(3) Adequate packaging (see § 322.8).

(b) If, upon inspection, any shipment fails to meet the requirements of this part, that shipment will be refused entry into the United States. In accordance with § 322.2(c), the inspector will offer you, or in your absence the shipper, the opportunity to immediately export any refused shipments. If you, or in your absence the shipper, decline to immediately export the shipment, we will destroy the shipment at your expense.

§ 322.11 Ports of entry.

Shipments of honeybees, honeybee germ plasm, and bees other than honeybees imported under this subpart may enter the United States only at a port of entry staffed by an APHIS inspector.[2]

§ 322.12 Risk assessment procedures for approving countries.

(a) The national government of the region wishing to export must request that we perform a risk assessment for the importation into the United States of honeybees, honeybee germ plasm, or bees other than honeybees from that region.

(b) When we receive a request, we will evaluate the science-based risks associated with such importation. Our risk assessment will be based on information provided by the exporting region, information from topical scientific literature, and, if applicable, information we gain from a site visit to the exporting region. The risk assessment will include:

(1) Identification of all bee diseases, including fungi, bacteria, viruses, mycoplasmas, and protozoa, that occur in the exporting region but not in the United States or that are listed as significant for international trade by the Office International des Epizooties (OIE);

(2) Identification of all bee parasites, including mites, that occur in the exporting region but not in the United States or that are listed as significant for international trade by the OIE;

(3) Identification of all species and subspecies of honeybees that occur in the exporting region but not in the United States or that are listed as significant for international trade by the OIE, if applicable;

(4) Identification of all pests of bee culture, such as the small hive beetle, that occur in the exporting region but not in the United States or that are listed as significant for international trade by the OIE;

(5) Evaluation of the probability of establishment, including pathway, entry, colonization, and spread potentials, of any diseases, parasites, undesirable species or subspecies of honeybees, or pests identified in accordance with paragraphs (b)(1), (2), (3), or (4) of this section;

(6) Evaluation of the potential consequences of establishment, including economic, environmental, and perceived social and political effects, of each disease, parasite, undesirable species or subspecies of honeybees, or pest identified in accordance with paragraphs (b)(1), (2), (3), or (4) of this section; and

(7) Consideration of the effectiveness of the regulatory system of the exporting region to control bee diseases, parasites, undesirable species and subspecies of honeybees, and pests that occur there and to prevent occurrences of new bee diseases, parasites, undesirable species and subspecies of honeybees, and pests.

(c) Based on the conclusions of the risk assessment, we will either:

(1) Publish in the FEDERAL REGISTER a notice of proposed rulemaking to allow honeybees, honeybee germ plasm, or bees other than honeybees to be imported into the United States from that region; or

(2) Deny the request in writing, stating the specific reasons for that action.

(d) We will publish a notice of availability of all completed risk assessments for public comment.

(Approved by the Office of Management and Budget under control number 0579–0207)

Subpart C—Importation of Restricted Organisms

§ 322.13 General requirements; restricted organisms.

(a) For the purposes of this part, the following are restricted organisms:

(1) Honeybee brood in the comb;

(2) Adult honeybees from any region other than those listed in § 322.4(a);

(3) Honeybee germ plasm from any region other than those listed in § 322.4(b); and

(4) Bees other than honeybees, in any life stage, from any region other than those listed in § 322.4(c) or any species

[2] To find out if a specific port is staffed by an APHIS inspector, or for a list of ports staffed by APHIS inspectors, contact Permit Unit, PPQ, APHIS, 4700 River Road Unit 133, Riverdale, MD 20737–1236; toll-free (877) 770–5990; fax (301) 734–8700.

of bee other than those listed in § 322.5(d)(2).

(b) Restricted organisms may be imported into the United States only by Federal, State, or university researchers for research or experimental purposes and in accordance with this part.

§ 322.14 Documentation; applying for a permit to import a restricted organism.

