

**DEPARTMENT OF AGRICULTURE****Animal and Plant Health Inspection Service****7 CFR Parts 319 and 322****[Docket No. 98–109–1]****RIN 0579–AB20****Bees and Related Articles****AGENCY:** Animal and Plant Health Inspection Service, USDA.**ACTION:** Proposed rule and notice of public hearings.

**SUMMARY:** We are proposing to amend the regulations for the importation of honeybees and honeybee semen and the regulations established to prevent the introduction of exotic bee diseases and parasites through the importation of bees other than honeybees, certain beekeeping byproducts, and used beekeeping equipment. Among other things, our proposal would allow honeybees from Australia and honeybees and honeybee germ plasm from New Zealand to be imported into the United States under certain conditions, impose certain conditions on the importation into the United States of bees and related articles from Canada, and prohibit the interstate movement of honeybees into Hawaii. It also would consolidate all of our regulations concerning bees. These changes would make these regulations more consistent with international standards, update them to reflect current research and terminology, and simplify them and make them more useful.

**DATES:** We will consider all comments that we receive on or before November 18, 2002. We will also consider comments made at public hearings to be held in Kailua-Kona, HI, on October 22, 2002; Fresno, CA, on October 24, 2002; and Beltsville, MD, on October 29, 2002.

**ADDRESSES:** You may submit comments by postal mail/commercial delivery or by e-mail. If you use postal mail/commercial delivery, please send four copies of your comment (an original and three copies) to: Docket No. 98–109–1, Regulatory Analysis and Development, PPD, APHIS, Station 3C71, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. 98–109–1. If you use e-mail, address your comment to [regulations@aphis.usda.gov](mailto:regulations@aphis.usda.gov). Your comment must be contained in the body of your message; do not send attached files. Please include your name and address in your message and “Docket No. 98–109–1” on the subject line.

You may read any comments that we receive on this docket in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690–2817 before coming.

APHIS documents published in the **Federal Register**, and related information, including the names of organizations and individuals who have commented on APHIS dockets, are available on the Internet at <http://www.aphis.usda.gov/ppd/rad/webrepor.html>.

Public hearings regarding this rule will be held at the following locations:

1. Kailua-Kona, HI: Royal Kona Resort, 75–5852 Alii Drive, Kailua-Kona, HI.
2. Fresno, CA: Piccadilly Inn Airport, 5115 E. McKinley, Fresno, CA.
3. Beltsville, MD: United States Department of Agriculture, Beltsville Agricultural Research Center, 10300 Baltimore Avenue (Rte. 1), Circle Drive, Building 003—Basement Auditorium, Beltsville, MD.

**FOR FURTHER INFORMATION CONTACT:** Dr. Wayne F. Wehling, Entomologist, Permits and Risk Assessments, PPQ, APHIS, 4700 River Road Unit 133, Riverdale, MD 20737–1236; (301) 734–8757.

**SUPPLEMENTARY INFORMATION:****Public Hearings**

We are advising the public that we are hosting three public hearings on this proposed rule. The first public hearing will be held in Kailua-Kona, HI, on Tuesday, October 22, 2002. The second public hearing will be held in Fresno, CA, on Thursday, October 24, 2002. The third public hearing will be held in Beltsville, MD, on Tuesday, October 29, 2002.

A representative of the Animal and Plant Health Inspection Service (APHIS), U.S. Department of Agriculture (USDA), will preside at the public hearings. Any interested person may appear and be heard in person, by attorney, or by other representative. Written statements may be submitted and will be made part of the hearing record. A transcript of the public hearings will be placed in the rulemaking record and will be available for public inspection.

The purpose of the hearings is to give interested persons an opportunity for presentation of data, views, and arguments. Questions about the content of the proposed rule may be part of the

commenters' oral presentations. However, neither the presiding officer nor any other representative of APHIS will respond to comments at the hearings, except to clarify or explain provisions of the proposed rule.

The public hearings will begin at 9 a.m. and are scheduled to end at 5 p.m., local time. The presiding officer may limit the time for each presentation so that all interested persons appearing at each hearing have an opportunity to participate. Each hearing may be terminated at any time if all persons desiring to speak have been heard.

Registration for the hearings may be accomplished by registering with the presiding officer between 8:30 a.m. and 9 a.m. on the day of the hearing. Persons who wish to speak at a hearing will be asked to sign in with their name and organization to establish a record for the hearing. We ask that anyone who reads a statement provide two copies to the presiding officer at the hearing. Those who wish to form a panel to present their views will be asked to provide the name of each member of the panel and the organizations the panel members represent.

Persons or panels wishing to speak at one or more of the public hearings may register in advance by phone or e-mail. Persons wishing to register by phone should call the Regulatory Analysis and Development voice mail at (301) 734–8138. Callers must leave a message clearly stating (1) the location of the hearing the registrant wishes to speak at, (2) the registrant's name and organization, and, if registering for a panel, (3) the name of each member of the panel and the organization each panel member represents. Persons wishing to register by e-mail must send an e-mail with the same information described above to [regulations@aphis.usda.gov](mailto:regulations@aphis.usda.gov). Please write “Public Hearing Registration” in the subject line of your e-mail. Advance registration for any hearing must be received by 3 p.m. on Friday, October 18, 2002.

If you require special accommodations, such as a sign language interpreter, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

**Background**

Under the Honeybee Act (7 U.S.C. 281–286), the Secretary of Agriculture is authorized to prohibit or restrict the importation of honeybees and honeybee semen to prevent the introduction into the United States of diseases and parasites harmful to honeybees and of undesirable species such as the African honeybee. The Secretary has delegated

responsibility for administering the Honeybee Act to the Administrator of APHIS of the USDA. Regulations established under the Honeybee Act are contained in the Code of Federal Regulations (CFR), title 7, part 322 (referred to below as the "honeybee regulations").

The honeybee regulations allow the unrestricted importation into the United States of honeybees and honeybee semen from Canada but place stringent requirements on the importation of these products from other countries. Specifically, the honeybee regulations provide for the importation of honeybees from any country other than Canada only if they are imported by USDA for experimental or scientific purposes. Honeybee semen may be imported only:

- By USDA for experimental or scientific purposes; or
- By a person or group other than USDA only if the semen is imported from Australia, Bermuda, France, Great Britain, or Sweden and meets certain documentation, packaging, inspection, notification, and port of entry requirements.

In addition, the honeybee regulations allow honeybees and honeybee semen from New Zealand to transit the United States en route to another destination in accordance with certain documentation, packaging, handling, notification, and port of entry requirements.

Under the Plant Protection Act (7 U.S.C. 7701–7772), the Secretary of Agriculture is authorized to prohibit or restrict the importation, entry, exportation, or movement in interstate commerce of plant pests and other articles to prevent the introduction of plant pests into the United States or their dissemination within the United States. The Secretary has delegated responsibility for administering the Plant Protection Act to the Administrator of APHIS. Regulations authorized by the Plant Protection Act concerning the importation of certain bees, beekeeping byproducts, and used beekeeping equipment are contained in 7 CFR part 319, §§ 319.76 through 319.76–8 (referred to below as the "pollinator regulations").

The pollinator regulations govern the importation of live bees other than honeybees, dead bees of the superfamily *Apoidea*, certain beekeeping byproducts, and beekeeping equipment. These regulations help prevent the introduction of exotic bee diseases and parasites that, if introduced into the United States, could cause substantial reductions in pollination by bees. Reductions in pollination by bees could

indirectly cause serious damage to crops and other plants.

The pollinator regulations allow bees other than honeybees; dead bees; used bee boards, hives, nests, and nesting material; used beekeeping equipment; beeswax; pollen for bee feed; and honey for bee feed to be imported into the United States from Canada without restriction but restrict the importation of these articles from other countries. Specifically, the pollinator regulations provide for the importation of these articles from any country other than Canada only if they are imported by USDA for experimental or scientific purposes or if they are imported under permit and meet certain documentation, inspection, treatment, packaging, notification, and port of entry requirements.

We propose to revise the honeybee regulations and the pollinator regulations. Among other things, we propose to allow honeybees from Australia and honeybees and honeybee germ plasm from New Zealand to be imported into the United States under certain conditions, to impose certain conditions on the importation into the United States of bees and related articles from Canada, and to prohibit the interstate movement of honeybees into Hawaii. We also propose to consolidate the honeybee regulations and the pollinator regulations. These changes would make these regulations more consistent with international standards, update them to reflect current research and terminology, and simplify them and make them more useful.

### International Trade Agreements

Both the North American Free Trade Agreement (NAFTA) and the General Agreement on Tariffs and Trade (GATT) contain provisions establishing the rights and obligations of signatory countries concerning sanitary and phytosanitary (SPS) regulation. SPS measures are generally defined as governmental measures intended to protect human, animal, or plant life and health. The applicable provisions are, respectively: Articles 709–724 of the NAFTA; and the World Trade Organization (WTO) Agreement on the Application of Sanitary and Phytosanitary Measures (referred to below as "WTO Agreement").

Although the two agreements differ in a few respects, both NAFTA and the WTO Agreement provide that member countries should ensure that any sanitary or phytosanitary measure is applied only to the extent necessary to protect human, animal, or plant life or health; is based on scientific principles; and is not maintained without sufficient

scientific evidence. The WTO Agreement requires that any sanitary or phytosanitary measure taken by a member country be based on a risk assessment. Risk assessment involves an evaluation of the likelihood of entry, establishment, and spread of a pest or disease within the territory of an importing member country given the sanitary or phytosanitary measures which may be applied, and an evaluation of the associated potential biological and economic consequences. The WTO Agreement also requires member countries to recognize the concepts of low pest or disease prevalence and ensure that sanitary or phytosanitary measures are adapted to take into account the characteristics of regions from which products originate and to which products are destined. In addition, NAFTA and the WTO Agreement provide that member countries should base their sanitary and phytosanitary measures on international standards, guidelines, or recommendations, where they exist. The Office International des Epizooties, which is the international standard-setting body recognized by the WTO Agreement for animal health, developed the international standards, guidelines, and recommendations that apply to the importation and exportation of bees and bee germ plasm. The WTO Agreement further provides that countries may deviate from international standards, guidelines, and recommendations if a risk assessment demonstrates that additional measures are necessary to provide appropriate sanitary and phytosanitary protection against pest introduction.

### Office International des Epizooties (OIE)

In chapter 2.9 of the International Animal Health Code (2001 edition), OIE recommends that importing countries require specific health certifications for importations of bees. OIE recommends that the health certifications address the condition of the bees in relation to the following five diseases: Acariosis of bees (tracheal mite), American foulbrood, European foulbrood, nose-mosis of bees (*Nosema* disease), and Varroosis (*Varroa* mite).

