

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.

(2) *APHIS review.* APHIS will review the information contained in the petition to determine whether it is complete. In order to consider the petition complete, APHIS may require additional information to determine whether the plant pest belongs to one of the categories listed in paragraph (a) of this section. When it is determined that the information is complete, APHIS will commence review of the petition.

(3) *Action on petitions to add pests.* (i) If, after review of the petition, APHIS determines there is insufficient evidence that the plant pest belongs to one of the categories listed in paragraph (a) of this section, APHIS will deny the petition, and notify the petitioner in writing regarding this denial.

(ii) If, after review of the petition, APHIS determines that the plant pest belongs to one of the categories in paragraph (a) of this section, APHIS will publish a notice in the FEDERAL REGISTER that announces the availability of the petition and any supporting documentation to the public, that states that APHIS intends to add the plant pest to the list of plant pests that may be imported into or moved in interstate commerce within the continental United States without restriction, and that requests public comment. If no comments are received on the notice, or if, based on the comments received, APHIS determines that its conclusions regarding the petition have not been affected, APHIS will publish in the FEDERAL REGISTER a subsequent notice stating that the plant pest has been added to the list.

(c) *Petition process to have plant pests removed from the list—*(1) *Petition.* Any person may petition to have a plant pest removed from the list of plant pests that may be imported into or moved interstate within the continental United States without restriction by writing to APHIS. The petition must contain independently verifiable information demonstrating that APHIS' initial determination that the plant pest belongs to one of the categories in paragraph (a) of the section should be changed, or that additional information is now available that would have caused us to change the initial decision.

(2) *APHIS review.* APHIS will review the information contained in the petition to determine whether it is complete. In order to consider the petition complete, APHIS may require additional information supporting the petitioner's claim. When it is determined that the information is complete, APHIS will commence review of the petition.

(3) *APHIS action on petitions to remove pests.* (i) If, after review of the petition, APHIS determines that there is insufficient evidence to suggest that its initial determination should be changed, APHIS will deny the petition, and notify the petitioner in writing regarding this denial.

(ii) If, after review of the petition, APHIS determines that there is a sufficient basis to suggest that its initial determination should be changed, APHIS will publish a notice in the FEDERAL REGISTER that announces the availability of the petition, and that requests public comment regarding removing the plant pest from the list of plant pests that may be imported into or move in interstate commerce within the continental United States without restriction. If no comments are received on the notice, or if the comments received do not affect APHIS' conclusions regarding the petition, APHIS will publish a subsequent notice in the FEDERAL REGISTER stating that the plant pest has been removed from the list.

(d) *APHIS-initiated changes to the list.*

(1) APHIS may propose to add a plant pest to or remove a pest from the list of plant pests that may be imported into or move in interstate commerce within the continental United States without restriction, if it determines that there is sufficient evidence that the plant pest belongs to one of the categories listed in paragraph (a) of the section, or if evidence emerges that leads APHIS to reconsider its initial determination that the plant pest was or was not in one of the categories listed in paragraph (a) of this section. APHIS will publish a notice in the FEDERAL REGISTER announcing this proposed addition or removal, making available any supporting documentation that it prepares, and requesting public comment.

(2) If no comments are received on the notice or if the comments received do not affect the conclusions of the notice, APHIS will publish a subsequent notice in the FEDERAL REGISTER stating that the plant pest has been added to or removed from the list.

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§ 330.205 Hand-carry of plant pests, biological control organisms, and soil.

Plant pests, biological control organisms, and soil may be hand-carried into the United States only in accordance with the provisions of this section.

(a) *Authorization to hand-carry*—(1) *Application for a permit; specification of “hand-carry” as proposed method of movement.* A person must apply for an import permit for the plant pest, biological control organism, or soil, in accordance with § 330.201, and specify hand-carry of the organism or article as the method of proposed movement.

(2) *Specification of individual who will hand-carry.* The application must also specify the individual or individuals who will hand-carry the plant pest, biological control organism, or soil into the United States. If APHIS authorizes this individual or these individuals to hand-carry, the authorization may not be transferred to nor actions under it performed by individuals other than those identified on the permit application.

(b) *Notification of intent to hand-carry.* After the permittee has obtained an import permit but no less than 20 days prior to movement, the permittee must provide APHIS through APHIS’ online portal for permit applications or by fax with the names of the designated hand carrier, or carriers, assigned to that movement. Additional conditions for hand-carry are available on the APHIS website.³

(c) *Denial, amendment, or cancellation of authorization to hand-carry.* APHIS may deny a request to hand-carry, or amend or cancel any hand-carry authorization at any time, if it deems such action necessary to prevent the introduction or dissemination of plant

pests or noxious weeds within the United States.

(d) *Appeal of denial, amendment, or cancellation.* Any person whose request to hand-carry has been denied, or whose authorization to hand-carry has been amended or canceled, may appeal the decision in writing to APHIS.

§ 330.206 Packaging requirements.

Shipments in which plant pests, biological control organisms, and associated articles are imported into, moved in interstate commerce, or transited through the United States must meet the general packaging requirements of this section, as well as all specific packaging requirements on the permit itself.

(a) *Packaging requirements.* All shipments must consist of an outer shipping container and at least two packages within the container. Both the container and inner packages must be securely sealed to prevent the dissemination of the enclosed plant pests, biological control organisms, or associated articles.

(1) *Outer shipping container.* The outer shipping container must be rigid, impenetrable and durable enough to remain closed and structurally intact in the event of dropping, lateral impact with other objects, and other shocks incidental to handling.

(2) *Inner packages.* The innermost package or packages within the shipping container must contain all of the organisms or articles that will be moved. As a safeguard, the innermost package must be placed within another, larger package. All packages within the shipping container must be constructed or safeguarded so that they will remain sealed and structurally intact throughout transit. The packages must be able to withstand changes in pressure, temperature, and other climatic conditions incidental to shipment.

(b) *Packing material.* Packing materials may be placed in the inner packages or shipping container for such purposes as cushioning, stabilizing,

³ https://www.aphis.usda.gov/plant_health/permits/organism/downloads/HandCarryPolicy.pdf.