Any restricted organism imported into the United States must be accompanied by both a permit, in accordance with paragraph (a) of this section, and an invoice or packing list accurately indicating the complete contents of the shipment, in accordance with paragraph (b) of this section.

(a) *Permit.* You must submit a completed application for a permit to import restricted organisms at least 30 days prior to scheduling arrival of those organisms. You may import a restricted organism only if we approve your application and issue you a permit. Our procedures for reviewing permit applications are provided in § 322.15. To apply for a permit, you must supply, either on a completed PPQ Form 526 or in some other written form, the following information:[3]

(1) *Applicant information.* Your name, title, organization, address, telephone number, facsimile number, and electronic mail address (provide all that are applicable). You must also state whether you are a U.S. resident. If you are not a U.S. resident, you must also supply the name, title, organization, address, telephone number, facsimile number, and electronic mail address (provide all that are applicable) of a U.S. resident who will act as a sponsor for the permit application.

(2) *Application type.* New permit, permit renewal, or amendment to existing permit (if a renewal or amendment, provide the current permit number).

(3) *Type of movement.* Select or write "Import into the United States."

(4) *Scientific name of organism.* Genus, species, subspecies or strain, and author (if known).

(5) *Type of organism.* Select or write "Bees and/or bee germ plasm."

(6) *Taxonomic classification.* Family of restricted organisms.

(7) *Life stage(s).* Semen, preovipositional eggs, embryos, postovipositional eggs, larvae, pupae, or adults. If adult queens, please specify.

(8) Number of shipments.

(9) Number of specimens per shipment.

(10) Is the organism established in the United States?

(11) Is the organism established in the destination State?

(12) Media or species of host material accompanying the organism (*e.g.*, pollen, honey, wax, nesting material).

(13) *Source of organism (include any that apply, and list region of origin).* Supplier (provide supplier's name and address), wild collected, or reared under controlled conditions.

(14) *Method of shipment.* Airmail, express delivery (list company name).

(15) Port(s) of entry.

(16) Approximate date(s) of arrival at the port of entry.

(17) *Destination.* Provide the address of the location where the organism will be received and maintained, including building and room numbers where applicable.

(18) *Intended use (include any that apply).* Select or write "Scientific Study."

(19) Has your facility been evaluated by APHIS? If yes, list date(s) of approval. Is your facility approved for the species of bees or bee germ plasm for which you are seeking a permit?

(20) Provide your signature and the date of your signature under the following certification: "I certify that all statements and entries I have made on this document are true and accurate to the best of my knowledge and belief. I understand that any intentional false statement or misrepresentation made on this document is a violation of law and punishable by a fine of not more than $10,000, or imprisonment of not more than 5 years, or both. (18 U.S.C. 1001)." If you are required to have a sponsor for your permit application,

[3] Mail your completed application to Permit Unit, PPQ, APHIS, 4700 River Road Unit 133, Riverdale, MD 20737–1236. A PPQ Form 526 may be obtained by writing to the same address, calling toll-free (877) 770–5990, faxing your request to (301) 734–8700, or downloading the form from *http://www.aphis.usda.gov/ppq/ss/permits/pests/.*

your sponsor must also sign and date under the same certification.

(b) *Invoice.* Any restricted organism must be accompanied at the time of arrival in the United States by an invoice or packing list accurately indicating the complete contents of the shipment and the exporting region.

(Approved by the Office of Management and Budget under control number 0579–0207)

§ 322.15 APHIS review of permit applications; denial or cancellation of permits.

(a) *Review of permit applications to import restricted organisms*—(1) *Consultation.* During our review of your permit application, we may consult with any Federal officials; appropriate officials of any State, Territory, or other jurisdiction in the United States in charge of research or regulatory programs relative to bees; and any other qualified governmental or private research laboratory, institution, or individual. We will conduct these consultations to gain information on the risks associated with the importation of the restricted organisms.