All five of the bee diseases listed in OIE's International Animal Health Code are established on the Continental United States, although other important bee diseases and parasites of economic and environmental concern are not. Therefore, our proposal incorporates a health inspection, rather than a health certification, for bees imported into the Continental United States. This means that rather than proposing to require a

health certification that imported bees are free of the diseases listed in OIE's International Animal Health Code, we are proposing to require that the export certificate accompanying bees imported into the Continental United States identify any disease, parasite, or undesirable species or subspecies of honeybee found in the hive from which the shipment was derived during the mandatory preexport inspection. If one, or more, of the five diseases listed in OIE's International Animal Health Code is the only item, or items, identified on the export certificate as occurring in the hive from which the shipment was derived, we would not refuse the shipment's entry into the Continental United States. However, if another important bee disease or parasite of economic and environmental concern to the United States, including, but not limited to, Thai sacbrood virus, *Tropilaelaps clareae*, and *Euvaroa sinhai*, or if an undesirable species or subspecies of honeybee, including, but not limited to, the Cape honeybee (*Apis mellifera capensis*) and the Oriental honeybee (*Apis cerana*), is identified on the export certificate as occurring in the hive from which the shipment was derived, we would refuse the shipment's entry into the United States. This information would help us monitor and document the health status of bees intended for entry into the United States and would provide important information about the health status of imported bees to prospective buyers in the United States. Our proposed provisions for health inspection are discussed in more detail later in this document.

Because of Hawaii's unique pest status, honeybees imported into Hawaii would be required to have a health certification. The certification would have to state, among other things, that the honeybees were found free of Varroa mite, tracheal mite, and African honeybees during the mandatory preexport inspection. Other special requirements for honeybees imported into Hawaii are discussed later in this document.

In appendix 3.4.2 of the International Animal Health Code (2001 edition), OIE recommends, among other things, that member countries establish permanent sanitary surveillance of their apiaries and approve breeding apiaries for export trade. OIE recommends that the sanitary surveillance include periodic visits to apiaries to detect diseases, sampling of bees to diagnose contagious diseases, and other sanitary measures (like treatment of bees and disinfection of equipment) to ensure rapid eradication of any outbreak of a contagious disease.

OIE standards for the approval of breeding apiaries for export trade include standards related to the disease status of apiaries, disease reporting by beekeepers, controls on the introduction of bees and beekeeping materials from another apiary, recommendations for special techniques to ensure protection against outside contamination, and periodic collection of samples for examination by an official laboratory.

Our proposal recognizes the value of permanent sanitary surveillance of apiaries and the standards related to approving apiaries for export trade by providing for:

- Evaluation during the risk assessment process of the surveillance system of a region that requests approval to export honeybees, honeybee germ plasm, or bees other than honeybees to the United States; and
- Health inspection, conducted by an official of the appropriate regulatory agency of the national government of the approved exporting region, to identify the disease status of the apiary.

#### Canada

This proposal would impose specific requirements, including documentation, health inspection, packaging, port of entry inspection, and certain other requirements, on the importation of honeybees, honeybee germ plasm, bees other than honeybees, and certain beekeeping byproducts into the United States from Canada. This proposal would also prohibit the importation of bee pollen for bee feed and restrict the importation of used beekeeping equipment into the United States from Canada. Currently, these commodities may be imported into the United States from Canada without documentation or any other conditions on their importation. The lack of documentation, as well as the lack of other means of monitoring and safeguarding these importations from Canada, increases the pest risk associated with the importation of these commodities from Canada. The most serious pest risk arises from the potential for shipments from foreign regions that are not allowed to import bees and related articles into the United States being transshipped through Canada to the United States. Therefore, we propose to impose specific requirements on the importation of honeybees, honeybee germ plasm, bees other than honeybees, and certain beekeeping byproducts into the United States from Canada to ensure that bees and related articles entering the United States from Canada are of Canadian origin, to discourage transshipment of bees from other foreign countries and regions through Canada to

the United States, and to enable traceback of shipments should a bee disease or bee parasite outbreak occur in Canada or in the United States. Further, in accordance with NAFTA and the WTO Agreement, these changes would offer harmonization in the regulations governing the importation of bees and related articles into the United States from all foreign regions. The requirements related to Canada and other foreign regions are discussed in more detail later in this document.

#### Proposed Format and Title of Revised 7 CFR Part 322

Our proposal includes a new format for 7 CFR part 322. The proposed format combines, into this one part of the CFR, the honeybee regulations and the pollinator regulations. The proposed format divides part 322 into five subparts: A, B, C, D, and E. Subpart A would include definitions and general requirements for the interstate movement within and importation into the United States of bees, beekeeping byproducts, and used beekeeping equipment. Subpart B would cover importation of honeybees, honeybee germ plasm, and bees other than honeybees from approved regions. Subpart C would cover importation of restricted organisms (*i.e.*, honeybee brood in the comb and bees and honeybee germ plasm from regions that do not meet the criteria for importation under subpart B). Subpart D would cover shipments of restricted organisms transiting the United States en route to another destination. Subpart E would cover importation and transit of restricted articles (*i.e.*, dead bees of the superfamily *Apoidea*; beeswax for beekeeping, unless it has been liquefied; and honey for bee feed). We believe this format would make the regulations easier to read and more useful by consolidating all of the requirements related to the importation of bees, beekeeping byproducts, and used beekeeping equipment.

Based on this proposed consolidation of the honeybee and pollinator regulations, we also propose to change the title of part 322 from "Honeybees and Honeybee Semen" to "Bees, Beekeeping Byproducts, and Beekeeping Equipment." The term "bee" would be defined to include bee germ plasm.

#### Proposed Subpart A—General Provisions

Subpart A would provide: (1) Definitions for the words we use in the part, and (2) general requirements for the interstate movement within and importation into the United States of bees, beekeeping byproducts, and used

beekeeping equipment. All bees, beekeeping byproducts, and used beekeeping equipment moved interstate within or imported into the United States would be subject to the applicable general requirements described in the proposed subpart A of the regulations.

#### *Definitions (§ 322.1)*

Proposed § 322.1 would define the words we use in the part. The definition for *United States* would remain the same as that currently in the honeybee regulations. The definitions for *bee*, *beekeeping byproduct*, and *beekeeping equipment* would be added to reflect the consolidation of the honeybee regulations and the pollinator regulations. For clarity and consistency with other regulations in title 7 of the CFR, the definition for *inspector* would be revised, the definition for *Deputy Administrator* would be replaced with a definition for *Administrator*, and the definition for *Plant Protection and Quarantine* would be replaced with a definition for *Animal and Plant Health Inspection Service*. We would also update the definitions for *honeybee* and *undesirable species or subspecies of honeybee*. Further, to explain beekeeping terms we use in the regulations, we would add definitions for *beekeeping establishment*, *brood*, *hive*, *germ plasm*, *package bees*, and *queen*. To explain the terms we use in accordance with international standards, we would add definitions for *destination State* and *Office International des Epizooties (OIE)*. See § 322.1 of the rule portion of this document for the definitions.

#### *General Provisions*

The remainder of proposed subpart A—§§ 322.2 and 322.3—would provide the general requirements for the interstate movement and importation of bees, beekeeping byproducts, and used beekeeping equipment and would prohibit the interstate movement of honeybees into Hawaii. These are explained below.

#### *General Requirements for Interstate Movement and Importation (§ 322.2)*

Proposed § 322.2 would be divided into two paragraphs: Paragraph (a), interstate movement, and paragraph (b), importation.

Paragraph (a) of § 322.2 would establish a list of areas in the United States that are considered pest-free areas for Varroa mite, tracheal mite, and African honeybee and would prohibit the interstate movement of honeybees, including honeybee germ plasm, to those areas. Currently, Hawaii is the

only area in the United States that we propose to list as a pest-free area. Hawaii has demonstrated freedom from Varroa mite, tracheal mite, and African honeybee based on 10 years of export inspection data. Although these pests have been established on the continental United States for nearly a decade, they have not been introduced into Hawaii. We believe this is largely due to Hawaiian State law prohibiting the movement of honeybees into that State, together with the unique biological barriers that prevent the natural spread of these pests from the continental United States to Hawaii. We believe that Federal regulations prohibiting the interstate movement of honeybees to areas considered free from Varroa mite, tracheal mite, and African honeybee would strengthen our ability to prevent the artificial spread of these pests into Hawaii. We would limit this prohibition to the interstate movement of honeybees because other bees do not carry Varroa mite or tracheal mite and, by definition, cannot be African honeybees.

Paragraph (b) of § 322.2 would explain that our regulations are designed to prevent the introduction of bee diseases and parasites, and undesirable species or subspecies of honeybees, into the United States through the importation of bees, beekeeping byproducts, or used beekeeping equipment. Paragraph (b)(1) would require compliance with the regulations for the importation of bees and beekeeping byproducts. This paragraph would also prohibit the importation of bee pollen for bee feed and the importation of used beekeeping equipment unless that equipment either will be used solely for indoor display purposes and will not come into contact with indigenous bees or consists of bee boards that contain a live brood of bees, other than honeybees, from regions listed in § 322.4(c).

In the current pollinator regulations, bee pollen for bee feed and used beekeeping equipment may be imported into the United States only if they have been treated with ethylene oxide. Ethylene oxide is no longer routinely used as a quarantine treatment because it is likely carcinogenic to humans. Because we do not have complete information supporting the adoption of an alternative treatment for bee pollen for bee feed or used beekeeping equipment, we would prohibit their importation into the United States, with two exceptions, to prevent the introduction of bee diseases and parasites on those commodities. The first exception we propose, to allow the importation of used beekeeping

equipment if that equipment will be used solely for indoor display purposes and will not come into contact with indigenous bees, would enable museums to import historical beekeeping equipment for educational displays. The second exception we propose, to allow the importation of bee boards that contain a live brood of bees, other than honeybees, from regions listed in § 322.4(c), would facilitate the continued importation of certain species of bees from Canada for pollination of U.S. crops. New beekeeping equipment would continue to be eligible for importation if it complied with all applicable regulations (such as the regulations pertaining to unmanufactured wood in 7 CFR part 319 and the plant pest regulations in 7 CFR part 330).

In addition, paragraph (c) of § 322.2 would set forth the actions APHIS would take to prevent the introduction of diseases, parasites, or undesirable species or subspecies of honeybees into the United States as a result of the arrival in the United States of bees, beekeeping byproducts, or beekeeping equipment that are not in compliance with part 322. Any honeybees, honeybee germ plasm, bees other than honeybees, or used beekeeping equipment not in compliance with part 322 that are imported into the United States would be required to be either immediately exported from the United States by the importer or destroyed at the importer's expense.

#### *Costs and Charges (§ 322.3)*

Proposed § 322.3 would clarify and combine information on costs and charges from 7 CFR 322.7 and 319.76–7. We would furnish, without cost, the services of an inspector during normal business hours and at the usual places of duty. The importer would be responsible for all costs and charges arising from inspection outside of normal business hours or away from the usual places of duty. The importer would also be responsible for all costs and charges related to the export, destruction, or treatments required by part 322. Further, if the importer imports bees or germ plasm into a containment facility for research or processing, the importer would be responsible for all additional costs and charges associated with the importation.

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

Subpart B would list approved regions from which honeybees, honeybee germ plasm, and bees other

than honeybees may be imported into the United States under subpart B; set forth the requirements for importation from those regions; and establish the process by which regions may be approved.

#### *Approved Regions (§ 322.4)*

Proposed § 322.4(a), (b), and (c) would list approved regions from which honeybees, honeybee germ plasm, and bees other than honeybees, respectively, may be imported into the United States under subpart B.

Proposed § 322.4(a) would list Australia, Canada, and New Zealand as approved regions for the importation of adult honeybees. Of these regions, only Canada may currently export honeybees to the United States.

Proposed § 322.4(b) would list Australia, Bermuda, Canada, France, Great Britain, New Zealand, and Sweden as approved regions for the importation of honeybee germ plasm. All of these countries except New Zealand may currently export honeybee germ plasm to the United States.

