

# Rules and Regulations

Federal Register

Vol. 70, No. 83

Monday, May 2, 2005

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

#### 7 CFR Part 319

#### Foreign Quarantine Notices

##### CFR Correction

■ In Title 7 of the Code of Federal Regulations, Parts 300 to 399, revised as of January 1, 2005, make the following corrections:

■ 1. In § 319.40-1 the definitions for *Regulated wood packaging material* and *Wood packaging material* are removed; the definitions for *Exporter statement*, *Importer statement*, and *Solid wood packaging material* are reinstated; and an effective date note with future effective text is added to the end of the section to read as follows:

##### § 319.40-1 Definitions.

\* \* \* \* \*

*Exporter statement.* A written declaration by the exporter, accompanying a shipment at the time of importation, declaring the nature of the shipment and that the shipment contains no solid wood packaging material.

\* \* \* \* \*

*Importer statement.* A written declaration by the importer, for a shipment containing solid wood packaging material from the Peoples Republic of China including Hong Kong, affirming that the importer has on file at his or her office the certificate required under § 319.40-5(g)(2)(i).

\* \* \* \* \*

*Solid wood packaging material.* Wood packaging materials other than loose wood packaging materials, used or for use with cargo to prevent damage, including, but not limited to, dunnage, crating, pallets, packing blocks, drums, cases, and skids.

\* \* \* \* \*

**Effective Date Note:** At 69 FR 55732, Sept. 16, 2004, § 319.40-1 was amended by removing the definitions for *Exporter statement*, *Importer statement*, and *Solid wood packaging material*, and adding two definitions in alphabetical order, effective Sept. 16, 2005. For the convenience of the user, the added text is set forth as follows:

##### § 319.40-1 Definitions.

\* \* \* \* \*

*Regulated wood packaging material.* Wood packaging material other than manufactured wood materials, loose wood packaging materials, and wood pieces less than 6 mm thick in any dimension, that are used or for use with cargo to prevent damage, including, but not limited to, dunnage, crating, pallets, packing blocks, drums, cases, and skids.

\* \* \* \* \*

*Wood packaging material.* Wood or wood products (excluding paper products) used in supporting, protecting or carrying a commodity (includes dunnage).

■ 2. In §319.40-3, paragraph (b) is correctly revised, and an effective date note with future effective text is added to the end of the section to read as follows:

##### § 319.40-3 General permits; articles that may be imported without a specific permit; articles that may be imported without either a specific permit or an importer document.

\* \* \* \* \*

(b) *Solid wood packaging materials*—(1) *Free of bark; used with non-regulated articles.* APHIS hereby issues a general permit to import regulated articles authorized by this paragraph, except that solid wood packaging material from the People's Republic of China including Hong Kong must be imported in accordance with § 319.40-5(g), (h), and (i). Solid wood packaging materials that are completely free of bark and are in actual use at the time of importation as packing materials for articles which are not regulated articles may be imported without restriction under this subpart, except that:

(i) The solid wood packaging materials are subject to the inspection and other requirements in § 319.40-9; and

(ii) The solid wood packaging materials must be accompanied at the time of importation by an importer document, stating that the solid wood packaging materials are totally free from bark, and apparently free from live plant pests.

(2) *Free of bark; used with regulated articles.* APHIS hereby issues a general permit to import regulated articles authorized by this paragraph, except that solid wood packaging material from the People's Republic of China including Hong Kong must be imported in accordance with § 319.40-5(g), (h), and (i). Solid wood packaging materials that are completely free of bark and are in actual use at the time of importation as packing materials for regulated articles may be imported without restriction under this subpart, except that:

(i) The solid wood packaging materials are subject to the inspection and other requirements in § 319.40-9;

(ii) The solid wood packaging materials must be accompanied at the time of importation by an importer document, stating that the solid wood packaging materials are totally free from bark, and apparently free from live plant pests; and

(iii) The solid wood packaging materials must be accompanied at the time of importation by an importer document, stating that the solid wood packaging materials have been heat treated, fumigated, or treated with preservatives in accordance with § 319.40-7, or meet all the importation and entry conditions required for the regulated article the solid wood packaging material is used to move.