(2) *Review by destination State.* We will transmit a copy of your permit application, along with our anticipated decision on the application, to the appropriate regulatory official in the destination State for review and recommendation. A State's response, which we will consider before taking final action on the permit application, may take one of the following forms:

(i) The State recommends that we issue the permit;

(ii) The State recommends that we issue the permit with specified additional conditions;

(iii) The State recommends that we deny the permit application and provides scientific, risk-based reasons supporting that recommendation; or

(iv) The State makes no recommendation, thereby concurring with our decision regarding the issuance of the permit.[4]

[4] If a State regulatory official does not respond within 20 business days, we will conclude that the State has chosen to make no recommendation regarding the issuance of the permit.

(b) *Results of review.* After a complete review of your application, we will either:

(1) Issue you a written permit with, if applicable, certain specific conditions listed for the importation of the restricted organisms you applied to import. You must initial each condition on the proposed permit and return the proposed permit conditions to the Permit Unit before we will issue you a signed valid permit; or

(2) Notify you that your application has been denied and provide reasons for the denial.

(c) *Denial of permit applications.* APHIS will deny an application for a permit to import a restricted organism regulated under this subpart when, in its opinion, such movement would involve a danger of dissemination of an exotic bee disease or parasite, or an undesirable species or subspecies of honeybee. Danger of such dissemination may be deemed to exist when:

(1) Existing safeguards against dissemination are inadequate and no adequate safeguards can be arranged; or

(2) The potential for disseminating an exotic bee disease or parasite, or an undesirable species or subspecies of honeybee, with the restricted organism outweighs the probable benefits that could be derived from the proposed movement and use of the restricted organism; or

(3) When you, as a previous permittee, failed to maintain the safeguards or otherwise observe the conditions prescribed in a previous permit and have failed to demonstrate your ability or intent to observe them in the future; or

(4) The proposed movement of the restricted organism is adverse to the conduct of an eradication, suppression, control, or regulatory program of APHIS.

(d) *Cancellation of permits.* (1) APHIS may cancel any outstanding permit whenever:

(i) We receive information subsequent to the issuance of the permit of circumstances that would constitute cause for the denial of an application for permit under paragraph (c) of this section; or

(ii) You, as the permittee, fail to maintain the safeguards or otherwise

observe the conditions specified in the permit or in any applicable regulations.

(2) Upon cancellation of a permit, you must either:

(i) Surrender all restricted organisms to an APHIS inspector; or

(ii) Destroy all restricted organisms under the supervision of an APHIS inspector.

(e) *Appealing the denial of permit applications or cancellation of permits.* If your permit application has been denied or your permit has been canceled, APHIS will promptly inform you, in writing, of the reasons for the denial or cancellation. You may appeal the decision by writing to the Administrator and providing all of the facts and reasons upon which you are relying to show that your permit application was wrongfully denied or your permit was wrongfully canceled. The Administrator will grant or deny the appeal as promptly as circumstances allow and will state, in writing, the reasons for the decision. If there is a conflict as to any material fact, you may request a hearing to resolve the conflict. Rules of practice concerning the hearing will be adopted by the Administrator.

(Approved by the Office of Management and Budget under control number 0579–0207)

§ 322.16 Packaging of shipments.

(a) Restricted organisms must be packed in a container or combination of containers that will prevent the escape of the organisms and the leakage of any contained materials. The container must be sufficiently strong to prevent it from rupturing or breaking during shipment.

(b) The outer container must be clearly marked with the contents of the shipment, *i.e.*, either "Live Bees," "Bee Germ Plasm," or "Live Bee Brood," and the name of the region of origin.

(c) Only approved packing materials may be used in a shipment of restricted organisms.

(1) The following materials are approved as packing materials: Absorbent cotton or processed cotton padding free of cottonseed; cages made of processed wood; cellulose materials; excelsior; felt; ground peat (peat moss); paper or paper products; phenolic resin foam; sawdust; sponge rubber; thread waste, twine, or cord; and vermiculite.

