

# Rules and Regulations

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## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

#### 7 CFR Part 319

[Docket No. 03–002–6]

RIN 0579–AC51

#### Importation of Nursery Stock; Technical Amendment

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

**ACTION:** Final rule; technical amendment.

**SUMMARY:** In a final rule that was published in the *Federal Register* on August 6, 2007, and effective on September 5, 2007, we amended the regulations governing the importation of nursery stock by making several changes, including allowing the importation of restricted articles in tissue culture medium that is not transparent or translucent. It was our intent that the amended regulations only allow the use of agar or agar-like tissue culture medium. In this amendment, we are amending the regulation to clarify that intent.

**EFFECTIVE DATE:** November 30, 2007.

**FOR FURTHER INFORMATION CONTACT:** Dr. Arnold T. Tschanz, Senior Import Specialist, Commodity Import Analysis and Operations, PPQ, APHIS, 4700 River Road Unit 133, Riverdale, MD 20737–1236; (301) 734–5306.

#### SUPPLEMENTARY INFORMATION:

##### Background

In a final rule published in the *Federal Register* on August 6, 2007, that was effective September 5, 2007 (72 FR 43503–43524, Docket No. 03–002–3), we amended the regulations governing the importation of nursery stock by making several changes, including allowing the importation of restricted articles in

tissue culture medium that is not transparent or translucent. Before the effective date of the final rule, the regulations in paragraph (c) of § 319.37–8 had stated: “A restricted article growing solely in agar or in other transparent or translucent tissue culture medium may be imported established in such growing media.” The final rule removed the words “transparent or translucent” from this sentence.

It was our intent to remove this restriction only for agar-like tissue culture media. In the proposed rule and final rule, we indicated that bacteria in a tissue culture medium that was not transparent or translucent would quickly reproduce and form a large mass that would be visible during inspection; such a bacterial mass would only be visible in agar-like tissue culture media. Before the final rule became effective, the restriction that any tissue culture media other than agar must be transparent or translucent had effectively restricted the use of tissue culture media other than agar to agar-like tissue culture media.

In removing the requirement that the tissue culture media be transparent or translucent, we neglected to specify that any tissue culture media other than agar should be similar to agar if a restricted article is intended to be imported established in growing media. This has created confusion among exporters. Therefore, we are amending paragraph (c) of § 319.37–8 to read:

“A restricted article growing solely in agar or in other agar-like tissue culture medium may be imported established in such growing media.”

#### List of Subjects for 7 CFR Part 319

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

■ Accordingly, we are amending 7 CFR part 319 as follows:

#### PART 319—FOREIGN QUARANTINE NOTICES

■ 1. The authority citation for part 319 continues to read as follows:

**Authority:** 7 U.S.C. 450, 7701–7772, and 7781–7786; 21 U.S.C. 136 and 136a; 7 CFR 2.22, 2.80, and 371.3.

#### § 319.37–8 [Amended]

■ 2. In § 319.37–8, paragraph (c) is amended by adding the word “agar-like” before the word “tissue”.

Done in Washington, DC, this 26th day of November 2007.

**Kevin Shea,**

*Acting Administrator, Animal and Plant Health Inspection Service.*

[FR Doc. E7–23282 Filed 11–29–07; 8:45 am]

**BILLING CODE 3410–34–P**

## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

#### 9 CFR Part 78

[Docket No. APHIS 2007–0097]

#### Brucellosis in Cattle; State and Area Classifications; Idaho

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

**ACTION:** Affirmation of interim rule as final rule.

**SUMMARY:** We are adopting as a final rule, without change, an interim rule that amended the brucellosis regulations concerning the interstate movement of cattle by changing the classification of Idaho from Class A to Class Free. We determined that Idaho met the standards for Class Free status. The interim rule relieved certain restrictions on the interstate movement of cattle from Idaho.

**DATES:** Effective on November 30, 2007, we are adopting as a final rule the interim rule published at 72 FR 40062–40064 on July 23, 2007.

**FOR FURTHER INFORMATION CONTACT:** Dr. Debbi A. Donch, Senior Staff Veterinarian, Ruminant Health Programs, National Center for Animal Health Programs, VS, APHIS, 4700 River Road Unit 43, Riverdale, MD 20737–1231; (301) 734–5952.

#### SUPPLEMENTARY INFORMATION:

##### Background

Brucellosis is a contagious disease affecting animals and humans, caused by bacteria of the genus *Brucella*.

The brucellosis regulations, contained in 9 CFR part 78 (referred to below as the regulations), provide a system for classifying States or portions of States

according to the rate of *Brucella* infection present and the general effectiveness of a brucellosis control and eradication program. The classifications are Class Free, Class A, Class B, and Class C. States or areas that do not meet the minimum standards for Class C are required to be placed under Federal quarantine.

In an interim rule<sup>1</sup> effective and published in the **Federal Register** on July 23, 2007 (72 FR 40062–40064, Docket No. APHIS–2007–0097), we amended the regulations by changing the classification of the State of Idaho from Class A to Class Free. That action relieved certain restrictions on the interstate movement of cattle from Idaho.

Comments on the interim rule were required to be received on or before September 21, 2007. We received one comment by that date, from a private citizen. This commenter did not, however, address the action taken in the interim rule (i.e., the change in Idaho's brucellosis classification).