Proposed § 322.4(c) would list Canada as the only approved region for the importation of bees other than honeybees. This would not be a change to our regulations; Canada currently exports certain species of bees other than honeybees into the United States to pollinate crops. Imports from Australia and New Zealand

Our proposal to allow, under certain conditions, the importation of adult honeybees from Australia and adult honeybees and honeybee germ plasm from New Zealand is based on two pest risk assessments: "Pest Risk Assessment: Importation of Adult Queens, Package Bees, and Germ Plasm of Honeybees (*Apis mellifera* L.) From Australia" (referred to below as the Australian PRA) and "Pest Risk Assessment: Importation of Adult Queens, Package Bees, and Germ Plasm of Honeybees (*Apis mellifera* L.) From New Zealand" (referred to below as the New Zealand PRA). These pest risk assessments conclude that importations of adult honeybees from Australia and adult honeybees and honeybee germ plasm from New Zealand would present a negligible risk of introducing exotic bee diseases or pests or undesirable species or subspecies of honeybees into the United States.

As a courtesy to the domestic beekeeping industry and our trading partners, we made both pest risk assessments available to the public for comment prior to the publication of this proposed rule. On December 9, 1999, we published in the **Federal Register** (64 FR 68984, Docket No. 99-091-1) a

notice of availability for the New Zealand PRA. On May 3, 2000, we published in the **Federal Register** (65 FR 25701, Docket No. 00-032-1) a notice of availability for the Australian PRA. We solicited public comment on each pest risk assessment for 60 days. During their respective 60-day comment periods, we received 23 comments on the New Zealand PRA and 6 comments on the Australian PRA. Most of these comments, however, raised issues that are not directly related to the pest risk assessments, such as the quality of honeybees and honeybee germ plasm that may be imported from Australia and New Zealand and possible trade issues and their related economic consequences for U.S. producers arising from those importations. We have responded to all comments received on a particular pest risk assessment, whether relevant to the pest risk assessment or not, in an addendum to that pest risk assessment.

We have also updated the New Zealand PRA because, since its publication, Varroa mite (*Varroa jacobsoni*) was detected on the North Island of New Zealand. In response to the detection of this bee parasite, the New Zealand Ministry of Agriculture and Fisheries (MAF) immediately restricted the movement of bees and bee products from the North Island of New Zealand. Then MAF conducted delimiting surveys to determine the extent of the infestation of Varroa mite in that country. The delimiting surveys show that the infestation is contained to a portion of the North Island of New Zealand and, at present, is extensive enough to prevent the eradication of Varroa mite from that area. Therefore, MAF, in consultation with New Zealand's beekeeping industry, developed a national management plan for Varroa mite. Under the management plan, the movement of bees and bee products within the North Island of New Zealand is monitored and subject to certain restrictions. In addition, the movement of bees and bee products from the North Island of New Zealand to the South Island of New Zealand, which is considered a pest free area for Varroa mite, is subject to permit and restrictions. The management plan also includes surveillance plans for the South Island of New Zealand to ensure early detection if Varroa mite is introduced to that area of the country. Detailed information on New Zealand's Varroa mite management plan is located on the Internet at <http://www.maf.govt.nz/varroa>.

Our updated New Zealand PRA includes a discussion of the recent detection of Varroa mite on the North

Island of New Zealand and qualitatively assesses the effect of that parasite on importations from New Zealand. We are accepting comments on the updated New Zealand PRA concurrently with comments on this proposed rule. Please send your comments on the updated New Zealand PRA to the address listed under **ADDRESSES** near the beginning of this document.

Both pest risk assessments, with addenda, are available on the Internet at <http://www.aphis.usda.gov/ppq/pr/honeybees/>, by calling the Plant Protection and Quarantine fax vault and requesting either document 0512 (New Zealand PRA) or document 0029 (Australian PRA), or by contacting the individual listed under **FOR FURTHER INFORMATION CONTACT** near the beginning of this document.

#### *General Requirements (§ 322.5)*

Proposed § 322.5(a) would require honeybees, honeybee germ plasm, and bees other than honeybees imported from approved regions to be shipped directly from an approved region to the United States. This would ensure that honeybees, honeybee germ plasm, and bees other than honeybees imported from approved regions would not transit any nonapproved regions en route to the United States.

Proposed § 322.5(b) would provide that adult honeybees may only be imported under subpart B from approved regions listed in § 322.4(a) (*i.e.*, Australia, Canada, and New Zealand). It would also state that the honeybees must be package bees or adult queens with attending adult honeybees. Adult bees, and particularly package bees and adult queens with attending adult honeybees, which are generally produced by experienced beekeepers, are less susceptible to diseases and parasites than other honeybee life stages. Other honeybee life stages, as well as adult honeybees from nonapproved regions, would be allowed to be imported into the United States only under subpart C, "Importation of Restricted Organisms."

Proposed § 322.5(c) would provide that honeybee germ plasm may only be imported under subpart B from approved regions listed in § 322.4(b) (*i.e.*, Australia, Bermuda, Canada, France, Great Britain, New Zealand, and Sweden). Honeybee germ plasm from nonapproved regions would be allowed to be imported into the United States only under subpart C, "Importation of Restricted Organisms."

Proposed § 322.5(d) would provide that bees other than honeybees may only be imported under subpart B from approved regions listed in § 322.4(c)

(i.e., Canada). It would also state that the bees must be live adults or live brood. Proposed § 322.5(d) would further provide that only bees of the following species may be imported under subpart B: Bumblebees of the species *Bombus impatiens*; bumblebees of the species *Bombus occidentalis*; alfalfa leafcutter bee (*Megachile rotundata*); blue orchard bee (*Osmia lignaria*); and horn-faced bee (*Osmia cornifrons*). These species generally are commercially produced by experienced beekeepers and are not commonly associated with bee disease or parasite outbreaks. Other species of bees other than honeybees, as well as listed species of bees other than honeybees from nonapproved regions, would be allowed to be imported into the United States only under subpart C, "Importation of Restricted Organisms."

#### Export Certificate (§ 322.6)

Proposed § 322.6 would require that bees and honeybee germ plasm imported under subpart B be accompanied by an export certificate. The export certificate would have to be issued by the appropriate regulatory agency of the national government of the exporting region.

For adult honeybees, the export certificate would have to 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. In addition, the export certificate would have to identify all diseases, parasites, and species or subspecies of honeybees found in the hive during that preexport inspection. Inspection of the hive would ensure that any disease, parasite, or undesirable species or subspecies of honeybee that may be present would be detected prior to that shipment's departure from the region of origin. The proposed time limit of 10 days would ensure that even during peak periods of hive activity, when diseases and parasites can move very rapidly through a hive, the preexport inspection would offer an accurate assessment of the hive's health status. The identification on the export certificate of all diseases, parasites, and species or subspecies of honeybees found in the hive during the preexport inspection would offer us, as well as persons purchasing these imported bees, important information on the status of the bees.

The export certificate would also have to certify that the bees in the shipment were produced in the exporting region and are the offspring of queens and drones or semen also produced in the exporting region. This requirement would help ensure that the bees would

not be transshipped from a nonapproved region through an approved region to the United States. Honeybees from nonapproved regions would present an unacceptable risk of introducing exotic bee diseases or parasites or undesirable species or subspecies of honeybees into the United States.

If adult honeybees were intended for importation into Hawaii, the export certificate would also have to certify the following:

- The honeybees in the shipment were inspected by an official of the appropriate regulatory agency of the national government of the exporting region on the day of export and showed no sign of Varroa mite, tracheal mite, or African honeybee;
- The hives from which the honeybees in the shipment are derived were individually inspected by an official of the appropriate regulatory agency of the national government of the exporting region no more than 10 days prior to export and showed no sign of the presence of Varroa mite, tracheal mite, or African honeybee;
- The honeybees in the shipment are derived exclusively from an apiary situated in the center of a zone of 50 kilometers (31 miles) in radius, in which special diagnostic tests, as set forth by OIE, did not reveal any sign of the presence of Varroa mite for at least the past 2 years;
- The honeybees in the shipment are derived exclusively from an apiary situated in the center of a zone of 5 kilometers (3.1 miles) in radius, in which no case of tracheal mite has been reported for at least the past 8 months; and
- The honeybees in the shipment were raised in and are derived exclusively from an apiary that meets the standards of OIE for the application of sanitary measures, special breeding techniques, and sanitary surveillance related to Varroa mite and tracheal mite.

These inspections and other requirements would ensure that Varroa mite and tracheal mite are not introduced into Hawaii. The sizes of the zones described above are set by OIE standards.

Lastly, this paragraph would provide that if an important bee disease or parasite of economic and environmental concern to the United States, including, but not limited to, Thai sacbrood virus, *Tropilaelaps clareae*, and *Euvarroa sinhai*, or if an undesirable species or subspecies of honeybee, including, but not limited to, the Cape honeybee (*Apis mellifera capensis*) and the Oriental honeybee (*Apis cerana*), were identified

on the export certificate as occurring in the hive from which the shipment was derived, we would refuse the shipment's entry into the United States. This would prevent the introduction of exotic bee diseases and parasites, and undesirable species and subspecies of honeybees, into the United States.

For honeybee germ plasm, the requirements would be similar to the requirements for adult honeybees imported into the continental United States. The export certificate would have to certify that the hives from which the germ plasm in each shipment was derived were individually inspected by an official of the appropriate regulatory agency of the national government of the exporting region no more than 10 days prior to export; would have to identify any diseases, parasites, and undesirable species or subspecies of honeybees found in the hive during that preexport inspection; and would have to certify that the bees in the hives from which the shipment was derived were produced in the exporting region and are the offspring of queens and drones or semen also produced in the exporting region. Lastly, we would provide that if an important bee disease or parasite of economic and environmental concern to the United States, including, but not limited to, Thai sacbrood virus, *Tropilaelaps clareae*, and *Euvarroa sinhai*, or if an undesirable species or subspecies of honeybee, including, but not limited to, the Cape honeybee (*Apis mellifera capensis*) and the Oriental honeybee (*Apis cerana*), were identified on the export certificate as occurring in the hive from which the shipment was derived, we would refuse the shipment's entry into the United States. Our reasons for these requirements are explained above.

For bees other than honeybees, the export certificate would have to certify that the bees in the shipment were produced in the exporting region and are the offspring of queens and drones or semen also produced in the exporting region. This requirement would help ensure that the bees would not be transshipped from a nonapproved region through an approved region to the United States. Although bees other than honeybees from approved regions present little risk of introducing exotic bee diseases or parasites or undesirable species or subspecies of honeybees into the United States, bees other than honeybees from nonapproved regions would present an unacceptable risk of such introductions.

#### Notice of Arrival (§ 322.7)

Proposed § 322.7 would require that importers notify APHIS at least 10

business days prior to the arrival in the United States of any shipment of bees or honeybee germ plasm to be imported into the United States under subpart B. This notice would have to include certain information about the importer, producer, and shipment. This information would allow us to notify the U.S. port of arrival and State authorities in the State of destination about the impending shipment and would facilitate traceback of shipments if an outbreak of a disease or parasite were to occur in the exporting region or in the United States.

#### *Packaging of Shipments (§ 322.8)*

Proposed § 322.8 would set forth requirements for packaging for honeybees and bees other than honeybees imported under subpart B. We would not require any special packaging for honeybee germ plasm imported under subpart B because honeybee germ plasm does not present a risk of injury to our inspectors at U.S. ports.