(3) *Not free of bark; used with regulated or nonregulated articles.* APHIS hereby issues a general permit to import regulated articles authorized by this paragraph, except that solid wood packaging material from the People's Republic of China including Hong Kong must be imported in accordance with § 319.40-5(g), (h), and (i). Solid wood packaging materials that are not completely free of bark and are in actual use as packing at the time of importation may be imported without restriction under this subpart, except that:

(i) The solid wood packaging materials are subject to the inspection and other requirements in § 319.40-9;

(ii) The solid wood packaging materials must be accompanied at the time of importation by an importer document, stating that the solid wood packaging materials have been heat treated, fumigated, or treated with preservatives in accordance with § 319.40-7.

(4) *Pallets moved as cargo.* APHIS hereby issues a general permit to import

regulated articles authorized by this paragraph. Pallets that are completely free of bark and that are not in actual use as packing at the time of importation (i.e., pallets moved as cargo) may be imported without restriction under this subpart, except that:

(i) The pallets are subject to the inspection and other requirements in § 319.40-9; and

(ii) The pallets are accompanied by an importer document stating that the pallets were previously eligible for importation in accordance with paragraph (b) of this section and have not had wood added to them since that use. Solid wood packing materials other than pallets that are imported as cargo must be imported in accordance with

the requirements of this subpart for raw lumber.

\* \* \* \* \*

**Effective Date Note:** At 69 FR 55732, Sept. 16, 2004, § 319.40-3 was amended by revising paragraph (b), effective Sept. 16, 2005. For the convenience of the user, the revised text is set forth as follows:

**§ 319.40-3 General permits; articles that may be imported without a specific permit; articles that may be imported without either a specific permit or an importer document.**

\* \* \* \* \*

(b) *Regulated wood packaging material.* Regulated wood packaging material, whether in actual use as packing for regulated or nonregulated articles or imported as cargo, may be imported into the United States under a general permit in accordance with the following conditions:

(1) *Treatment.* The wood packaging material must have been:

(i) Heat treated to achieve a minimum wood core temperature of 56 °C for a minimum of 30 minutes. Such treatment may employ kiln-drying, chemical pressure impregnation, or other treatments that achieve this specification through the use of steam, hot water, or dry heat; or,

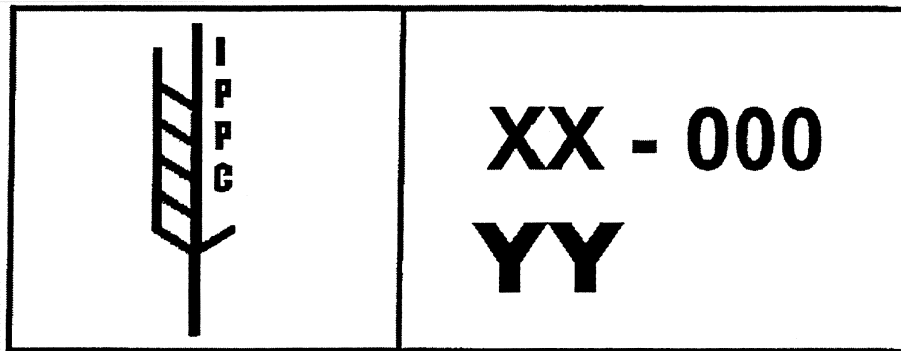
(ii) Fumigated with methyl bromide in an enclosed area for at least 16 hours at the following dosage, stated in terms of grams of methyl bromide per cubic meter or pounds per 1,000 cubic feet of the enclosure being fumigated. Following fumigation, fumigated products must be aerated to reduce the concentration of fumigant below hazardous levels, in accordance with label instructions approved by the U.S. Environmental Protection Agency:

Temperature (°C/ °F)	Initial dose g/m <sup>3</sup> and lbs./ 1,000 c.f.)	Minimum required concentration g/m <sup>3</sup> and lbs./1,000 c.f.) after:			
		0.5 hrs	2 hrs.	4 hrs.	16 hrs.
21/70 or above .....	48/3.0	36/2.25	24/1.5	17/1.06	14/0.875
16/61 or above .....	56/3.5	42/2.63	28/1.75	20/1.25	17/1.06
11/52 or above .....	64/4.0	48/3.0	32/2.0	22/1.38	19/1.19