(2) Other materials, such as host material for the organism, soil, or other types of packing material, may be included in a container only if identified in the permit application and approved by APHIS on the permit.

§ 322.17 Mailed packages.

(a) If you import a restricted organism through the mail or through commercial express delivery, you must attach a special mailing label (APHIS Form 599), which APHIS will provide with your permit, to the package or container. The mailing label indicates that APHIS has authorized the shipment.

(b) You must address the package containing the restricted organism to the containment facility or apiary identified on the permit (post office boxes are not allowed).

(c) If the restricted organism arrives in the mail without the mailing label described in paragraph (a) of this section or addressed to a containment facility or apiary other than the one listed on the permit, an inspector will refuse to allow the organism to enter the United States.

§ 322.18 Restricted organisms in a commercial vehicle arriving at a land border port in the United States.

(a) If you import a restricted organism through a land border port in the United States by commercial vehicle (*i.e.*, automobile or truck), then the person carrying the restricted organism must present the permit required by § 322.14 and an invoice or packing slip accurately indicating the complete contents of the shipment to the inspector at the land border port.

(b) The restricted organisms must be surrendered at the port of entry and can continue on to the destination identified on the permit only by a bonded carrier (commercial express delivery).

(c) If you fail to present a copy of the permit and an invoice or packing list accurately indicating the complete contents of the shipment at the port of entry, an inspector will refuse the organism's entry to the United States or

confiscate and destroy the refused material.

(Approved by the Office of Management and Budget under control number 0579–0207)

§ 322.19 Inspection; refusal of entry.

(a) APHIS may inspect any restricted organism at the time of importation to determine if the organism meets all of the requirements of this part.

(b) If, upon inspection, any shipment fails to meet the requirements of the regulations, that shipment will be refused entry into the United States. In accordance with § 322.2(c), the inspector will offer the shipper the opportunity to immediately export any refused shipments. If the shipper declines to immediately export the shipment, we will destroy the shipment at his or her expense.

§ 322.20 Ports of entry.

A restricted organism may be imported only at a port of entry staffed by an APHIS inspector.[5] After a restricted organism has been cleared for importation at the port of entry, the organism can only be transported by a bonded commercial carrier immediately and directly from the port of entry to the containment facility or apiary identified on the permit. You may open the package containing the restricted organism only within the containment facility or apiary identified on the permit.

(Approved by the Office of Management and Budget under control number 0579–0207)

§ 322.21 Post-entry handling.

(a) Immediately following clearance at the port of entry, a restricted organism must move by a bonded commercial carrier directly to a containment facility or apiary that has been inspected and approved by APHIS.[6] We must inspect and approve the containment facility or apiary before we will issue a permit to import a restricted organism.

(b) *Inspection of premises.* Prior to issuing a permit to import restricted organisms, we will inspect the apiary or containment facility where you intend to contain the restricted organisms. In order to approve the apiary or containment facility, an inspector must determine that adequate safeguards are in place to prevent the release of diseases or parasites of bees, or of undesirable species or strains of honeybees. We will use the following criteria to determine whether adequate safeguards are in place:

(1) *Enclosed containment facilities.* (i) Will the facility's entryways, windows, and other structures, including water, air, and waste handling systems, contain the restricted organisms, parasites and pathogens, and prevent the entry of other organisms and unauthorized visitors?

(ii) Does the facility have operational and procedural safeguards in place to prevent the escape of the restricted organisms, parasites, and pathogens, and to prevent the entry of other organisms and unauthorized visitors?

(iii) Does the facility have a means of inactivating or sterilizing restricted organisms and any breeding materials, pathogens, parasites, containers, or other material?