For adult honeybees, we would require that packaging prevent the escape of the bees, and we would restrict the materials that may be included in the shipment with the bees. These requirements would ensure that bees are adequately contained during shipping, therefore protecting our inspectors at U.S. ports, and would ensure that restricted articles are not packaged with bees arriving in the United States from approved regions.

For bees other than honeybees, the adult bees would have to be shipped in packages that:

- Are securely closed;
- Do not include any soil; and
- Include only packing materials that

were grown or produced in the exporting region and that meet all other applicable requirements of title 7, chapter III (such as the regulations pertaining to unmanufactured wood in 7 CFR part 319 and the plant pest regulations in 7 CFR part 330).

These requirements would help ensure the safety of our inspectors and prevent the introduction of exotic diseases or parasites into the United States through packing materials.

In addition, we would allow live brood of bees, other than honeybees, imported under subpart B to enter the United States in new or used bee boards, as long as those bee boards meet all applicable requirements of the regulations.

#### *Mailed Packages (§ 322.9)*

Proposed § 322.9 would provide labeling and additional documentation requirements for bees and honeybee

germ plasm that are imported from approved regions through the mail or through commercial express delivery. First, we would require that all sides of the outside of each package be clearly marked with the contents of the shipment and the name of the exporting region. Second, we would require that importers using commercial express delivery to import bees and honeybee germ plasm from approved regions would have to provide an accurate description of the shipment's contents for the shipment's delivery manifest entry. Third, we would require that, in addition to an export certificate, each package 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. These requirements would help facilitate the importation of these products by providing our inspectors with ready access to essential information about the shipment.

#### *Packages That Are Hand-Carried or in Personal Baggage Aboard Aircraft Arriving in the United States (§ 322.10)*

Proposed § 322.10 would provide labeling and additional documentation requirements for bees and honeybee germ plasm that are hand-carried or carried in personal baggage from approved regions aboard aircraft. As with mailed packages, we would require that the outside of each package be clearly marked with the contents of the shipment and the name of the exporting region. In addition, we would require that the person carrying the package declare it at the port of entry in the United States by providing a copy of the required export certificate to an inspector at the port. These requirements would also help facilitate the importation of these products by providing our inspectors with ready access to essential information about the shipment. We recommend that individuals who intend to import bees and honeybee germ plasm from approved regions into the United States in this manner contact their airline of choice for any additional requirements the airline may have.

#### *Packages That Are Hand-Carried or in a Personal or Commercial Vehicle Arriving at a Land Border Port in the United States (§ 322.11)*

Proposed § 322.11 would provide additional documentation requirements for bees and honeybee germ plasm that are hand-carried or in a personal or commercial vehicle, such as an automobile or truck, from approved regions to a land border port in the United States. Specifically, we would

require that the person carrying the bees or honeybee germ plasm or the driver of the vehicle present the export certificate required by § 322.6 and an invoice or packing slip accurately indicating the complete contents of the shipment to the inspector at the land border port in the United States. This requirement would also help facilitate the importation of these products by providing our inspectors with ready access to essential information about the shipment.

#### *Inspection; Refusal of Entry (§ 322.12)*

Proposed § 322.12 would set forth provisions for the port-of-entry inspection of bees and honeybee germ plasm imported under subpart B. APHIS inspectors would check to see that importers had provided timely notice of arrival for a shipment and that shipments have the proper packaging and documentation. This inspection would help ensure that shipments have been handled in accordance with the regulations.

#### *Ports of Entry (§ 322.13)*

Proposed § 322.13 would require that shipments arrive only at a U.S. port of entry staffed by an APHIS inspector. This would ensure that an APHIS inspector is present to determine whether shipments comply with the regulations.

#### *Risk Assessment Procedures for Approving Countries (§ 322.14)*

Proposed § 322.14 would set forth the risk assessment procedures we would follow when we receive a request to approve a region to import honeybees, honeybee germ plasm, or bees other than honeybees into the United States. This information will make our review process more transparent to our trading partners.

We would provide that, when we receive a request to import honeybees, honeybee germ plasm, or bees other than honeybees from a region that is not already approved for such imports, we would perform a risk assessment. The risk assessment would identify bee diseases and parasites of quarantine significance to the United States, as well as undesirable species and subspecies of honeybees, associated with the importation; assess the likelihood of the introduction of these diseases, parasites, and undesirable species and subspecies of honeybees into the United States, as well as the consequences of introduction; and consider the effectiveness of the regulatory system of the exporting region to control and prevent occurrences of diseases, parasites, and undesirable species and



subspecies of honeybees. For detailed information about what we would consider in our risk assessments, please refer to the rule portion of this document.

### **Proposed Subpart C—Importation of Restricted Organisms**

Subpart C would provide the conditions for the importation of “restricted organisms.” The proposed requirements in subpart C would be similar, with certain exceptions, to our current regulations for importing honeybees and honeybee semen from all countries except Canada.

#### *General Requirements (§ 322.15)*

As provided in proposed § 322.15, restricted organisms would be honeybee brood in the comb, all bees and bee germ plasm from nonapproved regions, and species of bees other than honeybees that are not listed in § 322.5(d)(2). This section would also provide that restricted organisms would be allowed to be imported only for research or experimental purposes by Federal, State, and university researchers, only under permit, and only in accordance with strict packaging, handling, inspection, and post-entry requirements.

#### *Documentation; Applying for a Permit To Import a Restricted Organism (§ 322.16)*

Proposed § 322.16 would require a restricted organism to be accompanied by a permit and an invoice or packing list accurately indicating the complete contents of the shipment. Under proposed § 322.16(a), to apply for a permit to import a restricted organism, an applicant would need to provide specific information about himself or herself, the organisms he or she would like to import, the method of shipment, the intended U.S. port of entry, the approximate date of the shipment's arrival, the containment facility where the shipment is destined (including whether that facility has been approved by APHIS), and the intended use of the restricted organisms. The application for a permit would also need a certification that all statements on the application are true and accurate, and the applicant would be required to sign the permit application. The information on the permit application would help us determine whether the importation presents a risk of introducing diseases or parasites harmful to bees, or undesirable species and subspecies of honeybees, into the United States. This information also would preclude the need for a notice of arrival, as we propose to require for the importation of

bees and bee germ plasm from approved regions.

In addition, if the applicant is not a U.S. resident, he or she would need a sponsor who is a U.S. resident for the permit application. The sponsor would have to provide specific information about himself or herself on the application and would also have to sign the application, certifying that all statements on the application are true and accurate. We propose this requirement to identify the individual in the United States who will be legally responsible for adhering to the conditions provided on the permit, and in subpart C, for the importation of the specified restricted organisms.

Proposed § 322.16(b) would contain the requirement that a restricted organism be accompanied by an invoice or packing list accurately indicating the complete contents of the shipment. The invoice would give essential information to the inspector at the U.S. port of entry.

#### *APHIS Review of Permit Applications; Denial or Cancellation of Permits (§ 322.17)*

Proposed § 322.17 would offer information about the review of permit applications, explain why a permit application may be denied or a permit canceled, and provide the procedures for appealing the denial of a permit application or the cancellation of a permit. Under paragraph (a) of this section, the review of each permit application would include, at a minimum, review by APHIS and review by the destination State. We propose that the destination State may make a recommendation about the permit application, but the final decision on the permit application would be made by APHIS. Under § 322.17(b), once a decision is reached, we would notify the applicant of the approval or denial of the permit application. Paragraph (c) of this section would provide the reasons why we would deny an application. Paragraph (d) would provide the reasons why we would cancel a permit and provide the steps that the owner of restricted organisms would have to take if we cancel the owner's permit. Finally, paragraph (e) of this section would set forth the procedures to appeal the denial of a permit application or the cancellation of a permit. Overall, § 322.17 would help make our permit application process, including our criteria for permit application review, more transparent to permit applicants and permit holders.

#### *Packaging of Shipments (§ 322.18)*

The packaging requirements for restricted organisms would be contained in proposed § 322.18. These requirements would differ from the packaging requirements for bees and honeybee germ plasm from approved regions because, under our proposal, a restricted organism may be from a nonapproved region and may be any life stage of any number of species of bee. These organisms could present a health risk to indigenous bee populations if they escape. Therefore, to protect domestic bees, we propose to require that restricted organisms be packed in a container or combination of containers that will prevent the escape of the organisms and the leakage of any contained materials and that the container be sufficiently strong and durable enough to prevent it from rupturing or breaking during shipment.

In addition, because some life stages of certain bees are routinely shipped in materials that are subject to other regulations, such as plant material or soil, proposed § 322.18 would list those materials approved for packaging of restricted organisms. The list would consist of the following: 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. We would require advance approval of any packaging materials that do not appear on this list.

#### *Mailed Packages (§ 322.19)*

Proposed § 322.19 would provide labeling and additional documentation requirements for restricted organisms that are imported through the mail or through commercial express delivery. Specifically, § 322.19 would require shipments to bear a special label provided with the permit to import a restricted organism and would require each package containing a restricted organism to be addressed only for delivery to the containment facility or apiary identified on the permit. We propose that, if these requirements are not met, an inspector will refuse to allow the restricted organism to enter the United States. These requirements would help ensure that a restricted organism is properly routed to an approved facility for containment, would assist our inspectors by requiring easy access to essential information about the shipment, and would help ensure that the requirements of the regulations are met.



*Restricted Organisms That Are Hand-Carried or in Personal Baggage Aboard Aircraft Arriving in the United States (§ 322.20)*

Proposed § 322.20 would provide labeling and additional documentation requirements for restricted organisms that are hand-carried or carried in personal baggage aboard aircraft. First, we would require that the outside of each package be clearly marked with the contents of the shipment and the name of the exporting region. Second, we would require that the person carrying the package declare it at the port of entry in the United States by providing a copy of the required permit and an invoice or packing list accurately indicating the complete contents of the shipment to an inspector at the U.S. port. Third, we would allow only the person to whom the permit was issued, or another person also listed on the permit, to hand-carry or carry in personal baggage a restricted article into the United States. Fourth, we propose that, if these requirements are not met, an inspector will refuse to allow the restricted organism to enter the United States. These requirements would help ensure that a restricted organism is properly routed to an approved facility for containment, would assist our inspectors by requiring easy access to essential information about the shipment, and would help ensure that the requirements of the regulations are met. We recommend that individuals who intend to import restricted organisms into the United States in this manner contact their airline of choice for any additional requirements the airline may have.

*Restricted Organisms That Are Hand-Carried or in a Personal or Commercial Vehicle Arriving at a Land Border Port in the United States (§ 322.21)*

Proposed § 322.21 would provide additional documentation requirements for restricted organisms that are hand-carried or in a personal or commercial vehicle, such as an automobile or truck, to a land border port in the United States. Specifically, we would require that the person carrying the restricted organisms or the driver of the vehicle present a copy of the required permit and an invoice or packing slip accurately indicating the complete contents of the shipment to the inspector at the land border port in the United States. We would allow only the person to whom the permit was issued, or another person also listed on the permit, to hand-carry or drive a restricted article into the United States. We also propose that, if these

requirements are not met, an inspector will refuse to allow the restricted organism to enter the United States. These requirements would ensure that only those restricted organisms that meet the requirements of the regulations are imported into the United States, while helping facilitate the importation of restricted organisms by providing our inspectors with ready access to essential information about the shipment.