(2) *Marking.* The wood packaging material must be marked in a visible location on each article, preferably on at least two opposite sides of the article, with a legible and permanent mark that indicates that the article meets the requirements of this paragraph. The mark must be approved by the International Plant Protection Convention in its International

Standards for Phytosanitary Measures to certify that wood packaging material has been subjected to an approved measure, and must include a unique graphic symbol, the ISO two-letter country code for the country that produced the wood packaging material, a unique number assigned by the national plant protection agency of that country to the producer of the wood packaging

material, and an abbreviation disclosing the type of treatment (e.g., HT for heat treatment or MB for methyl bromide fumigation). The currently approved format for the mark is as follows, where XX would be replaced by the country code, 000 by the producer number, and YY by the treatment type (HT or MB):



(3) *Immediate reexport of regulated wood packaging material without required mark.* An inspector at the port of first arrival may order the immediate reexport of regulated wood packaging material that is imported without the mark required by paragraph (b)(2) of this section, in addition to or in lieu of any

port of first arrival procedures required by § 319.40-9 of this part.

(4) *Exception for Department of Defense.* Regulated wood packaging material used by the Department of Defense (DOD) of the U.S. Government to package nonregulated articles, including commercial shipments

pursuant to a DOD contract, may be imported into the United States without the mark required by paragraph (b)(2) of this section.

\* \* \* \* \*

(Approved by the Office of Management and Budget under control numbers 0579-0049 and 0579-0225.)

■ 3. In § 319.40–5, paragraphs (b)(1)(i)(C), (b)(2), and (b)(2)(i), the words “regulated wood packaging material” are removed each time they occur and the words “solid wood packing materials” are reinstated in their place, paragraphs (g) through (k) are reinstated, and an effective date note with future effective text is added to the end of the section to read as follows:

**§ 319.40–5 Importation and entry requirements for specified articles.**

\* \* \* \* \*

(g) *Solid wood packing material and merchandise from the Peoples Republic of China including Hong Kong.* This paragraph does not apply to shipments transiting the Peoples Republic of China including Hong Kong from other countries en route to the United States, unless merchandise or solid wood packing material is added to such shipments while in the Peoples Republic of China including Hong Kong. Otherwise, merchandise exported from the Peoples Republic of China including Hong Kong that is accompanied by solid wood packing material may only be entered into the United States in accordance with this paragraph (g) and paragraph (i) of this section. This restriction applies to both merchandise that originated in the Peoples Republic of China including Hong Kong and merchandise that entered the Peoples Republic of China including Hong Kong for further processing or packaging, regardless of whether the merchandise moves directly from the Peoples Republic of China including Hong Kong to the United States or transits other countries en route to the United States.

(1) Prior to exportation from the Peoples Republic of China including Hong Kong, any solid wood packing material must be heat treated, fumigated and aerated, or treated with preservatives, using a treatment schedule contained in § 319.40–7 or in the Plant Protection and Quarantine Treatment Manual, which is incorporated by reference at § 300.1 of this chapter. During the entire interval between treatment and export the solid wood packing material must be stored, handled, or safeguarded in a manner which excludes any infestation of the solid wood packing material by plant pests.

(2) Any merchandise accompanied by solid wood packing material exported from the Peoples Republic of China including Hong Kong may only be entered if the importer has on file at its office, and retains there for a period of one year following the date of importation, the following documents:

(i) A certificate signed by an official of the applicable government agency authorized by the government of the Peoples Republic of China or the government of the Hong Kong Special Administrative Region, stating that the solid wood packing material, prior to export from the Peoples Republic of China including Hong Kong, has been heat treated, fumigated and aerated, or treated with preservatives using a treatment schedule contained in § 319.40–7 or in the Plant Protection and Quarantine Treatment Manual, and

(ii) An importer statement (a written statement by the importer affirming that the importer has on file at his or her office the certificate required under paragraph (g)(2)(i) of this section).