(2) *Containment apiaries.* (i) Is the apiary located in an area devoid of indigenous bees and sufficiently isolated to prevent contact between indigenous bees and imported restricted organisms? Is the area extending from the apiary to the nearest indigenous bees constantly unsuitable for foraging individuals of the imported restricted organisms?

(ii) Does the apiary have sufficient physical barriers to prevent the entry of unauthorized visitors?

(iii) Does the apiary have operational and procedural safeguards in place to prevent the escape of the restricted organisms, parasites, and pathogens, and to prevent the entry of other organisms and unauthorized visitors?

(iv) Does the apiary have a means of inactivating or sterilizing restricted

[5] To find out if a specific port is staffed by an APHIS inspector, or for a list of ports staffed by APHIS inspectors, contact Permit Unit, PPQ, APHIS, 4700 River Road Unit 133, Riverdale, MD 20737–1236; toll-free (877) 770–5990; fax (301) 734–8700.

[6] For a list of approved facilities, or to arrange to have a facility inspected by APHIS, contact Permit Unit, PPQ, APHIS, 4700 River Road Unit 133, Riverdale, MD 20737–1236; toll-free (877) 770–5990.

organisms, and any hives, wax, pathogens, parasites, containers, or other materials?

(3) Containment apiaries for honeybees resulting from germ plasm imported from nonapproved regions.

(i) Does the apiary have sufficient physical barriers to prevent the entry of unauthorized visitors?

(ii) Are there sufficient physical barriers (*e.g.*, excluders) in hives in the apiary to prevent the escape of all adult queen and drone honeybees resulting from the germ plasm?

(iii) Does the apiary have operational and procedural safeguards in place to prevent the escape of all queen and drone honeybees resulting from the germ plasm?

(iv) Does the apiary have a means of destroying colonies of honeybees with undesirable characteristics that may result from imported germ plasm?

(c) *Holding in containment.* (1) If we issue a permit for importing restricted organisms into an approved containment facility or apiary, you may not remove or release the restricted organisms, or the progeny or germ plasm resulting from the restricted organisms, from the apiary or facility without our prior approval.

(2) You must allow us to inspect the apiary or facility and all documents associated with the importation or holding of restricted organisms at any time to determine whether safeguards are being maintained to prevent the release of the restricted organisms, their progeny and germ plasm, parasites, and pathogens.

(3) You must inform us immediately, but no later than 24 hours after detection, if restricted organisms escape from the facility

(d) *Release from containment apiary or facility.* (1) After rearing the restricted organisms in an approved containment facility or apiary through at least 4 months of active reproduction with no evidence of nonindigenous parasites or pathogens or of undesirable characteristics, you may submit a request to us for the release of the bees. The request must include:

(i) Inspection protocols;

(ii) Inspection frequencies;

(iii) Names and titles of inspectors;

(iv) Complete information, including laboratory reports, on detection of diseases and parasites in the population;

(v) Complete notes and observations on behavior, such as aggressiveness and swarming; and

(vi) Any other information or data relating to bee diseases, parasites, or adverse species or subspecies.

(2) Mail your request for release to the Permit Unit, PPQ, APHIS, 4700 River Road Unit 133, Riverdale, MD 20737–1236, or fax to (301) 734–8700.

(3) When we receive a complete request for release from containment, we will evaluate the request and determine whether the bees may be released. Our evaluation may include an environmental assessment or environmental impact statement prepared in accordance with the National Environmental Policy Act. We may conduct an additional inspection of the bees during our evaluation of the request. You will receive a written statement as soon as circumstances allow that approves or denies your request for release of the bees.

(Approved by the Office of Management and Budget under control number 0579–0207)

Subpart D—Transit of Restricted Organisms Through the United States

§ 322.22 General requirements.

(a) You may transit restricted organisms from any region through the United States to another region only in accordance with this part. For a list of restricted organisms, see § 322.13(a).

(b) You may ship restricted organisms only aboard aircraft to the United States for transit to another country.

