Service (ARS) have examined the issue of supersedure in queens from New Zealand and have concluded that there does not seem to be a genetic reason for the difficulty. Rather, stress from travelling overseas or damage or injury to the queens during travel is the likely cause of supersedure of New Zealand queens. In accordance with the Honeybee Act, our regulations impose only those restrictions necessary to prevent the spread of diseases and parasites harmful to honeybees, and undesirable species or subspecies of honeybees and their semen.

A few commenters asserted that, although ARS may have checked samples of honeybees from New Zealand, no raw data is available to the beekeeping community. Commenters were concerned that the sampling levels may not have been representative of all the honeybees in New Zealand.

ARS researchers traveled to New Zealand in 1984, where they conducted both field and laboratory tests and observations to determine the health status of New Zealand honeybees. To supplement their on-site studies in New Zealand, ARS imported 50 queens from six different sources in April, 1985. After one year, the resulting colonies showed no symptoms of any exotic diseases or parasites. In April, 1987, ARS imported 10 3-pound packages of honeybees from New Zealand; again, after one year, the package honeybees were all in good condition with no signs of any exotic diseases or parasites. In May, 1988, ARS imported 20 2-pound fibertube packages of honeybees from New Zealand, which also exhibited no signs of exotic parasites or diseases. In general, the honeybees imported by ARS arrived in good condition with very few dead honeybees in the shipping containers.

Many commenters expressed frustration over the embargo Canada and other major importing countries have placed on U.S. queens. They said the U.S. queen rearing industry is in financial difficulty because of shrinking markets, and competition from New Zealand could seriously hurt it further. We believe it would be unlikely that New Zealand would provide significant competition to U.S. producers if their honeybees were imported into the United States. It was determined in the regulatory flexibility analysis for the proposed rule that the price disadvantage for New Zealand exporters, combined with the lack of demand in the United States for New Zealand honeybees, would make it difficult for New Zealand honeybees to have a significant impact on U.S. markets. However, under this final rule,

honeybees and honeybee semen from New Zealand will not be imported into the United States, and therefore, there is no potential impact on U.S. honeybee producers from competition in the U.S. market.

One commenter said that, while it is true that the mainland United States does not ship queens until late March or early April, Hawaii produces and ships queens beginning in February, significantly overlapping the New Zealand honeybee shipping season. According to our information, New Zealand queens can be produced from September through April. New Zealand's September to November queen production is fully absorbed domestically and by exports to some Middle East and Pacific Island markets. The February to April production is fully committed to Canadian markets. That only leaves a production window in December and January when New Zealand producers would have honeybees available for U.S. markets. This window would not overlap the Hawaiian season. Even so, as this final rule will not permit the importation of New Zealand honeybees into the United States, this rule will have no economic impact on U.S. producers in Hawaii or any other State.

Finally, one commenter suggested that a system of permits should be instituted until experience proves that importation of honeybees from New Zealand is hazard-free. If a problem develops, the honeybees could then be traced to their location of origin in New Zealand. However, as set forth above, this final rule will not permit the importation of New Zealand honeybees into the United States, and will impose strict precautions to be taken during the honeybees' transit of the United States. This final rule also requires that shipments of honeybees and honeybee semen from New Zealand be accompanied by a certificate issued by the New Zealand Department of Agriculture certifying that the shipment originated in New Zealand, and the honeybees or honeybee semen will have to be shipped nonstop to the United States. We believe these precautions will ensure that the transit of honeybees and honeybee semen from New Zealand poses no significant threat to U.S. honeybees, and that, therefore, a permit system appears to be unnecessary.

Miscellaneous

We are making a change to the proposed rule by removing the proposed definition of "certificate of origin." In order to make the requirement more clear, we are instead stating in the rule that "the honeybees or honeybee semen

must be accompanied by a certificate issued by the New Zealand Department of Agriculture certifying that the honeybees or honeybee semen were derived in or shipped from an apiary in New Zealand."

We are also making two editorial changes to the regulations. The first removes the footnote in § 322.1 that quotes a part of the Honeybee Act. Prior to January 1, 1995, the Honeybee Act contained criteria for determining which countries could be listed in the regulations as countries from which honeybees or honeybee semen could be imported into the United States. The Honeybee Act, as amended by the implementing legislation for the General Agreement on Tariffs and Trade, no longer contains those criteria and, therefore, no longer needs to be set forth in the regulations. The second change is to the Foreign Quarantine Notices, contained in 7 CFR part 319. The regulations in 7 CFR 319.76-2 refer to the Honeybee Act. Specifically, footnote 1 in §319.76–2 states, in part, that "The Honeybee Act * * * prohibits the importation into the United States of any live honeybees of the genus Apis * * *" We are amending this footnote to reflect the January 1, 1995, amendments to the Honeybee Act discussed above.

Executive Order 12866 and Regulatory Flexibility Act

This rule has been reviewed under Executive Order 12866. The rule has been determined to be not significant for the purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget.

This final rule allows honeybees and honeybee semen from New Zealand to transit the United States en route to foreign destinations, subject to certain conditions. This rule will primarily affect the package bee and queen industry in New Zealand. Currently, the lack of economical shipping routes outside the United States for New Zealand honeybees makes shipments from New Zealand to many foreign destinations cost prohibitive. The provisions of this rule will provide honeybee producers in New Zealand with economically feasible access to these foreign destinations. However, because the honeybees and honeybee semen will not be imported into the United States, there is no potential impact on U.S. honeybee producers from competition in the U.S. market.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not