(3) In addition to the document requirements of paragraph (g)(2) of this section, a copy of the certificate must accompany all shipments that do not enter using the United States Customs Service’s electronic entry filing and Automated Broker Interface.

(4) Upon the request of an APHIS inspector or a United States Customs Service officer, the importer must produce a copy of the certificate and importer statement issued for any shipment.

(5) At their option, in order to expedite release of a shipment, an importer may provide a certificate to the APHIS inspector at the port of first arrival prior to the arrival of the shipment. Exporters may also at their option, in order to expedite release of their shipment at the port of first arrival, arrange to have each article of solid wood packing material that has been treated marked at the treatment facility with a stamp or weatherproof label that reads CHINA TREATED. This type of marking, however, is not a substitute for the required certificate.

(6) If an APHIS inspector determines that a shipment imported from the Peoples Republic of China including Hong Kong contains plant pests, or contains solid wood packing material that was not heat treated, fumigated and aerated, or treated with preservatives, the APHIS inspector may refuse entry of the entire shipment (merchandise and solid wood packing material). If an importer does not produce upon request by an APHIS inspector the certificate required for a shipment imported from the Peoples Republic of China including Hong Kong containing solid wood packing material, the APHIS inspector may refuse entry into the United States of the entire shipment (merchandise and solid wood packing material) until the certificate is produced. For any shipment refused entry, if the APHIS inspector determines that the

merchandise may be separated from the solid wood packing material and that the solid wood packing material may be destroyed or reexported without risk of spreading plant pests, the inspector may allow the importer to separate the merchandise from the solid wood packing material at a location and within a time period specified by the inspector to prevent the dissemination of plant pests, and destroy or reexport the solid wood packing material under supervision of an inspector. The means used to destroy solid wood packing material under this section must be incineration, or chipping followed by incineration. The importer shall be responsible for all costs associated with inspection, separation, and destruction or reexportation of any solid wood packing material, including costs of the services of an inspector to monitor such activities, in accordance with § 354.3(j) of this chapter. Any such costs may be charged to the importer’s customs bond.

(h) *Cargo from the Peoples Republic of China including Hong Kong that does not contain solid wood packing material.* Merchandise exported from the Peoples Republic of China including Hong Kong that is not accompanied by any solid wood packing material must have attached to the commercial invoice, the bill of lading, or the airway bill, an exporter statement stating that the shipment contains no solid wood packing material. As an alternative to attaching the exporter statement to the paperwork presented at entry, the importer may provide the exporter statement to the APHIS inspector at the port of entry prior to arrival of the shipment. Any shipment is subject to inspection for solid wood packing material, and if such inspection is ordered by an inspector, the shipment will not be granted entry into the United States prior to completion of the inspection. If the inspection reveals solid wood packing material, the inspector may refuse entry into the United States of the entire shipment (merchandise and solid wood packing material). Any shipment refused entry will be handled in accordance with the procedures in paragraph (g)(6) of this section. The importer shall be responsible for all costs associated with inspection, separation, and destruction or reexportation of any solid wood packing material, including costs of the services of an inspector to monitor such activities in accordance with § 354.3(j) of this chapter. Any such costs may be charged to the importer’s customs bond.

(i) *Special provisions for air overnight couriers and air express delivery companies.* Overnight couriers and express delivery companies must

present to an APHIS inspector at the port of first arrival, at or prior to the time of entry, one or more certificates for each arriving aircraft that carries packages employing solid wood packing material. The company may present one certificate in cases where the company has arranged treatment of all solid wood packing material on the flight, and may present multiple certificates in cases where packages with solid wood packing material were accepted for delivery by the company from multiple customers, each of whom arranged for treatment and certification of their respective packages. The certificates must be signed by an official of the applicable government agency authorized by the government of the Peoples Republic of China or the Hong Kong Special Administrative Region, and must state that the solid wood packing material, prior to export from the Peoples Republic of China including Hong Kong, has been heat treated, fumigated and aerated, or treated with preservatives using a treatment schedule contained in § 319.40-7 or in the Plant Protection and Quarantine Treatment Manual. If the aircraft contains no packages that employ solid wood packing material, or contains both packages that do and do not employ solid wood packing material, the overnight courier or express delivery company must also present to an APHIS inspector at the port of first arrival, at or prior to the time of entry, one or more exporter statements stating that the packages on the aircraft not covered by a certificate contain no solid wood packing material.

