

Proposed Rules

Federal Register

Vol. 76, No. 58

Friday, March 25, 2011

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF DEFENSE

[Docket ID DOD-2011-OS-0036]

2 CFR Chapter XI

5 CFR Chapter XXVI

32 CFR Chapters I, V, VI, VII, XII, and Subtitle A

33 CFR Chapter II

36 CFR Chapter III

40 CFR Chapter VII

48 CFR Chapters 1, 2, 52, and 54

Reducing Regulatory Burden; Retrospective Review Under E.O. 13563

AGENCY: Department of Defense, Office of the Secretary.

ACTION: Request for information.

SUMMARY: In response to President Obama's Executive Order 13563, "Improving Regulation and Regulatory Review," the Department of Defense invites public comments on how it can change, streamline, or repeal its regulations. DoD will continue to work with the public and the business community to determine how its regulations can increase efficiency, transparency, and provide accountability.

DATES: Comments are requested by April 8, 2011.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

- *Federal Rulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.
- *Mail:* Federal Docket Management System Office, 1160 Defense Pentagon, OSD Mailroom 3C843, Washington, DC 20301-1160.

Instructions: All submissions received must include the agency name and docket number for this **Federal Register** document. The general policy for

comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at <http://www.regulations.gov> as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: Robert Cushing, Jr., 703-696-5282.

SUPPLEMENTARY INFORMATION: DoD regulations may be viewed by going to the eCFR at <http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&tpl=%2Findex.tpl> and searching titles 2, 5, 32, 33, 36, 40, and/or 48.

Dated: March 21, 2011.

Morgan F. Park,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2011-7051 Filed 3-24-11; 8:45 am]

BILLING CODE 5001-06-P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 319

[Docket No. APHIS-2010-0101]

RIN 0579-AD39

Importation of French Beans and Runner Beans From the Republic of Kenya Into the United States

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We are proposing to amend the fruits and vegetables regulations to allow the importation of French beans and runner beans from the Republic of Kenya into the United States. As a condition of entry, both commodities would have to be produced in accordance with a systems approach that would include requirements for packing, washing, and processing. Both commodities would also be required to be accompanied by a phytosanitary certificate attesting that all phytosanitary requirements have been met and that the consignment was inspected and found free of quarantine pests. This action would allow for the importation of French beans and runner beans from the Republic of Kenya into

the United States while continuing to provide protection against the introduction of plant pests.

DATES: We will consider all comments that we receive on or before May 24, 2011.

ADDRESSES: You may submit comments by either of the following methods:

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov/fdmspublic/component/main?main=DocketDetail&d=APHIS-2010-0101> to submit or view comments and to view supporting and related materials available electronically.

- *Postal Mail/Commercial Delivery:* Please send one copy of your comment to Docket No. APHIS-2010-0101, Regulatory Analysis and Development, PPD, APHIS, Station 3A-03.8, 4700 River Road Unit 118, Riverdale, MD 20737-1238. Please state that your comment refers to Docket No. APHIS-2010-0101.

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: Additional information about APHIS and its programs is available on the Internet at <http://www.aphis.usda.gov>.

FOR FURTHER INFORMATION CONTACT: Mr. Phillip Grove, Regulatory Coordinator, PPQ, APHIS, 4700 River Road Unit 156, Riverdale, MD 20737-1231; (301) 734-6280.

SUPPLEMENTARY INFORMATION:

Background

The regulations in "Subpart—Fruits and Vegetables" (7 CFR 319.56-1 through 319.56-50, referred to below as the regulations) prohibit or restrict the importation of fruits and vegetables into the United States from certain parts of the world to prevent the introduction and dissemination of plant pests within the United States.

The national plant protection organization (NPPO) of the Republic of Kenya has requested that the Animal and Plant Health Inspection Service (APHIS) amend the regulations to allow

French beans and runner beans from the Republic of Kenya to be imported into the United States. As part of our evaluation of Kenya's request, we prepared a pest risk assessment (PRA) and a risk management document. Copies of the PRA and the risk management document may be obtained from the person listed under **FOR FURTHER INFORMATION CONTACT** or viewed on the Regulations.gov Web site (see **ADDRESSES** above for instructions for accessing Regulations.gov).