Therefore, for the reasons given in the interim rule and in this document, we are adopting the interim rule as a final rule without change.

This action also affirms the information contained in the interim rule concerning Executive Order 12866 and the Regulatory Flexibility Act, Executive Orders 12372 and 12988, and the Paperwork Reduction Act.

Further, for this action, the Office of Management and Budget has waived its review under Executive Order 12866.

#### List of Subjects in 9 CFR Part 78

Animal diseases, Bison, Cattle, Hogs, Quarantine, Reporting and recordkeeping requirements, Transportation.

#### PART 78—BRUCELLOSIS

■ Accordingly, we are adopting as a final rule, without change, the interim rule that amended 9 CFR part 78 and that was published at 72 FR 40062–40064 on July 23, 2007.

Done in Washington, DC, this 26th day of November 2007.

**Kevin Shea,**

*Acting Administrator, Animal and Plant Health Inspection Service.*

[FR Doc. E7–23254 Filed 11–29–07; 8:45 am]

**BILLING CODE 3410–34–P**

## DEPARTMENT OF COMMERCE

### Bureau of Industry and Security

**15 CFR Parts 730, 732, 734, 736, 738, 740, 742, 743, 744, 745, 746, 747, 748, 750, 752, 754, 756, 758, 760, 762, 764, 766, 768, 770, 772 and 774**

[Docket No. 071114706–7725–01]

**RIN 0694–AE19**

#### Updated Statements of Legal Authority for the Export Administration Regulations

**AGENCY:** Bureau of Industry and Security, Commerce.

**ACTION:** Final rule.

**SUMMARY:** This rule updates the Code of Federal Regulations (CFR) legal authority citations for the Export Administration Regulations (EAR) to: Replace citations to the President's Notice of October 27, 2006—*Continuation of Emergency Regarding Weapons of Mass Destruction* with the President's Notice of November 8, 2007 on the same subject, replace public law citations with United States Code citations, and remove outdated citations and to add one previously omitted citation. BIS is making these changes to keep the CFR legal authority citations for the EAR current and to comply with the Office of the Federal Register policy of using United States Code citations for statutory provisions that have been encoded into the United States Code. This rule makes no changes to the text of the EAR.

**DATES:** Effective Date: November 30, 2007.

**ADDRESSES:** Comments concerning this rule should be sent to [publiccomments@bis.doc.gov](mailto:publiccomments@bis.doc.gov), fax (202) 482–3355, or to Regulatory Policy Division, Bureau of Industry and Security, Room H2705, U.S. Department of Commerce, Washington, DC 20230. Please refer to regulatory identification number (RIN) 0694–AE19 in all comments, and in the subject line of email comments.

#### FOR FURTHER INFORMATION CONTACT:

William Arvin, Regulatory Policy Division, Bureau of Industry and Security, telephone: (202) 482–2440.

#### SUPPLEMENTARY INFORMATION:

##### Background

On November 14, 1994, by Executive Order 12938, the President declared a national emergency with respect to the unusual and extraordinary threat to the national security, foreign policy and economy of the United States posed by

the proliferation of weapons of mass destruction. That emergency has been continued in effect by successive annual presidential notices. On November 8, 2007 the President issued a notice continuing that emergency for one year from November 14, 2007 (72 FR 63963, November 13, 2007). This rule revises the authority citations in the Code of Federal Regulations for parts 730, 734, 736, 742, 744 and 745 of the EAR to cite the notice of November 8, 2007 and to remove the citation to the President's notice of October 27, 2006 on the same topic.

This rule also revises the authority citations for all parts of EAR by removing citations to Presidential notice of August 3, 2006—*Continuation of Emergency Regarding Export Control Regulations*, because that notice has been superseded by a Presidential notice of August 15, 2007 that is cited in the authority citations for each part.

BIS is making the changes described in the preceding two paragraphs to keep the CFR authority citations for the EAR current.

This rule replaces the citations to Sec. 901–911, Public Law 106–387 and Sec. 221 Public Law 107–56 with citations to 22 U.S.C. 7201 *et seq.* and 22 U.S.C. 7210, respectively, in the authority citations for parts 730, 738, 742, 744, 746 and 774. This rule replaces the citation to Sec. 901–911, Public Law 106–387 with a citation to 22 U.S.C. 7201 *et seq.* in the authority citations for part 740. This rule removes the citation to Public Law 108–75 from the authorities citations for part 730 because that list of citations contains a citation to 22 U.S.C. 2151 note, which is the U.S.C. citation for the provisions of Public Law 108–75 that provide authority for part 730. BIS is making the changes described in this paragraph to comply with the Office of the Federal Register policy of using United States Code citations for statutory provisions that have been encoded into the United States Code.

This rule adds a previously erroneously omitted citation to Executive Order 13222 to the authorities citations for part 743.

This rule makes no changes to the text of the EAR.

#### Rulemaking Requirements

1. This rule has been determined to be not significant for purposes of Executive Order 12866.

2. Notwithstanding any other provision of law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the Paperwork

<sup>1</sup> To view the interim rule and the comment we received, go to <http://www.regulations.gov/fdmspublic/component/main?main=DocketDetail&d=APHIS-2007-0097>.