

the similarity to soil subject to this section.

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[24 FR 10855, Dec. 29, 1959, as amended at 47 FR 36103, Aug. 19, 1982; 48 FR 57466, Dec. 30, 1983; 62 FR 65009, Dec. 10, 1997]

§ 330.300a Administrative instructions exempting soil from parts of Canada from certain restrictions.

Soil of Canadian origin except soil from Newfoundland and the Land District of Central Saanich on Vancouver Island of British Columbia may be moved into or through the United States from Canada free from the permit requirements of § 330.300 and the release requirements of § 330.105 but subject to inspection under § 330.105 and disposal under § 330.106, if the inspection discloses any plant pest new to or not theretofore widely prevalent or distributed within and throughout the United States. Such soil is also subject to all applicable requirements under part 319 of this chapter.¹

[34 FR 13148, Aug. 14, 1969, as amended at 62 FR 50239, Sept. 25, 1997]

§ 330.301 Stone and quarry products from certain areas in Canada.

Stone and quarry products from areas in Canada infested with the gypsy moth may be moved from Canada into or through the United States only into or through areas regulated by the gypsy moth and browntail moth quarantine and regulations in §§ 301.45, 301.45-1 et seq. of this chapter; or into or through other areas in the United States under conditions paralleling the requirements of said quarantine and regulations for movement of stone and quarry products from said regulated areas into such other areas of the United States.

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

The interstate movement from regulated areas in the Continental United States of earth (including soil), stone, quarry products, and similar substances is regulated in §§ 301.45, 301.48, 301.72, 301.77, 301.78, 301.79, 301.80, and

301.81 of this chapter and may be made only in accordance with the requirements of these sections. Any such movement of earth, stone, quarry products and similar substances which may hereafter be regulated in part 301 of this chapter may likewise be made only in accordance with the requirements of said part. The interstate movement of such materials of United States origin, from any place in the Continental United States, is not regulated by this part.

Subpart—Garbage

§ 330.400 Regulation of certain garbage.

(a) Hawaii, Puerto Rico, the Virgin Islands of the United States, Guam, and all other Insular Possessions of the United States are hereby quarantined, and the movement therefrom to other parts of the United States of garbage is hereby regulated as provided in this section to prevent the spread of dangerous plant diseases and insect pests specified in §§ 318.13, 318.58, and 318.82 or other plant pests which exist in these areas. Also, to prevent the dissemination of plant pests and livestock and poultry diseases, garbage is regulated as otherwise provided in this part because of international movements of means of conveyance.

(b) *Garbage*. For purposes of this part, “garbage” means all waste material derived in whole or in part from fruits, vegetables, meats, or other plant or animal (including poultry) material, and other refuse of any character whatsoever that has been associated with any such material on board any means of conveyance, and including food scraps, table refuse, galley refuse, food wrappers or packaging materials, and other waste material from stores, food preparation areas, passengers’ or crews’ quarters, dining rooms, or any other areas on means of conveyance. For purposes of this part, garbage also means meals and other food that were available for consumption by passengers and crew on an aircraft but were not consumed.

¹Sod from Canada is regulated by § 319.37-5 of this chapter.

NOTE: Not all garbage is regulated for the purposes of this part. Garbage regulated for

the purposes of this part is defined as “regulated garbage” in paragraphs (c) and (d) of this section.

(c) *Garbage regulated because of movements outside the United States or Canada.* For purposes of this part, garbage on or removed from a means of conveyance is regulated garbage, if, when the garbage is on or removed from the means of conveyance, the means of conveyance has been in any port outside the United States and Canada within the previous 2-year period. There are, however, two exceptions to this provision. These exceptions are as follows:

(1) *Exception 1.* Garbage on or removed in the United States from a means of conveyance other than an aircraft is exempt from requirements under paragraph (c) of this section, if the following conditions are met when the garbage is on or removed from the means of conveyance:

(i) The means of conveyance is accompanied by a certificate from an inspector stating the following:

(A) That the means of conveyance had previously been cleared of all garbage and of all meats and meat products, whatever the country of origin, except meats that are shelf-stable; all fresh and condensed milk and cream from countries designated in 9 CFR 94.1 as those in which foot-and-mouth disease exists; all fresh fruits and vegetables; and all eggs; and the items cleared from the means of conveyance as prescribed by this paragraph have been disposed of according to the procedures for disposing of regulated garbage, as specified in paragraph (g)(1) of this section.