(c) You may transload a shipment of restricted organisms only once during the shipment's entire transit through the United States and only at an airport in the continental United States. You may not transload restricted organisms in Hawaii. In Hawaii, the restricted organisms must remain on, and depart for another destination aboard, the same aircraft on which the shipment arrived at the Hawaiian airport.

§ 322.23 Documentation.

Each shipment of restricted organisms transiting the United States must be accompanied by a document issued by the appropriate regulatory authority of the national government of the region of origin stating that the shipment has been inspected and determined to meet the packaging requirements in § 322.24.

§ 322.24 Packaging of transit shipments.

(a) Restricted organisms transiting the United States must be packaged in securely closed and completely enclosed containers that prevent the escape of organisms and the leakage of any contained materials. The container must be sufficiently strong and durable to prevent it from rupturing or breaking during shipment.

(b) In addition to the requirements in paragraph (a) of this section, each pallet of cages containing honeybees transiting the United States must be covered by an escape-proof net that is secured to the pallet so that no honeybees can escape from underneath the net.

(c) The outside of the package must be clearly marked with the contents of the transit shipment, *i.e.*, either "Live Bees," "Bee Germ Plasm," or "Live Bee Brood," and the name of the exporting region.

§ 322.25 Notice of arrival.

At least 2 business days prior to the expected date of arrival of restricted organisms at a port in the continental United States for in-transit movement, you or your shipper must contact the port to give the following information:

(a) The name of each U.S. airport where the shipment will arrive;

(b) The name of the U.S. airport where the shipment will be transloaded (if applicable);

(c) The date of the shipment's arrival at each U.S. airport;

(d) The date of the shipment's departure from each U.S. airport;

(e) The names, phone numbers, and addresses of both the shipper and receiver;

(f) The number of units in the shipment (*i.e.*, number of queens or number of cages of package bees); and

(g) The name of the airline carrying the shipment.

(Approved by the Office of Management and Budget under control number 0579–0207)

§ 322.26 Inspection and handling.

(a) All shipments of restricted organisms transiting the United States are subject to inspection at the port in the United States for compliance with this part. If, upon inspection, a transit shipment of restricted articles is found not to meet the requirements of this part, we will destroy the shipment at your expense.

(b) *Transloading*—(1) *Adult bees.* You may transload adult bees from one aircraft to another aircraft at the port of arrival in the United States only under the supervision of an inspector. If the adult bees cannot be transloaded immediately to the subsequent flight, you must store them within a completely enclosed building. Adult bees may not be transloaded from an aircraft to ground transportation for subsequent movement through the United States.

(2) *Bee germ plasm.* You may transload bee germ plasm from one aircraft to another at the port of arrival in the United States only under the supervision of an inspector.

§ 322.27 Eligible ports for transit shipments.

You may transit restricted organisms only through a port of entry staffed by an APHIS inspector.[7]

Subpart E—Importation and Transit of Restricted Articles

§ 322.28 General requirements; restricted articles.

(a) The following articles from any region are restricted articles:

(1) Dead bees of any genus;

(2) Beeswax for beekeeping; and

(3) Honey for bee feed.

(b) Restricted articles may only be imported into or transit the United States in accordance with this part.

[7] To find out if a specific port is staffed by an APHIS inspector, or for a list of ports staffed by APHIS inspectors, contact Permit Unit, PPQ, APHIS, 4700 River Road Unit 133, Riverdale, MD 20737–1236; toll-free (877) 770–5990; fax (301) 734–8700.

§ 322.29 Dead bees.

(a) Dead bees imported into or transiting the United States must be either:

(1) Immersed in a solution containing at least 70 percent alcohol or a suitable fixative for genetic research;

(2) Immersed in liquid nitrogen; or

(3) Pinned and dried in the manner of scientific specimens.

(b) Dead bees are subject to inspection at the port of entry in the United States to confirm that the requirements of paragraph (a) of this section have been met.