*Inspection; Refusal of Entry (§ 322.22)*

Proposed § 322.22 would provide for the inspection of restricted organisms at the port of entry. This provision would help ensure that shipments have been handled in accordance with the regulations.

*Ports of Entry (§ 322.23)*

Proposed § 322.23 would require that shipments arrive only at a U.S. port of entry staffed by an APHIS inspector. This would ensure that an APHIS inspector is present to determine whether shipments comply with the regulations.

We also propose that, as soon as a restricted organism is cleared for entry into the United States at the port, the restricted organism must be taken directly to the containment facility or apiary identified on the permit. We would require that packages of restricted organisms may be opened only in the containment facility or apiary identified on the permit. These requirements would prevent contact between restricted organisms and indigenous bees and would, therefore, reduce the potential for the introduction of exotic bee diseases and parasites, and undesirable species and subspecies of honeybees, into the U.S. bee population.

*Post-Entry Handling (§ 322.24)*

Proposed § 322.24 would provide performance standards that an apiary or facility must meet in order to be approved by APHIS to accept restricted organisms. These requirements would ensure that restricted organisms are adequately separated from indigenous bees and that restricted organisms are observed and determined to be free of diseases and parasites, and, if applicable, determined to be a desirable species or subspecies of honeybee, before release from containment. For the specific performance standards, refer to the rule portion of this document. This section would also provide the conditions under which restricted organisms may be released from containment. The conditions include rearing the restricted organisms through at least 4 months of active reproduction before applying for their release. The

application for release would have to include complete information on the observation and inspection of the bees, including, but not limited to, their health and behavior. This would ensure that only bees that do not present a risk of introducing diseases or parasites, and that are not an undesirable species or subspecies of honeybee, would be released from containment.

**Proposed Subpart D—Transit of Restricted Organisms Through the United States**

Subpart D would provide requirements for transiting restricted organisms through the United States. The proposed provisions in this subpart are based on the current transit requirements for honeybees from New Zealand (*see* current § 322.1(e)).

*General Requirements (§ 322.25)*

Paragraph (a) of proposed § 322.25 would prohibit the transit of restricted organisms through the United States except in accordance with the proposed subpart. Paragraph (b) of this section would provide that transit shipments may only be shipped aboard aircraft to the United States for transit to another country. Paragraph (c) would limit the number of times a transit shipment may be transloaded from one aircraft to another aircraft. Under paragraph (c), a shipment of restricted organisms may only be transloaded at an airport on the continental United States and, regardless of the number of stops the shipment makes at different airports on the continental United States, the shipment may only be transloaded once during its entire transit through the United States. We would prohibit the transloading of restricted organisms at any port in Hawaii; in Hawaii, the restricted organisms would have to remain on, and depart for another destination from, the same aircraft on which the shipment arrived at the Hawaiian port. Paragraph (d) of this section would provide that if bees from approved regions may not enter Hawaii because of the presence of Varroa mite, tracheal mite, or African honeybee, those bees may transit Hawaii en route to another State or territory of the United States only if the shipment of bees meets the requirements of proposed subpart D, as well as other applicable requirements in the part. These requirements would help facilitate the monitoring and the movement of transit shipments of restricted articles, while protecting against the introduction of exotic bee diseases and parasites, and undesirable species and subspecies of honeybees, into the United States.

*Documentation (§ 322.26)*

Under proposed § 322.26, each shipment of restricted organisms transiting the United States must be accompanied by a document issued by the appropriate regulatory agency of the national government of the exporting region. The document must state that the packaging requirements of this subpart have been met. This provision would help ensure that the requirements of the regulations have been met.

*Packaging of Transit Shipments (§ 322.27)*

Proposed § 322.27 would list the packaging requirements for transit shipments of restricted organisms. These requirements are similar to the proposed packaging requirements for restricted organisms for importation into the United States. However, we do not propose to place restrictions on the materials that can be used for packaging restricted organisms transiting the United States because those shipments will not be unpacked in the United States. These requirements would protect our inspectors and indigenous bee populations and would provide essential information to inspectors at the transit port.

*Notice of Arrival (§ 322.28)*

We would also require a notice of arrival for transit shipments of restricted organisms. In proposed § 322.28, we would require importers to notify APHIS at least 2 business days prior to the arrival in the United States of any transit shipments of restricted organisms. This notice would have to include certain information about the shipper, receiver, airline, shipment, and port(s) of arrival in the United States. This information would allow us to notify the U.S. port(s) where the transit shipment is due to arrive en route to another country.

*Inspection and Handling (§ 322.29)*

Proposed § 322.29 would provide requirements for inspection and handling of transit shipments. Paragraph (a) of this section would provide that transit shipments would be subject to inspection at the U.S. port and could be destroyed by us if the shipment does not meet the requirements of the regulations. Paragraph (b) would set forth the conditions for transloading transit shipments of restricted organisms from one aircraft to another in the United States. This paragraph would require that the transloading of adult bees and bee germ plasm from one aircraft to another aircraft at the port of arrival in

the United States occur under the supervision of an inspector. It would also require that if the adult bees cannot be transloaded immediately to the subsequent flight, the bees must be stored within a completely enclosed building. Lastly, it would prohibit the transloading of adult bees from an aircraft to ground transportation for subsequent movement through the United States. These conditions are designed to ensure the safety of our inspectors and to ensure that restricted organisms transiting the United States do not come into contact with indigenous bees.

*Eligible Ports for Transit Shipments (§ 322.30)*

Lastly, proposed § 322.30 would require that transit shipments arrive in the United States only at a U.S. port of entry staffed by an APHIS inspector. This would ensure that an APHIS inspector is present to determine whether shipments comply with the regulations and would be consistent with the requirements for the importation of bees in other subparts of the proposed regulations.

**Proposed Subpart E—Importation and Transit of Restricted Articles**

Subpart E would provide the conditions for the importation and transit of “restricted articles.”

*General Requirements; Restricted Articles (§ 322.31)*

Section 322.31 would list the following as restricted articles: Dead bees, beeswax for beekeeping, and honey for bee feed.<sup>1</sup>

*Dead Bees (§ 322.32)*

Under § 322.32, dead bees could be imported into the United States without further restriction if they are immersed in a 70 percent alcohol solution or in liquid nitrogen, or if they are pinned and dried in the manner of scientific specimens. This requirement would ensure that exotic bee diseases and parasites are not introduced through the importation of dead bees.

*Export Certificate (§ 322.33)*

For beeswax for beekeeping and honey for bee feed, we would require an export certificate, in accordance with proposed § 322.33. The export certificate would have to be issued by the appropriate regulatory agency of the national government of the exporting region and would have to state that the restricted articles have been treated in

accordance with the regulations. We would require beeswax to be liquefied and honey for bee feed to be heated to 212 °F (100 °C) for 30 minutes. These treatments for beeswax and honey are the same as those currently required by § 319.76–4(c)(2) and (3), respectively, of the pollinator regulations and help prevent the introduction of diseases through the importation of these articles. The export certificate would help ensure that the treatments have been performed in accordance with the regulations.

Because restricted articles must be treated prior to importation into the United States, we are not proposing any specific packaging requirements for restricted articles. We recommend, however, that individuals who intend to import restricted articles into the United States contact their shipper of choice for any requirements the shipper may impose on the packaging of restricted articles.

*Notice of Arrival (§ 322.34)*

Proposed § 322.34 would require that importers notify APHIS at least 10 business days prior to the arrival in the United States of any shipment of restricted articles. This notice would have to include certain information about the importer, producer, recipient of the articles, and shipment. This information would allow us to notify the U.S. port of arrival about the impending shipment and would facilitate traceback of shipments if an outbreak of a disease or parasite were to occur in the exporting region or in the United States.

*Mailed Packages (§ 322.35)*

Proposed § 322.35 would provide labeling and additional documentation requirements for restricted articles that are imported through the mail or through commercial express delivery. First, we would require that all sides of the outside of each package be clearly marked with the contents of the shipment and the name of the exporting region. Second, we would require that importers using commercial express delivery to import restricted articles would have to provide an accurate description of the shipment's contents for the shipment's delivery manifest entry. Third, we would require that, in addition to an export certificate, each package 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. These requirements would facilitate the importation of restricted articles by providing our inspectors

<sup>1</sup> Honey for human consumption is regulated by the Food and Drug Administration under 21 CFR part 168.

with ready access to essential information about the shipment.

*Restricted Articles That Are Hand-Carried or in Personal Baggage Aboard Aircraft Arriving in the United States (§ 322.36)*

Proposed § 322.36 would provide labeling and additional documentation requirements for restricted articles that are hand-carried or carried in personal baggage aboard aircraft. As with mailed packages, we would require that the outside of each package be clearly marked with the contents of the shipment and the name of the exporting region. In addition, we would require that the person carrying the package declare it at the port of entry in the United States by providing a copy of the required export certificate to an inspector at the port. These requirements would also help facilitate the importation of these products by providing our inspectors with ready access to essential information about the shipment. We recommend that individuals who intend to import restricted articles into the United States in this manner contact their airline of choice for any additional requirements the airline may have.

*Restricted Articles That Are Hand-Carried or in a Personal or Commercial Vehicle Arriving at a Land Border Port in the United States (§ 322.37)*

Proposed § 322.37 would provide additional documentation requirements for restricted articles that are hand-carried or in a personal or commercial vehicle, such as an automobile or truck, to a land border port in the United States. Specifically, we would require that the person carrying the restricted article or the driver of the vehicle present the export certificate required by § 322.33, if applicable, and an invoice or packing slip accurately indicating the complete contents of the shipment to the inspector at the land border port in the United States. This

requirement would also help facilitate the importation of restricted articles by providing our inspectors with ready access to essential information about the shipment.

*Inspection; Refusal of Entry (§ 322.38)*

Proposed § 322.38 would provide for the inspection of restricted articles. Inspectors would check to see that importers provided notice of arrival for the shipment and that shipments have proper documentation. These provisions would help ensure that shipments have been handled in accordance with the regulations.

*Ports of Entry (§ 322.39)*

Under § 322.39, we would also require that shipments arrive only at a U.S. port of entry staffed by an APHIS inspector. This would ensure that an APHIS inspector is present to determine whether shipments comply with the regulations.

**Review of Existing Regulations**

This proposed rule is part of the cyclical review of Part 322—Importation of Honeybees and Honeybee Semen to meet regulatory review requirements. Executive Order 12866 and Department Regulation 1512–1 require that agencies initiate reviews of currently effective rules to reduce regulatory burden and minimize effects on small entities.

**Executive Order 12866 and Regulatory Flexibility Act**

This proposed rule has been reviewed under Executive Order 12866. The rule has been determined to be significant for the purposes of Executive Order 12866 and, therefore, has been reviewed by the Office of Management and Budget.

We do not have enough data for a comprehensive analysis of the economic effects of this proposed rule on small entities. Therefore, in accordance with 5 U.S.C. 603, we have performed an initial regulatory flexibility analysis for this proposed rule. This analysis, which is

set out below, discusses the economic impact of this proposed rule on small entities. The discussion also serves as our cost-benefit analysis under Executive Order 12866.

We invite comments about this proposed rule as it relates to small entities. In particular, we are interested in determining the number and kinds of small entities that may incur benefits or costs from implementation of this proposed rule and the economic effects of those benefits or costs.