(B) That the means of conveyance had then been cleaned and disinfected in the presence of the inspector; and

(ii) Since being cleaned and disinfected, the means of conveyance has not been in a non-Canadian foreign port.

(2) *Exception 2.* Garbage on or removed from an aircraft is exempt from requirements under paragraph (c) of this section if the following conditions are met when the garbage is on or removed from the aircraft:

(i) The aircraft had been cleared of all garbage and all stores; and the items cleared from the aircraft as pre-

scribed by this paragraph have been disposed of according to the procedures for disposing of regulated garbage, as specified in paragraph (g)(1) of this section.

(ii) After the garbage and stores referred to in paragraph (c)(2)(i) of this section were removed, the aircraft has not been in a non-Canadian foreign port.

(d) *Garbage regulated because of certain movements to or from Hawaii, territories, or possessions.* For purposes of this part, garbage on or removed from a means of conveyance is regulated garbage, if at the time the garbage is on or removed from the means of conveyance, the means of conveyance has moved during the previous one-year period, either directly or indirectly, to the continental United States from any territory or possession or from Hawaii; to any territory or possession from any other territory or possession or from Hawaii, or to Hawaii from any territory or possession. There are, however, two exceptions to this provision. These exceptions are as follows:

(1) *Exception 1.* Garbage on or removed from a means of conveyance other than an aircraft is exempt from requirements under paragraph (d) of this section if the following two conditions are met when the garbage is on or removed from the means of conveyance:

(i) The means of conveyance is accompanied by certificate from an inspector, saying that the means of conveyance had been cleared of all garbage and all fresh fruits and vegetables; and the items cleared from the means of conveyance as prescribed by this paragraph have been disposed of according to the procedures for disposing of regulated garbage, as specified in paragraph (g)(1) of this section.

(ii) After being cleared of the garbage and stores referred to in paragraph (d)(1)(i) of this section, the means of conveyance has not moved to the continental United States from any territory or possession or from Hawaii; to any territory or possession from any other territory or possession or from Hawaii; or to Hawaii from any territory or possession.

(2) *Exception 2.* Garbage on or removed from an aircraft is exempt from

requirements under paragraph (d) of this section if the following two conditions are met when the garbage is on or removed from the aircraft:

(i) The aircraft had been previously cleared of all garbage and all fresh fruits and vegetables; and the items cleared from the aircraft as prescribed by this paragraph have been disposed of according to the procedures for disposing of regulated garbage, as specified in paragraph (g)(1) of this section.

(ii) After the garbage and stores referred to in paragraph (d)(2)(i) of this section were removed, the aircraft has not moved to the continental United States from any territory or possession or from Hawaii; to any territory or possession from any other territory or possession or from Hawaii; or to Hawaii from any territory or possession.

(e) Garbage that is commingled with regulated garbage is also regulated garbage.

(f) *Restrictions on regulated garbage.*

(1) Regulated garbage may not be disposed of, placed on, or removed from a means of conveyance except in accordance with this part.

(2) Regulated garbage is subject to general surveillance for compliance with this section by Animal and Plant Health Inspection Service inspectors and to disposal measures authorized by sections 414 and 421 of the Plant Protection Act (7 U.S.C. 7714 and 7731), section 2 of the Act of February 2, 1903, as amended (21 U.S.C. 111), and section 306 of the Act of July 17, 1930, as amended (19 U.S.C. 1306), to prevent the introduction and dissemination of pests and diseases of plants, livestock, and poultry.