(j) *Customs entry or entry summary filing requirements.* By instruction, the United States Customs Service will inform importers of any information that may be required on entry or entry summary documentation under the Automated Broker Interface or other entry filing systems, electronic or otherwise, with regard to recording the existence of certificates, importer statements affirming that the importer has on file at his or her office any certificate required, and exporter statements that there is no solid wood packing material in a shipment.

(k) *Liability under the Customs import bond and international carrier bond.* Any failure of an importer to comply with any of the provisions regarding the maintenance or presentation of records or information as prescribed in this subpart may result in liability under the Customs basic import bond. Any failure of a carrier to comply with any of the provisions regarding the maintenance or presentation of records or information as prescribed in this subpart may result

in liability under the international carrier bond.

\* \* \* \* \*

**Effective Date Note:** At 69 FR 55733, Sept. 16, 2004, § 319.40-5 was amended in paragraphs (b)(1)(i)(C), (b)(2), and (b)(2)(i), by removing the words "solid wood packing materials" each time they occur and adding the words "regulated wood packaging material" in their place, and removing paragraphs (g) through (k), effective Sept. 16, 2005.

■ 4. In § 319.40-10, footnote 6, the words "without meeting the requirements of this subpart" are removed and the words "without a complete certificate or exporter statement" are reinstated in its place, and an effective date note is added to the end of the section to read as follows:

**§ 319.40-10 Costs and charges.**

\* \* \* \* \*

**Effective Date Note:** At 69 FR 55733, Sept. 16, 2004, § 319.40-10 was amended in footnote 6, the words "without a complete certificate or exporter statement" are removed and the words "without meeting the requirements of this subpart" are added in their place, effective Sept. 16, 2005.

[FR Doc. 05-55505 Filed 4-29-05; 8:45 am]

BILLING CODE 1505-01-D

## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

#### 9 CFR Part 78

[Docket No. 05-009-1]

#### Brucellosis in Swine; Add Florida to List of Validated Brucellosis-Free States

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

**ACTION:** Interim rule and request for comments.

**SUMMARY:** We are amending the brucellosis regulations concerning the interstate movement of swine by adding Florida to the list of validated brucellosis-free States. We have determined that Florida meets the criteria for classification as a validated brucellosis-free State. This action relieves certain restrictions on the interstate movement of breeding swine from Florida.

**DATES:** This interim rule is effective on May 2, 2005. We will consider all comments that we receive on or before July 1, 2005.

**ADDRESSES:** You may submit comments by any of the following methods:

- *Edocket:* Go to <http://www.epa.gov/feddoCKET> to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Once you have entered EDOCKET, click on the "View Open APHIS Dockets" link to locate this document.

- *Postal Mail/Commercial Delivery:* Please send four copies of your comment (an original and three copies) to Docket No. 05-009-1, 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. 05-009-1.

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov> and follow the instructions for locating this docket and submitting comments.

*Reading Room:* 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.

*Other Information:* You may view APHIS documents published in the **Federal Register** and related information on the Internet at <http://www.aphis.usda.gov/ppd/rad/webrepor.html>.

**FOR FURTHER INFORMATION CONTACT:** Dr. John Korslund, Staff Veterinarian (Swine Health), Eradication and Surveillance Team, National Center for Animal Health Programs, VS, APHIS, 4700 River Road Unit 43, Riverdale, MD 20737-1231; (301) 734-5914.

#### SUPPLEMENTARY INFORMATION:

##### Background

Brucellosis is a contagious disease caused by bacteria of the genus *Brucella*. The disease mainly affects cattle, bison, and swine, but goats, sheep, horses, and even humans are susceptible. In its principal animal hosts, it causes loss of young through spontaneous abortion or birth of weak offspring, reduced milk production, and infertility. There is no economically feasible treatment for brucellosis in livestock. In humans, brucellosis initially causes flu-like symptoms, but the disease may develop into a variety of chronic conditions, including arthritis. Humans can be treated for brucellosis with antibiotics.