The PRA, titled "Importation of French Bean, *Phaseolus vulgaris* L., and Runner Bean, *Phaseolus coccineus* L., from Kenya into the United States: A Qualitative, Pathway-initiated Risk Assessment" (February 2009), evaluates the risks associated with the importation of French beans and runner beans into the United States from Kenya. The PRA and supporting documents identified ten pests of quarantine significance present in Kenya that could be introduced into the United States through the importation of French beans or runner beans. Eight of these pests were determined to have a high risk potential. These are *Bactrocera cucurbitae*, *Chrysodeixis chalcites*, *Dacus ciliatus*, *Helicoverpa armigera*, *Liriomyza huidobrensis*, *Maconellicoccus hirsutus*, *Spodoptera littoralis*, and *Thaumatotibia leucotreta*. Two of the pests were determined to have a medium risk potential: *Lampides boeticus* and *Maruca vitrata*.

APHIS has determined that measures beyond standard port-of-entry inspection are required to mitigate the risks posed by these plant pests. Therefore, we are proposing to allow the importation of French beans and runner beans from Kenya into the United States and its territories only if they are produced in accordance with a systems approach.

The systems approach would require that the commodity be packed in packing facilities that are approved and registered with Kenya's NPPO. Each shipping box would have to be marked with the identity of the packing facility so that shipments can be traced back to the facility in the event of the discovery of a pest.

The beans would have to be washed in potable water, which will assist in removing any insects feeding on individual beans.

We would require the beans to be inspected by the Kenyan NPPO and found to be free of quarantine pests before being exported to the United States. The pests *Chrysodeixis chalcites*, *Helicoverpa armigera*, *Lampides boeticus*, *Maruca vitrata*, and *Spodoptera littoralis* cause obvious

feeding damage and frass on beans, allowing beans infested with these pests to be eliminated during packing. These pests are also relatively large and easily seen during inspection.

In addition to causing obvious damage, *Maconellicoccus hirsutus* is a pink hibiscus mealy bug whose grayish-pink bodies are covered with mealy white wax and with white wax filaments projecting from the body, making the pest easily visible on infested beans. The pest *Liriomyza huidobrensis* is a leafminer whose mines are easily seen on bean leaves and pods, and therefore beans with damage caused by this pest can be culled during packing. Inspection is an effective mitigation for all the above pests.

The pests *Bactrocera cucurbitae*, *Dacus ciliatus*, and *Thaumatotibia leucotreta* are internal feeders, and infestation by these pests cannot be easily detected by inspection of whole beans. Therefore, we are proposing to require each bean pod to be either cut into chevrons or pieces that do not exceed 2 centimeters in length, or shredded or split the length of the bean pod. Split or shredded bean pod pieces would not exceed 8 centimeters in length and 8.5 millimeters in diameter. Cutting the beans will expose any quarantine pests that may be present during inspection, while shredding the beans will both expose and destroy internal feeding pests. Cutting or splitting the beans also allows for the detection of any larvae that may be present during inspection.

Only commercial consignments of French beans and runner beans would be allowed to be imported from Kenya. Produce grown commercially is less likely to be infested with plant pests than noncommercial consignments. Noncommercial consignments are more prone to infestations because the commodity is often ripe to overripe, could be of a variety with unknown susceptibility to pests, and is often grown with little or no pest control. Commercial consignments, as defined in § 319.56-2, are consignments that an inspector identifies as having been imported for sale and distribution. Such identification is based on a variety of indicators, including, but not limited to: Quantity of produce, type of packaging, identification of grower or packinghouse on the packaging, and documents consigning the fruits or vegetables to a wholesaler or retailer.