(g)(1) All regulated garbage must be contained in tight, leak-proof covered receptacles during storage on board a means of conveyance while in the territorial waters, or while otherwise within the territory of the United States. All such receptacles shall be contained inside the guard rail if on a watercraft. Such regulated garbage shall not be unloaded from such means of conveyance in the United States unless such regulated garbage is removed in tight, leak-proof receptacles under the direction of an Animal and Plant Health Inspection Service inspector to an approved facility for incineration, steri-

zation, or grinding into an approved sewage system, under supervision by such an inspector, or such regulated garbage is removed for other handling in such manner and under such supervision as may, upon request in specific cases, be approved by the Administrator as complying with the applicable laws for environmental protection and as adequate to prevent the dissemination into or within the United States of plant pests and livestock or poultry diseases. *Provided that*, a cruise ship may dispose of regulated garbage in landfills at Alaskan ports only, if and only if the cruise ship does not have prohibited or restricted meat or animal products on board at the time it enters Alaskan waters for the cruise season, and only if the cruise ship, except for incidental travel through international waters necessary to navigate safely between ports, remains in Canadian and U.S. waters off the west coast of North America, and calls only at continental U.S. and Canadian ports during the entire cruise season.

(2) Application for approval of a facility or sewage system may be made in writing by the authorized representative of any carrier or by the official having jurisdiction over the port or place of arrival of the means of conveyance, to the Administrator, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Washington, DC 20250. The application shall be endorsed by the operator of the facility or sewage system. Approval will be granted if the Administrator determines that the requirements set forth in this section are met. Approval may be denied or withdrawn at any time, if the Administrator determines that such requirements are not met, after notice of the proposed denial or withdrawal of the approval and the reasons therefor, and an opportunity to demonstrate or achieve compliance with such requirements, has been afforded to the operator of the facility or sewage system and to the applicant for approval. However, approval may also be withdrawn without such procedure in any case in which the public health, interest, or safety requires immediate action, and in such case, the operator of the facility or sewage system and the applicant for approval

shall promptly thereafter be given notice of the withdrawal and the reasons therefor and an opportunity to show cause why the approval should be reinstated.

(h) The Plant Protection and Quarantine Programs and Veterinary Services, Animal, and Plant Health Inspection Service, will cooperate with other Federal, State, and local agencies responsible for enforcing other statutes and regulations governing disposal of the regulated garbage to the end that such disposal shall be adequate to prevent the dissemination of plant pests and livestock or poultry diseases and comply with applicable laws for environmental protection. The inspectors, in maintaining surveillance over regulated garbage movements and disposal, shall coordinate their activities with the activities of representatives of the Environmental Protection Agency and other Federal, State, and local agencies also having jurisdiction over such regulated garbage.

(i) As used in this section:

(1) *Sterilization* means cooking regulated garbage at 212 °F. for 30 minutes and disposal of the residue by burying in a landfill, except that the burial provisions do not apply to materials extracted from the residue after cooking and determined by the Administrator to be unsuitable for use as food or as soil additives.

(2) *Incineration* means to reduce the regulated garbage to ash by burning;

(3) *Approved sewage system* means a sewage system approved by the Administrator, Animal and Plant Health Inspection Service, upon his determination that the system is designed and operated in such a way as to preclude the discharge of sewage effluents onto land surfaces or into lagoons or other stationary waters, and otherwise is adequate to prevent the dissemination of plant pests and livestock or poultry diseases, and that is certified by an appropriate Government official as currently complying with the applicable laws for environmental protection.

(4) *Approved facility* means a facility approved by the Administrator, Animal and Plant Health Inspection Service, upon his determination that it has equipment and uses procedures that are adequate to prevent the dissemina-

tion of plant pests and livestock or poultry diseases, and that it is certified by an appropriate Government official as currently complying with the applicable laws for environmental protection.

(5) *Carrier* means the principal operator of a means of conveyance.

(j) *Compliance agreement and cancellation.* (1) Any person engaged in the business of handling or disposing of regulated garbage must first enter into a compliance agreement with the Animal and Plant Health Inspection Service (APHIS). Compliance agreement forms (PPQ Form 519) are available without charge from local USDA/APHIS/Plant Protection and Quarantine offices, which are listed in telephone directories.

