

§ 330.203 Soil.

(a) *Requirements.* The Administrator has determined that, unless it has been sterilized, soil is an associated article, and is thus subject to the permitting requirements of § 330.201, unless its movement:

(1) Is regulated pursuant to other APHIS regulations in this chapter; or

(2) Does not require such a permit under the provisions of paragraph (b)(1) or (c)(1) of this section.

(b) *Conditions governing the importation of soil—(1) Permit.* Except as provided in § 319.37–10 of this chapter and except for soil imported from areas of Canada not regulated by the national plant protection organization of Canada for a soil-borne plant pest, soil may be imported into the United States if an import permit has been issued in accordance with § 330.201 and if the soil is imported under the conditions specified on the permit.

(2) *Additional conditions for the importation of soil via hand-carry.* In addition to the condition of paragraph (b)(1) of this section, soil may be hand-carried into the United States only if the importation meets the conditions of § 330.205.

(3) *Additional conditions for the importation of soil intended for the extraction of plant pests.* In addition to the condition of paragraph (b)(1) of this section, soil may be imported into the United States for the extraction of plant pests if the soil will be imported directly to an APHIS-approved biocontainment facility.

(4) *Additional conditions for the importation of soil contaminated with plant pests and intended for disposal.* In addition to the condition of paragraph (b)(1) of this section, soil may be imported into the United States for the disposal of plant pests if the soil will be imported directly to an APHIS-approved disposal facility.

(5) *Exemptions.* The articles listed in this paragraph (b) are not soil, provided that they are free of organic material. Therefore, they may be imported into the United States without an import permit issued in accordance with § 330.201, unless the Administrator has issued an order stating otherwise. All such articles are, however, subject to inspection at the port of first ar-

rival, subsequent reinspection at other locations, other remedial measures deemed necessary by an inspector to remove any risk the items pose of disseminating plant pests or noxious weeds, and any other restrictions of this chapter:

(i) Consolidated material derived from any strata or substrata of the earth. Examples include clay (laterites, bentonite, china clay, attapulgit, tierrafino), talc, chalk, slate, iron ore, and gravel.

(ii) Sediment, mud, or rock from saltwater bodies of water.

(iii) Cosmetic mud and other commercial mud products.

(iv) Stones, rocks, and quarry products.

(c) *Conditions governing the interstate movement of soil—(1) General conditions.* Except for soil moved in accordance with paragraphs (c)(2) through (5) of this section, soil may be moved interstate within the United States without prior issuance of an interstate movement permit in accordance with § 330.201 or further restriction under this subpart. However, all soil moved interstate is subject to any movement restrictions and remedial measures specified for such movement referenced in part 301 of this chapter.

(2) *Conditions for the interstate movement within the continental United States of soil intended for the extraction of plant pests.* Soil may be moved in interstate commerce within the continental United States with the intent of extracting plant pests, only if an interstate movement permit has been issued for its movement in accordance with § 330.201, and if the soil will be moved directly to an APHIS-approved biocontainment facility in a secure manner that prevents its dissemination into the outside environment.

(3) *Conditions for the interstate movement within the continental United States of soil infested with plant pests and intended for disposal.* Soil may be moved in interstate commerce within the continental United States with the intent of disposing of plant pests, only if an interstate movement permit has been issued for its movement in accordance with § 330.201, and the soil will be moved directly to an APHIS-approved disposal facility in a secure manner

that prevents its dissemination into the outside environment.

(4) *Conditions for the interstate movement of soil samples from an area quarantined in accordance with part 301 of this chapter for chemical or compositional testing or analysis.* Soil samples may be moved for chemical or compositional testing or analysis from an area that is quarantined in accordance with part 301 of this chapter without prior issuance of an interstate movement permit in accordance with § 330.201 or further restriction under this chapter, provided that the soil is moved to a laboratory that has entered into and is operating under a compliance agreement with APHIS, is abiding by all terms and conditions of the compliance agreement, and is approved by APHIS to test and/or analyze such samples.

(5) *Additional conditions for interstate movement of soil to, from, or between Hawaii, the territories, and the continental United States.* In addition to all general conditions for interstate movement of soil, soil may be moved in interstate commerce to, from, or between Hawaii, the territories, and the continental United States only if an interstate movement permit has been issued for its movement in accordance with § 330.201. In addition, soil moved to, from, or between Hawaii, the territories, and the continental United States with the intent of extracting plant pests is subject to the conditions of paragraph (c)(2) of this section, while soil infested with plant pests and intended for disposal is subject to the conditions of paragraph (c)(3) of this section.

(d) *Conditions governing the transit of soil through the United States.* Soil may transit through the United States only if a transit permit has been issued for its movement in accordance with part 352 of this chapter.

(Approved by the Office of Management and Budget Under Control Number 0579-0054)

§ 330.204 Exceptions to permitting requirements for the importation or interstate movement of certain plant pests.

Pursuant to section 7711 of the Plant Protection Act (7 U.S.C. 7701 *et seq.*), the Administrator has determined that certain plant pests may be moved

interstate within the continental United States without restriction. The list of all such plant pests is on the PPQ Permits and Certifications website at <https://www.aphis.usda.gov/aphis/resources/permits>. Plant pests listed as being excepted from permitting requirements, unless otherwise indicated, may be moved interstate within the continental United States without further restriction under this subpart.

(a) *Categories.* In order to be included on the list, a plant pest must:

(1) Be from field populations or lab cultures derived from field populations of a taxon that is established throughout its entire geographical or ecological range within the continental United States; or

(2) Be commercially available and raised under the regulatory purview of other Federal agencies.

(b) *Petition process to add plant pests to the list—(1) Petition.* Any person may petition APHIS to have an additional plant pest added to the list of plant pests that may be imported into or moved in interstate commerce within the continental United States without restriction. To submit a petition, the person must provide, in writing, information supporting the placement of a particular pest in one of the categories listed in paragraph (a) of this section.

(i) Information that the plant pest belongs to a taxon that is established throughout its entire geographical or ecological range within the United States must include scientific literature, unpublished studies, or data regarding:

(A) The biology of the plant pest, including characteristics that allow it to be identified, known hosts, and virulence;

(B) The geographical or ecological range of the plant pest within the continental United States; and

(C) The areas of the continental United States within which the plant pest is established.

(ii) Information that the plant pest is commercially available and raised under the regulatory purview of another Federal agency must include a citation to the relevant law, regulation, or order under which the agency exercises such oversight.