Consignments of French beans and runner beans would also need to be accompanied by a phytosanitary certificate issued by Kenya's NPPO attesting that all APHIS phytosanitary

requirements have been met and that the consignment was inspected and found free of quarantine pests.

We would add these requirements to the regulations in a new § 319.56-51.

Executive Order 12866 and Regulatory Flexibility Act

This proposed 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.

In accordance with the Regulatory Flexibility Act, we have analyzed the potential economic effects of this action on small entities. The analysis is summarized below. Copies of the full analysis are available by contacting the person listed under **FOR FURTHER INFORMATION CONTACT** or on the Regulations.gov Web site (see **ADDRESSES** above for instructions for accessing Regulations.gov).

Kenya produced an average of about 37,000 metric tons (MT) of French beans per year between 2004 and 2009, of which it exported an average of about 34,000 MT, primarily to the European Union (EU). The EU provides a well-established market and it is unlikely that there would be a large diversion of French bean exports by Kenya from this market to the United States.

To examine potential effects of the rule for U.S. small entities, we model three levels of French bean exports to the United States from Kenya, of increasing magnitude: the amount that Kenya expects to export to the United States (800 MT), and amounts equal to 5 percent and 10 percent of Kenya's average annual exports worldwide, 2004-2009 (1,750 MT and 3,500 MT). The largest assumed level is equivalent to 1.3 percent of average annual consumption by the United States during this same period.

Yearly French bean imports from Kenya of 3,500 MT are estimated to result in a price decline of \$12.60 per MT, or less than 1 cent per pound in the wholesale price of green beans, and a fall in U.S. production of 1,838 MT. Consumption is estimated to increase by 1,663 MT. Producer welfare could decline by \$2.92 million and consumer welfare could increase by \$3.35 million, yielding an annual net welfare gain of about \$430,000.

While most U.S. green bean producers are small entities, the annual decrease in producer welfare per small entity for the 3,500 MT import scenario is estimated to be only about \$66, or about 0.7 percent of average annual sales by small entities. The dollar decrease in welfare for most small fresh bean producers would be even smaller, given

that the majority planted less than an acre in green beans in 2007, while the average area planted in green beans by small-entity producers was 2.4 acres. Also, effects are likely to be smaller than indicated, to the extent that fresh French bean imports from Kenya would displace fresh bean imports from other countries.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action would not have a significant economic impact on a substantial number of small entities.

Executive Order 12988

This proposed rule would allow French beans and runner beans to be imported into the United States from Kenya. If this proposed rule is adopted, State and local laws and regulations regarding French beans and runner beans imported under this rule would be preempted while the vegetable is in foreign commerce. Fresh vegetables are generally imported for immediate distribution and sale to the consuming public and would remain in foreign commerce until sold to the ultimate consumer. The question of when foreign commerce ceases in other cases must be addressed on a case-by-case basis. If this proposed rule is adopted, no retroactive effect will be given to this rule, and this rule will not require administrative proceedings before parties may file suit in court challenging this rule.

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. APHIS–2010–0101. Please send a copy of your comments to: (1) Docket No. APHIS–2010–0101, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road Unit 118, Riverdale, MD 20737–1238, and (2) Clearance Officer, OCIO, 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.

APHIS is proposing to amend the regulations concerning the importation of fruits and vegetables to allow the importation of French beans and runner

beans from the Republic of Kenya into the United States under a combination of mitigations to reduce the risk of introducing a variety of pests. As a condition of entry, both commodities would have to be produced in accordance with a systems approach that would include requirements for packing, washing, and processing. Both commodities would also be required to be accompanied by a phytosanitary certificate attesting that all phytosanitary requirements have been met and that the consignment was inspected and found free of quarantine pests.

Implementing this proposed rule would require respondents to complete a phytosanitary certificate (foreign), register with packinghouses, and label boxes.

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 0.333 hours per response.

Respondents: Foreign officials, importers of French and runner beans.

Estimated annual number of respondents: 2.