We are proposing to consolidate and amend the regulations for the importation of honeybees and honeybee semen and the regulations established to prevent the introduction of exotic bee diseases and parasites through the importation of bees other than honeybees, certain beekeeping byproducts, and used beekeeping equipment. Among other things, we are proposing to allow, under certain conditions, the importation into the United States of honeybees from Australia and honeybees and honeybee germ plasm from New Zealand. These proposed changes would make these regulations more consistent with international standards, update them to reflect current research and terminology, and simplify them and make them more useful.

**Honey Production in the United States**

The United States is the second largest honey producer in the world. In 2001, the United States had a registered stock of about 2.5 million honeybee colonies, as shown below in Table 1. These honeybee colonies were owned by beekeepers with five or more colonies and produced nearly 186 million pounds of honey valued at \$127 million. Largely due to bee parasite problems (*i.e.*, varroa mite), the number of honey bee colonies in the United States has been in decline, having decreased from 3.4 million in 1994 to 2.5 million colonies in 2001.

TABLE 1.—HONEYBEE COLONIES, HONEY PRODUCTION, AND VALUE IN THE UNITED STATES, 1997–2001

Year	Honeybee colonies	Honeybee production (in pounds)	Value of production (in U.S. Dollars)
1997 .....	2,631,000	196,536,000	\$147,795,000
1998 .....	2,633,000	220,316,000	147,254,000
1999 .....	2,688,000	205,250,000	126,075,000
2000 .....	2,620,000	220,339,000	132,742,000
2001 .....	2,513,000	185,926,000	127,060,000

**Source:** Honey Report (February 28, 2002), National Agricultural Statistics Service (NASS), Agricultural Statistics Board, U.S. Department of Agriculture.

An estimated 125,000 to 150,000 beekeepers in the United States operate the 2.5 million honeybee colonies (NASS, Honey Report, 2002). Less than 2 percent of these beekeepers in the United States are full-time (commercial) operators (*i.e.*, with 300 or more bee colonies). More than 90 percent are hobbyists (*i.e.*, with fewer than 25 bee

colonies). The remainder are part-time (*i.e.*, with 25 to 299 bee colonies).

According to the 1997 U.S. Census of Agriculture, there were 7,688 commercial apiaries registered in the United States in that year that sold honey and 910 commercial apiaries that offered their honeybees for pollination services (Table 2). Total annual sales of honey and other bee products amounted to \$138.23 million that year. California,

Florida, South Dakota, North Dakota, Minnesota, and Texas accounted for more than half of both U.S. bee colonies and honey production. Hawaii, with 38 registered commercial apiaries in 1997, was responsible for 0.5% of the U.S. domestic commercial sales. However, Hawaii is the only U.S. State that is able to export honeybees because of its disease-free status.

TABLE 2.—HONEYBEE COLONIES AND HONEY, INVENTORY AND SALES IN MAJOR STATES AND HAWAII IN 1997

State	Inventory of all U.S. registered apiaries <sup>1</sup>	Commercial sales of bee colonies and honey					
		(a) Colonies of bees		(b) Honey		Value of sales (a + b)	% of U.S. sales
		Apiaries	Number	Apiaries	Pounds		
California .....	1,021	68	79,239	733	28,305,056	\$23,167,000	16.8
Florida .....	645	35	5,524	482	16,471,427	13,461,000	9.7
S. Dakota .....	219	16	8,305	132	14,225,757	11,351,000	8.2
N. Dakota .....	144	11	2,184	120	12,803,245	10,330,000	7.5
Texas .....	989	57	106,028	360	8,418,792	7,906,000	5.7
Minnesota .....	428	37	9,813	258	9,311,475	7,744,000	5.6
Sum of 6 .....	3,446	224	211,093	2,085	89,535,752	73,959,000	53.5
Hawaii .....	75	4	16	34	949,769	735,000	0.5
United States .....	17,469	910	380,463	7,688	158,943,634	138,228,000	

Source: National Agricultural Statistics Service (NASS), 1997 U.S. Census of Agriculture, USDA.

<sup>1</sup> Both commercial and hobbyists' apiaries.

### Bee Pollination in the United States

Honeybees, in addition to producing honey, play a vital role in the pollination of U.S. agricultural crops. In 1987, the annual value of agricultural production dependent upon pollination by honeybees in the United States was \$9.6 billion; by 1999, that value had risen to \$14.6 billion. More than 40 percent of fruit and nut production in the United States depends upon honeybee pollination (\$4.76 billion out of \$10.94 billion average annual value), as does more than 70 percent of vegetable and melon production (\$2.98 billion out of \$3.96 billion), and around 21 percent of field crop production (\$6.82 billion out of \$32.06 billion).<sup>2</sup>

Other bees besides honeybees also provide important pollination services. The alfalfa leafcutter bee (*Megachile rotundata*), for example, has become the principal alfalfa pollinator in several Western States. Other bee species that are commonly used for pollination purposes are bumblebees (*Bombus occidentalis* and *Bombus impatiens*), blue orchard bees (*Osmia lignaria*), and horn-faced bees (*Osmia cornifrons*). Bumblebees are pollinators of many plants, especially those growing at high elevations and in greenhouses. Blue orchard bees are an alternate pollinator species of orchard crops such as almonds. Apiculture pollination is especially vital to the fruit, nut, and vegetable production of California and Florida. As the demand for these

products increases, so too does the corresponding demand for bee pollination services.

### International Bee Trade

Reported data on U.S. imports of bees exist only for the alfalfa leafcutter bee, a species used only for crop pollination. The value of U.S. imports of alfalfa leafcutter bees from Canada increased from \$6.5 million in 1996, to \$11.4 million in 1999, and has since declined to \$5 million in 2001 (Table 3). Alfalfa leafcutter bee larvae are generally imported into the United States exclusively from Canada; however, in 1996, small amounts of alfalfa leafcutter bee larvae were imported illegally from Colombia and Ghana.

<sup>2</sup> "The Value of Honey Bees as Pollinators of U.S. Crops in 2000." *Bee Culture Magazine*, March 2000.

TABLE 3.—U.S. IMPORTS OF LIVE LEAFCUTTER BEE (NON-APIS) LARVAE, 1996–2001

Year	Exporting country	U.S. Customs value (in U.S. dollars)
1996 .....	(1) Canada .....	\$6,526,580
	(2) Ghana .....	2,100
	World .....	6,528,680
1997 .....	(1) Canada .....	9,319,641
	World .....	9,319,641
1998 .....	(1) Canada .....	10,382,341
	World .....	10,382,341
1999 .....	(1) Canada .....	11,393,247
	World .....	11,393,247
2000 .....	(1) Canada .....	7,169,000
	(2) United Kingdom .....	5,000
	World .....	1,174,000
2001 .....	(1) Canada .....	5,033,000
	(2) Belgium .....	3,000
	World .....	5,036,000

**Source:** U.S. Department of Commerce and World Trade Atlas. Commodity code (0106005030), Leaf Cutter Bee Larvae, Live.

There are no data available on traded honeybees and honeybee queens, except for exports from New Zealand (Table 4) and imports into Canada (Tables 5a and 5b). These data provide an indication of the size of trade of honeybees amongst the biggest traders. Canada's largest trading partners are the United States for honeybee queens and New Zealand

for honeybee workers.<sup>3</sup> International trade data on honeybees are not readily available, because only when a country requires an import or an export certificate does it report the corresponding data. For example, Canada requires import certificates for honeybees and thus reports only import data. The United States currently does

not require import permits for most imports of bees and bee products. Under this proposal, an import permit would be required for restricted organisms (honey brood in the comb, all bees and bee germ plasm from nonapproved regions, and species of honeybees not listed in § 322.5(d)(2)). There is no cost for an import permit.

TABLE 4.—NEW ZEALAND'S EXPORTS OF HONEYBEE QUEENS AND HONEYBEE PACKAGES, 1996–2000

Year	Honeybee queens	Honeybee packages (1.5 kg)
1996 .....	500	55,181
1997 .....	1,300	45,865
1998 .....	10,724	52,704
1999 .....	10,965	15,908
2000 .....	21,120	19,344

**Source:** Data have been provided by AgriQuality New Zealand and published annually in "New Zealand Beekeeper" magazine, August issues; Web site: <http://www.beekeeping.co.nz/nzbkpg/glance.htm>.

TABLE 5A.—CANADIAN IMPORTS OF LIVE HONEYBEE QUEENS FROM MAJOR SUPPLIERS, 1996–2001

(In Canadian dollars)

Countries	1996	1997	1998	1999	2000	2001
United States .....	\$545,392 (52%)	\$708,279 (71%)	\$2,241,361 (81%)	\$1,616,708 (82%)	\$1,758,663 (82%)	\$1,805,442 (82%)
New Zealand .....	\$325,864 (31%)	\$143,953 (14%)	\$225,176 (8%)	\$102,849 (5%)	\$62,436 (3%)	\$27,475 (1%)
Australia .....	\$183,540 (17%)	\$150,870 (15%)	\$99,915 (4%)	\$168,356 (9%)	\$77,170 (4%)	\$79,436 (4%)
People's Republic of China .....	.....	.....	\$178,886 (7%)	\$59,058 (3%)	\$85,483 (4%)	\$125,815 (6%)

<sup>3</sup> Hawaii is the only U.S. State that may export honeybees.

TABLE 5A.—CANADIAN IMPORTS OF LIVE HONEYBEE QUEENS FROM MAJOR SUPPLIERS, 1996–2001—Continued  
(In Canadian dollars)

Countries	1996	1997	1998	1999	2000	2001
Italy .....			\$7,417	\$17,065	\$7,835	\$8,620
Argentina .....			0	0	\$28,219	0
France .....			0	\$187	\$6,446	\$13,014
Germany .....			\$2,228	\$12,104	\$800	\$3,390
United Kingdom .....			\$1,384	\$4,818	\$1,033	\$3,304
Taiwan .....			\$3,353	\$1,114	\$2,254	0
Togo .....			\$5,832	0	0	0
Denmark .....			\$274	0	\$67	\$4,477
Brazil .....			0	0	0	\$2,431
Norway .....			0	\$419	\$1,951	0
Netherlands .....			\$413	0	\$1,267	0
Malaysia .....			0	0	\$404	0
Japan .....			0	\$145	0	\$153
India .....			0	\$93	0	0
Total .....	\$1,054,796	\$1,003,102	\$2,766,239	\$1,982,916	\$2,034,020	\$2,073,557

Source: Agricultural Canada, Horticulture and Special Crops Division, Commodity HS Code 0106.000030.

TABLE 5B.—CANADIAN IMPORTS OF LIVE HONEYBEES, EXCEPT QUEENS, 1996–2001  
(In Canadian dollars)

Countries	1996	1997	1998	1999	2000	2001
New Zealand .....	\$1,240,178 (83%)	\$1,931,210 (73%)	\$1,659,455 (74%)	\$778,019 (56%)	\$295,089 (43%)	\$304,074 (41%)
United States* .....	\$161,077 (11%)	\$346,642 (13%)	\$368,430 (16%)	\$195,102 (14%)	\$166,364 (24%)	\$179,974 (24%)
Australia .....	\$93,551 (6%)	\$375,476 (14%)	\$176,165 (8%)	\$423,729 (30%)	\$229,089 (43%)	\$262,365 (35%)
Netherlands .....	0	0	\$45,490	0	0	0
Total .....	\$1,494,806	\$2,653,328	\$2,249,540	\$1,396,850	\$691,398	\$746,413

Source: Agricultural Canada, Horticulture and Special Crops Division, Commodity HS Code 0106.0000.