§ 322.30 Export certificate.

Each shipment of restricted articles, except for dead bees, imported into or transiting the United States must be accompanied by an export certificate issued by the appropriate regulatory agency of the national government of the exporting region. The export certificate must state that the articles in the shipment have been treated as follows:

(a) *Beeswax*. Must have been liquefied, and slumgum and honey must be removed.

(b) *Honey for bee feed*. Heated to 212 °F (100 °C) for 30 minutes.

(Approved by the Office of Management and Budget under control number 0579–0207)

§ 322.31 Notice of arrival.

(a) At least 10 business days prior to the arrival in the United States of any shipment of restricted articles, you must notify APHIS of the impending arrival. Your notification must include the following information:

(1) Your name, address, and telephone number;

(2) The name and address of the recipient of the restricted articles;

(3) The name, address, and telephone number of the producer;

(4) The date you expect to receive the shipment;

(5) A description of the contents of the shipment (*i.e.*, dead bees, honey for bee feed, etc.); and

(6) The total number of restricted articles you expect to receive.

(b) You must provide the notification to APHIS through one of the following means:

(1) By mail to the Permit Unit, PPQ, APHIS, 4700 River Road Unit 133, Riverdale, MD 20737–1236; or

(2) By facsimile at (301) 734–8700; or

(3) By electronic mail to *Notification@usda.gov*.

(Approved by the Office of Management and Budget under control number 0579–0207)

§ 322.32 Mailed packages.

(a) If you import a restricted article through the mail or through commercial express delivery, you must mark all sides of the outside of that package with the contents of the shipment and the name of the exporting region. The marking must be clearly visible using black letters at least 1 inch in height on a white background.

(b) If you import a restricted article through commercial express delivery, you must provide an accurate description of the complete contents of the shipment for the shipment's delivery manifest entry.

(c) In addition to the export certificate required in § 322.30 (if applicable), a restricted article that is imported by mail or commercial express delivery must be accompanied by an invoice or packing list accurately indicating the complete contents of the shipment.

Approved by the Office of Management and Budget under control number 0579–0207)

§ 322.33 Restricted articles in a commercial bonded vehicle arriving at a land border port in the United States.

If you import a restricted article through a land border port in the United States by commercial vehicle (*i.e.*, automobile or truck), then the person carrying the package containing the restricted article or the driver of the vehicle must present the export certificate required by § 322.30 (if applicable) and an invoice or packing slip accurately indicating the complete contents of the shipment to the inspector at the land border port.

§ 322.34 Inspection; refusal of entry.

(a) You must present shipments of restricted articles to the inspector at the port of entry in the United States. Shipments of restricted articles must remain at the port of entry until released by the inspector.

(b) The inspector at the port will confirm that all shipments of restricted articles have proper documentation (see § 322.30) and that you provided notice of arrival for all shipments of restricted articles (see § 322.32).

(c) If, upon inspection, any shipment fails to meet the requirements of this part, that shipment will be refused entry into the United States. In accordance with § 322.2(c), the inspector will offer you, or in your absence the shipper, the opportunity to immediately export any refused shipments, or confiscate and destroy the refused shipments.

(Approved by the Office of Management and Budget under control number 0579–0207)

§ 322.35 Ports of entry.

A restricted article may be imported only at a port of entry staffed by an APHIS inspector. To find out if a specific port is staffed by an APHIS inspector, or for a list of ports staffed by APHIS inspectors, contact Permit Unit, PPQ, APHIS, 4700 River Road Unit 133, Riverdale, Maryland 20737–1236; toll-free (877) 770–5990; fax (301) 734–8700.

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

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AUTHORITY: 7 U.S.C. 450, 7701–7772, 7781–7786, and 8301–8317; 21 U.S.C. 136 and 136a; 31 U.S.C. 9701; 7 CFR 2.22, 2.80, and 371.3.

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