(2) A person who enters into a compliance agreement, and employees or agents of that person, shall comply with the following conditions and any supplemental conditions which shall be listed in the compliance agreement, as deemed by the Administrator to be necessary to prevent the dissemination into or within the United States of plant pests and livestock or poultry diseases:

(i) Comply with the provisions of 7 CFR 330.400;

(ii) Allow APHIS inspectors access to all records maintained by the person regarding handling or disposal of regulated garbage, and to all areas where handling or disposal of regulated garbage occurs;

(iii) Remove regulated garbage from a means of conveyance only in tight, leak-proof receptacles;

(iv) Move the receptacles of regulated garbage only to a facility approved in accordance with § 330.400(g)(2); and

(v) At the approved facility, dispose of the regulated garbage only through incineration, sterilization, grinding into a sewage system approved in accordance with § 330.400(g)(2), or in any other manner approved by the Administrator and described in the compliance agreement.

(3) Approval for a compliance agreement may be denied at any time if the Administrator determines that the requirements set forth in this subpart are not met, after notice of, and the reasons for, the proposed denial of the

approval, and an opportunity to demonstrate or achieve compliance with such requirements, has been afforded to the compliance agreement applicant.

(4) Any compliance agreement may be canceled in writing by the Administrator whenever it is found that the person who has entered into the compliance agreement has failed to comply with this subpart. Any person whose compliance agreement has been cancelled may appeal the decision, in writing, within 10 days after receiving written notification of the cancellation. The appeal must state all of the facts and reasons upon which the person relies to show that the compliance agreement was wrongfully cancelled. As promptly as circumstances allow, the Administrator will grant or deny the appeal, in writing, stating the reasons for the decision. A hearing will be held to resolve any conflict as to any material fact. Rules of practice concerning a hearing will be adopted by the Administrator. This administrative remedy must be exhausted before a person can file suit in court challenging the cancellation of a compliance agreement.

(5) Where a compliance agreement is denied or cancelled, regulated garbage may continue to be unloaded from a means of conveyance and disposed of at an approved facility in accordance with § 330.400(g)(1).

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PART 331—POSSESSION OF BIOLOGICAL AGENTS AND TOXINS

Sec.

331.1 Definitions.

331.2 List of biological agents and toxins.

331.3 Notification requirements and procedures.

AUTHORITY: Secs. 211-213, Title II, Pub. L. 101-188, 116 Stat. 647 (7 U.S.C. 8401).

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§ 331.1 Definitions.

Biological agent. Any microorganism (including, but not limited to, bacteria, viruses, fungi, rickettsiae, or protozoa), or infectious substance, or any naturally occurring, bioengineered, or synthesized component of any such microorganism or infectious substance, capable of causing:

(1) Death, disease, or other biological malfunction in a human, an animal, a plant, or another living organism;

(2) Deterioration of food, water, equipment, supplies, or material of any kind; or

(3) Deleterious alteration of the environment.

Facility. Any individual or government agency, university, corporation, company, partnership, society, association, firm, or other legal entity located at a single geographic site that may transfer or receive through any means a biological agent or toxin subject to this part.

Person. Any individual, firm, corporation, company, society, or association; any Federal, State, or local governmental entity; or any organized group of any of the foregoing.

Responsible facility official. An official authorized to transfer and receive biological agents or toxins covered by this part on behalf of a facility. This person should be either a safety officer, a senior management official of the facility, or both. The responsible facility official should not be an individual who actually transfers or receives a biological agent or toxin at the facility.

Toxin. The toxic material or product of plants, animals, microorganisms (including, but not limited to, bacteria, viruses, fungi, rickettsiae, or protozoa), or infectious substances, or a recombinant or synthesized molecule, whatever their origin and method of production, and includes:

(1) Any poisonous substance or biological product that may be engineered as a result of biotechnology produced by a living organism; or

(2) Any poisonous isomer or biological product, homolog, or derivative of such a substance.

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