\*The State of Hawaii only.

### Potential Effects for U.S. Entities

In 1997, California honeybee producers sold \$18.4 million worth of honeybee queens, package bees, and nucs (i.e., 3, 4, or 5 frames of bees with brood and a laying queen). Sales from the rest of the United States brought the U.S. total sales of honeybee queens, package bees, and nucs to about \$30 million for 1997. Since then, there have been slight increases in prices for honeybee queens and package bees, reflecting increased demand. Domestically produced honeybee queens currently sell for an average of

\$10 to \$12 per queen, but their price may range between \$3 and \$40, depending on the season. Queens possessing unique or exceptional characteristics are occasionally auctioned off for hundreds of dollars. Domestically produced package bees currently sell for between \$30 and \$42 for a 3-pound colony.

This rule places U.S. produced queens and package bees, for the first time, in direct competition in the domestic market with imports of these types of bees from Australia and New Zealand. Imported bees are expected to arrive between early spring (end of

March/early April) and the end of May. Because of seasonal differences between the United States and Australia and New Zealand, the adoption of this rule is expected to have a small, if any, negative impact on continental U.S. apiarists whose bees are ready to pollinate crops just as Australian and New Zealand bee imports cease with the beginning of winter in the southern hemisphere.

Because of the expected shipping season for honey bees from Australia and New Zealand, the greatest potential impact of the proposed rule would likely be on bee producers in Hawaii

who produce honey bees year-round. Honey bees, particularly queen bees, from Australia and New Zealand would probably enter the U.S. market during early spring (i.e., the beginning of active reproduction in bee colonies and a critical time for queen introduction). Traditionally, only Hawaii, because of its tropical climate, has been able to provide queens to U.S. beekeepers during this time period. Therefore, imports of queens from Australia and New Zealand may affect the prices of all queens sold during early spring. However, we do not expect this proposed rule to have a significant economic effect on Hawaiian queen producers or other U.S. beekeepers for two reasons. First, data from imports into Canada of queens and package bees demonstrate that Hawaiian queens have a strong marketability; of the queens imported into Canada between 1997 and 2001, Hawaii supplied on average 80 percent, while Australia and New Zealand supplied on average only 7 percent and 6 percent, respectively (Table 5a). Second, there have been reports from U.S. beekeepers of an insufficient supply of queens that are needed to revitalize bee colonies in early spring. California fruit and nut producers, in particular, also experience shortages of pollinators as honey bees from the continental United States are still in winter hibernation and those from Hawaii are not enough to meet demand at that time of the year. Therefore, based on the high demand for pollination services and the uncertainty in the amount of imports to fulfill this demand, the price of Hawaiian early spring honey bees is not expected to fall significantly with the importation of honey bees. In general, expanded supplies of honey bees made possible through this action might reduce their price only slightly if demand is elastic, with greater price decreases possible if demand is inelastic. We request information on demand elasticity for bees for the purpose of estimating impacts on U.S. bee suppliers and purchasers.

While Hawaiian suppliers may witness some price decline, such losses to suppliers would not be expected to exceed gains to purchasers of bees, who in general would benefit by increased availability of honey bees, particularly queens, during early spring. However, we do not have information on the volume of queens or package bees that may be imported into the United States from Australia and New Zealand or on the potential demand for imports of queens and package bees from Australia and New Zealand. Therefore, we cannot

quantitatively assess the effects those imports would have on U.S. producers of queen and package bees. We request information on such potential import volumes.

Foreign government inspectors visit their countries' apiaries twice a year and provide their honeybee producers with health certificates for exporting these bees. The price of the export certificate is included in the sale price of these honeybees. The fees that the Australian, New Zealand, and Canadian Governments charge their bee producers for the certificates are small, to help allow their honeybee export prices to be competitive with foreign prices. We request information on potential costs associated with issuing health certificates for bees.

#### **Economic Effect on Small Entities**

According to the North American industry classification used by the Small Business Administration, honeybee farms and honey production are included under the "other animal production" category 1129, as sub category 112910 "apiculture." This industry comprises establishments primarily engaged in raising bees; collecting honey; and/or selling queen bees, packages of bees, royal jelly, bees' wax, propolis, venom, or other bee products. Such entities are considered small if they have annual receipts of \$750,000 or less. Therefore, most of the apiaries that would be affected by this proposed rule qualify under this definition of a "small entity." Specifically, only 20 to 50 apiaries out of 17,469 total apiaries in 1997 had more than \$750,000 of annual sales. We do not expect that U.S. apiarists, or importers and distributors of bees and bee equipment, large or small, would be significantly affected by this rule.

As discussed above, the number of honeybee colonies in the United States has fallen from 3.4 million in 1994, to 2.5 million in 2001, due to Varroa mites, an exotic bee parasite. Meanwhile, the demand for honeybees and other pollinating bees continues to increase, especially during the early spring months when continental U.S. bees are not available to pollinate almonds and plums in California. Therefore, greater access to bee imports from more countries will benefit U.S. agriculture in general.

#### **Alternatives Considered**

An alternative to this proposed rule was to make no changes in the regulations. After consideration, we rejected this alternative because there appears to be no disease or parasite risk, or risk of introduction of undesirable

species of honeybees, associated with imports of bees from the regions we propose to designate as approved regions. Further, the changes to the regulations proposed in this document would bring the regulations into accord with international standards for the trade of bees and with international trade agreements entered into by the United States.

This proposed rule contains various recordkeeping and reporting requirements. These requirements are described in this document under the heading "Paperwork Reduction Act."

#### **Executive Order 12988**

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. If this proposed rule is adopted: (1) All State and local laws and regulations that are inconsistent with this rule will be preempted; (2) no retroactive effect will be given to this rule; and (3) administrative proceedings will not be required before parties may file suit in court challenging this rule.

#### **National Environmental Policy Act**

APHIS' National Environmental Policy Act implementing procedures (7 CFR part 372) identify actions that normally require environmental assessments, including rulemakings designed to remedy specific animal and plant health risks. The pest risk assessments supporting this proposed rule indicate that no new animal or plant health risks would result from the adoption of the provisions outlined in this proposed rule. Further, the proposed regulations would not irrevocably commit the Agency to allow the movement or environmental release of any organisms or articles for which APHIS has jurisdiction under the Honeybee Act or Plant Protection Act. Consequently, we have determined that an environmental assessment is not necessary for this proposed rule. If APHIS were to consider a permit application to release a regulated organism into the environment under the provisions of this proposed rule, an environmental assessment or environmental impact statement may be prepared as part of APHIS' decisionmaking process.

#### **Paperwork Reduction Act**

In accordance with section 3507(d) of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the information collection or recordkeeping requirements included in this proposed rule have been submitted for approval to the Office of Management and Budget (OMB). Please send written comments to the Office of Information and



Regulatory Affairs, OMB, Attention: Desk Officer for APHIS, Washington, DC 20503. Please state that your comments refer to Docket No. 98–109–1. Please send a copy of your comments to: (1) Docket No. 98–109–1, Regulatory Analysis and Development, PPD, APHIS, suite 3C03, 4700 River Road Unit 118, Riverdale, MD 20737–1238, and (2) Clearance Officer, OClO, USDA, room 404–W, 14th Street and Independence Avenue SW., Washington, DC 20250. A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication of this proposed rule.

The implementation of the proposal would require us to engage in certain information collection activities, which in turn would necessitate the use of forms and other information collection and recordkeeping documents. These forms and other documents would include export certificates, notices of arrival, applications for permits to import restricted organisms, transit documentation, labeling of shipments, risk assessments, and records kept by containment facilities. We are asking OMB to approve this information collection.

We are soliciting comments from the public (as well as affected agencies) concerning our proposed information collection and recordkeeping requirements. These comments will help us:

(1) Evaluate whether the proposed information collection is necessary for the proper performance of our agency's functions, including whether the information will have practical utility;

(2) Evaluate the accuracy of our estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the information collection on those who are to respond (such as through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology; e.g., permitting electronic submission of responses).

*Estimate of burden:* Public reporting burden for this collection of information is estimated to average 0.1742 hours per response.

*Respondents:* Importers of bees and related articles, foreign governments, and containment facilities.

*Estimated annual number of respondents:* 95.

*Estimated annual number of responses per respondent:* 17.03.

*Estimated annual number of responses:* 1,618.

*Estimated total annual burden on respondents:* 282 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

Copies of this information collection can be obtained from Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 734–7477.

## List of Subjects

### 7 CFR Part 319

Bees, Coffee, Cotton, Fruits, Honey, Imports, Logs, Nursery stock, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Rice, Vegetables.

### 7 CFR Part 322

Bees, Honey, Imports, Reporting and recordkeeping requirements.

Accordingly, we propose to amend 7 CFR chapter III as follows:

## PART 319—FOREIGN QUARANTINE NOTICES

1. The authority citation for part 319 would continue to read as follows:

**Authority:** 7 U.S.C. 166, 450, 7711–7714, 7718, 7731, 7732, and 7751–7754; 21 U.S.C. 136 and 136a; 7 CFR 2.22, 2.80, and 371.3.

2. In part 319, “Subpart Exotic Bee Diseases and Parasites,” §§ 319.76 through 319.76–8, would be removed.

3. Part 322 would be revised to read as follows:

## PART 322—BEES, BEEKEEPING BYPRODUCTS, AND BEEKEEPING EQUIPMENT

### Subpart A—General Provisions

Sec.

322.1 Definitions.

322.2 General requirements for interstate movement and importation.

322.3 Costs and charges.

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

322.4 Approved regions.

322.5 General requirements.

322.6 Export certificate.

322.7 Notice of arrival.

322.8 Packaging of shipments.

322.9 Mailed packages.

322.10 Packages that are hand-carried or in personal baggage aboard aircraft arriving in the United States.

322.11 Packages that are hand-carried or in a personal or commercial vehicle arriving at a land border port in the United States.

322.12 Inspection; refusal of entry.

322.13 Ports of entry.

322.14 Risk assessment procedures for approving countries.

### Subpart C—Importation of Restricted Organisms

322.15 General requirements; restricted organisms.

322.16 Documentation; applying for a permit to import a restricted organism.

322.17 APHIS review of permit applications; denial or cancellation of permits.

322.18 Packaging of shipments.

322.19 Mailed packages.

322.20 Restricted organisms that are hand-carried or in personal baggage aboard aircraft arriving in the United States.

322.21 Restricted organisms that are hand-carried or in a personal or commercial vehicle arriving at a land border port in the United States.

322.22 Inspection; refusal of entry.

322.23 Ports of entry.

322.24 Post-entry handling.

### Subpart D—Transit of Restricted Organisms Through the United States

322.25 General requirements.

322.26 Documentation.

322.27 Packaging of transit shipments.

322.28 Notice of arrival.

322.29 Inspection and handling.

322.30 Eligible ports for transit shipments.

### Subpart E—Importation and Transit of Restricted Articles

322.31 General requirements; restricted articles.

322.32 Dead bees.

322.33 Export certificate.

322.34 Notice of arrival.

322.35 Mailed packages.

322.36 Restricted articles that are hand-carried or in personal baggage aboard aircraft arriving in the United States.

322.37 Restricted articles that are hand-carried or in a personal or commercial vehicle arriving at a land border port in the United States.

322.38 Inspection; refusal of entry.

322.39 Ports of entry.

**Authority:** 7 U.S.C. 281; 7 U.S.C. 7701–7772; 7 CFR 2.22, 2.80, and 371.3.

### 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.

**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.

**Germ plasm.** The semen and preovipositional ova of bees.

**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.

**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; 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.

## **§ 322.2 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, and African honeybee: Hawaii.

(2) In order to prevent the introduction of Varroa mite, tracheal mite, and African honeybee into the pest-free areas listed in paragraph (a)(1) of this section, interstate movement of

honeybees, including honeybee germ plasm, 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.<sup>1</sup> You are also responsible for all costs and charges related to any exportation or destruction of shipments, in accordance with § 322.2(c)(1) of this part, and treatments required by § 322.32 of this part. Further, if you

<sup>1</sup> Information on costs for services of an inspector are contained in 7 CFR part 354.

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.

## **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 United States under the conditions of this subpart:

Australia  
Canada  
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  
Sweden

(c) **Bees other than honeybees.** The following regions are approved for the importation of bees other than honeybees into the United States 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 § 322.14 of this subpart.

### **§ 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) of this subpart.

(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) of this subpart.

(d) *Bees other than honeybees.*

(1) You may import live adult bees or live brood under this subpart only from regions listed in § 322.4(c) of this subpart.

(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 queens and drones or semen also produced in the exporting region.

(2) In addition, for the importation of adult honeybees into Hawaii, the export certificate must also certify to the following:

(i) The honeybees in the shipment were inspected by an official of the appropriate regulatory agency of the national government of the exporting region and showed no sign of Varroa mite (*Varroa* spp.), tracheal mite (*Acarapis woodi*), or African honeybee (*Apis mellifera scutellata*) on the day of export;

(ii) The hives from which the honeybees in the shipment are derived were individually inspected by an official of the appropriate regulatory agency of the national government of the exporting region and showed no sign of the presence of Varroa mite, tracheal mite, or African honeybee;

(iii) The honeybees in the shipment are derived exclusively from an apiary situated in the center of a zone of 50 kilometers (31 miles) in radius, in which special diagnostic tests, as set forth by the Office International des Epizooties, did not reveal any sign of the presence of Varroa mite for at least the past 2 years;

(iv) The honeybees in the shipment are derived exclusively from an apiary situated in the center of a zone of 5 kilometers (3.1 miles) in radius, in which no case of tracheal mite has been reported for at least the past 8 months; and

(v) The honeybees in the shipment were raised in and are derived exclusively from an apiary that meets the standards of the Office International des Epizooties for the application of sanitary measures, special breeding techniques, and sanitary surveillance related to Varroa mite and tracheal mite.

(3) If the export certificate identifies an important bee disease or parasite of economic and environmental 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 queens and drones or semen also produced in the exporting region.

(2) If the export certificate identifies an important bee disease or parasite of economic and environmental 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 queens and drones or semen also produced in the exporting region.

#### § 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;

(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, Scientific Services, 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](mailto:Notification@usda.gov).

#### § 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;

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

(3) May include sugar water or crystallized sugar (*e.g.*, candy) 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.

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

(i) Must be securely closed;

(ii) May not include any soil;

(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 7 CFR part 319 and the plant pest regulations in 7 CFR part 330; 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 of this subpart, 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 Packages that are hand-carried or in personal baggage aboard aircraft arriving in the United States.**

If you import a package of honeybees, honeybee germ plasm, or bees other than honeybees under this subpart via an international flight by hand-carrying the package or carrying it in your personal baggage, then:

(a) That package must be clearly marked with the contents of the shipment, *i.e.*, “Live Bees,” “Bee Germ Plasm,” or “Live Bee Brood,” and the name of the exporting region; and

(b) You must declare it at the port of entry in the United States by providing a copy of the export certificate required in § 322.6 to an inspector at the port.

#### **§ 322.11 Packages that are hand-carried or in a personal or commercial vehicle arriving at a land border port in the United States.**

If you import a package of honeybees, honeybee germ plasm, or bees other than honeybees under this subpart

through a land border port in the United States either by hand-carrying or in a personal or commercial vehicle (*i.e.*, automobile or truck), then the person carrying the package or the driver of the vehicle must present the export certificate required by § 322.6 of this subpart and an invoice or packing slip accurately indicating the complete contents of the shipment to the inspector at the land border port.

#### **§ 322.12 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 of this subpart);

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

(3) Adequate packaging (*see* § 322.8 of this subpart).

(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) of this part, 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.

#### **§ 322.13 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.<sup>2</sup>

#### **§ 322.14 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.

<sup>2</sup> 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, Scientific Services, PPQ, APHIS, 4700 River Road Unit 133, Riverdale, Maryland 20737-1236; toll-free (877) 770-5990; fax (301) 734-8700.

## Subpart C—Importation of Restricted Organisms

### § 322.15 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) of this part;

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

(4) Bees other than honeybees, in any life stage, from any region other than those listed in § 322.4(c) of this part or any species of bee other than those listed in § 322.5(d)(2) of this part.

(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.

### § 322.16 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 § 322.17. To apply for a permit, you must supply, either on a completed PPQ Form 526 or in some other written form, the following information:<sup>3</sup>

(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 “Import into the United States.”

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

(5) *Type of organism.* Select “Bees and/or bee semen.”

(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), baggage, auto.

(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.

(18) *Intended use (include any that apply).* Select “Scientific Study.”

(19) Has your facility been inspected 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, 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.

### § 322.17 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.<sup>4</sup>

(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 acknowledge acceptance of the permit and, if applicable, the specified conditions by signing the acknowledgment card that you will receive with your permit. The written permit does not become valid until we receive a signed acknowledgment card from you; 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

<sup>3</sup> Mail your completed application to Permit Unit, Scientific Services, PPQ, APHIS, 4700 River Road, Unit 133, Riverdale, Maryland 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/>.

<sup>4</sup> If a State regulatory official does not respond within 10 business days, we will conclude that the State has chosen to make no recommendation regarding the issuance of the permit.

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.

**§ 322.18 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 and durable enough 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.

**§ 322.19 Mailed packages.**

(a) If you import a restricted organism through the mail or through commercial express delivery, you must attach a special mailing label, 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.

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

**§ 322.20 Restricted organisms that are hand-carried or in personal baggage aboard aircraft arriving in the United States.**

(a) If you import restricted organisms via an international flight by hand-carrying the package or carrying it in your personal baggage, then:

(1) 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; and

(2) You must declare it at the port of entry to the United States by providing a copy of the appropriate permit and an invoice or packing list accurately indicating the complete contents of the shipment to an inspector at the port of entry.

(b) Only you or your representative (as stated on the application and permit) may import a restricted organism via an international flight by hand-carrying or carrying it in your personal baggage.

(c) If you fail to declare the restricted organism or 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, or if the restricted organism is carried by an individual not identified on the application or permit, an inspector will refuse the organism's entry to the United States.

**§ 322.21 Restricted organisms that are hand-carried or in a personal or 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 either by hand-carrying or in a personal or commercial vehicle (*i.e.*, automobile or truck), then the person carrying the restricted organism or the driver of the vehicle must present the permit required by § 322.16 of this subpart and an invoice or packing slip accurately indicating the complete contents of the shipment to the inspector at the land border port.

(b) Only you or your representative (as stated on the application and permit) may import a restricted organism through a land border port in the United States either by hand-carrying or in a personal or commercial vehicle (*i.e.*, automobile or truck).

(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, or if the restricted organism is carried by an individual not identified on the application or permit, an inspector will refuse the organism's entry to the United States.

**§ 322.22 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) of this part, 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.

#### § 322.23 Ports of entry.

A restricted organism may be imported only at a port of entry staffed by an APHIS inspector.<sup>5</sup> After a restricted organism has been cleared for importation at the port of entry, you must mail or hand-carry the organism 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.

#### § 322.24 Post-entry handling.

(a) Immediately following clearance at the port of entry, a restricted organism must move directly to a containment facility that has been inspected and approved by APHIS.<sup>6</sup> We must inspect and approve the facility 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 facility where you intend to contain the restricted organisms. In order to approve the apiary or 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 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 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, Scientific Services, 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.

### Subpart D—Transit of Restricted Organisms Through the United States

#### § 322.25 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 § 322.15(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 on 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 from, the same aircraft on which the shipment arrived at the Hawaiian airport.

(d) If adult bees from approved regions may not enter Hawaii because of the presence of Varroa mite, tracheal

<sup>5</sup> 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, Scientific Services, PPQ, APHIS, 4700 River Road Unit 133, Riverdale, Maryland 20737-1236; toll-free (877) 770-5990; fax (301) 734-8700.

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



mite, or African honeybee, those bees may transit Hawaii en route to another State or territory of the United States only if the shipment of bees meets the requirements of this subpart, as well as other applicable requirements of this part.

#### § 322.26 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 § 322.27.

#### § 322.27 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.

#### § 322.28 Notice of arrival.

At least 2 business days prior to the expected date of arrival of restricted organisms at a port in the 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 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.

#### § 322.29 Inspection and handling.

(a) All shipments of restricted articles 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.

#### § 322.30 Eligible ports for transit shipments.

You may transit restricted organisms only at a port of entry staffed by an APHIS inspector.<sup>7</sup>

### Subpart E—Importation and Transit of Restricted Articles

#### § 322.31 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.

#### § 322.32 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;
- (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.

#### § 322.33 Export certificate.

Each shipment of restricted articles, except for dead bees, imported into or transiting the United States must be

<sup>7</sup>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, Scientific Services, PPQ, APHIS, 4700 River Road Unit 133, Riverdale, Maryland 20737-1236; toll-free (877) 770-5990; fax (301) 734-8700.

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.* Liquefied.

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

#### § 322.34 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, Scientific Services, 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](mailto:Notification@usda.gov).

#### § 322.35 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 § 322.33 (if applicable) of this subpart, 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.

**§ 322.36 Restricted articles that are hand-carried or in personal baggage aboard aircraft arriving in the United States.**

If you import a restricted article via an international flight by hand-carrying the package or carrying it in your personal baggage, then:

(a) That package containing the restricted article must be clearly marked with the contents of the shipment and the name of the exporting region; and

(b) You must declare it at the port of entry in the United States by providing a copy of the export certificate required in § 322.33 (if applicable) to an inspector at the port.

**§ 322.37 Restricted articles that are hand-carried or in a personal or commercial 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 either by hand-carrying or in a personal or 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 § 322.33 (if applicable) of this subpart and an invoice or packing slip accurately indicating the complete contents of the shipment to the inspector at the land border port.

**§ 322.38 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* § 322.33 of this subpart) and that you provided notice of arrival for all shipments of restricted articles (*see* § 322.34 of this subpart).

(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) of this part, the inspector will offer you, or in your absence the shipper, the opportunity to immediately export any refused shipments.

**§ 322.39 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, Scientific Services, PPQ, APHIS, 4700 River Road Unit 133, Riverdale, Maryland 20737-1236; toll-free (877) 770-5990; fax (301) 734-8700.

Done in Washington, DC, this 13th day of August, 2002.

**Bill Hawks,**

*Under Secretary, Marketing and Regulatory Programs.*

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