Estimated annual number of responses per respondent: 1.5.

Estimated annual number of responses: 3.

Estimated total annual burden on respondents: 1 hour. (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) 851–2908.

E-Government Act Compliance

The Animal and Plant Health Inspection Service is committed to compliance with the E-Government Act to promote the use of the Internet and other information technologies, to provide increased opportunities for citizen access to Government information and services, and for other purposes. For information pertinent to E-Government Act compliance related to this proposed rule, please contact Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 851–2908.

List of Subjects in 7 CFR Part 319

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

Accordingly, we propose to amend 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.

2. Add § 319.56–51 to read as follows:

§ 319.56–51 French beans and runner beans from Kenya.

French beans (*Phaseolus vulgaris* L.) and runner beans (*Phaseolus coccineus* L.) may be imported into the United States from Kenya only under the conditions described in this section. These conditions are designed to prevent the introduction of the following quarantine pests: *Bactrocera cucurbitae*, *Chrysodeixis chalcites*, *Dacus ciliatus*, *Helicoverpa armigera*, *Lampides boeticus*, *Liriomyza huidobrensis*, *Maconellicoccus hirsutus*, *Maruca vitrata*, *Spodoptera littoralis*, and *Thaumatotibia leucotreta*.

(a) *Packinghouse requirements.* The beans must be packed in packing facilities that are approved and registered with Kenya's national plant protection organization (NPPO). Each shipping box must be marked with the identity of the packing facility.

(b) *Post-harvest processing.* The beans must be washed in potable water. Each bean pod must be either cut into chevrons or pieces that do not exceed 2 centimeters in length, or shredded or split the length of the bean pod. Split or shredded bean pod pieces may not

exceed 8 centimeters in length and 8.5 millimeters in diameter.

(c) *Commercial consignments.* French beans and runner beans must be imported as commercial consignments only.

(d) *Phytosanitary certificate.* Each consignment of French beans or runner beans must be accompanied by a phytosanitary certificate issued by Kenya's NPPO attesting that the conditions of this section have been met and that the consignment has been inspected and found free of the pests listed in this section.

Done in Washington, DC, this 21st day of March 2011.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2011-7088 Filed 3-24-11; 8:45 am]

BILLING CODE 3410-34-P

SMALL BUSINESS ADMINISTRATION

13 CFR Parts 121, 124, 125, 126, and 127

[Docket No. SBA-2011-0006]

Small Business Jobs Act Tour: Selected Provisions Having an Effect on Government Contracting

AGENCY: U.S. Small Business Administration.

ACTION: Notice of Public Meetings.

SUMMARY: The U.S. Small Business Administration's (SBA) Office of Government Contracting and Business Development (GC/BD) is tasked with implementing several provisions of the Small Business Jobs Act of 2010 (SBJA). On Monday, March 7, 2011, SBA announced a series of public meetings on its implementation of these provisions. The dates, times and locations, as well as registration information, are set forth below. SBA is providing this supplementary information on the government contracting provisions of the SBJA to provide background and focus input.

DATES: The meetings will be held on the dates and times specified in the Event Information section of the Supplementary Information below. It is recommended that all attendees register at least one week prior to the scheduled meeting date. In addition, comments to SBA docket number SBA-2011-0006 must be received on or before April 16, 2011.

ADDRESSES: The meetings will be held at the locations specified in the Event Information section of the Supplementary Information below. Parties interested in attending a meeting must register by providing the requested registration information at <http://www.sba.gov/jobsacttour>. In addition, you may submit comments, identified by SBA docket number SBA-2011-0006 by any of the following methods:

Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.
Mail: Small Business Jobs Act Tour—Office of Government Contracting and Business Development, U.S. Small Business Administration, 409 Third Street, SW., Suite 8000, Washington, DC 20416.

Hand Delivery/Courier: Richard L. Miller, Small Business Jobs Act Tour—Office of Government Contracting and Business Development, 409 Third Street, SW., Washington, DC 20416.

SBA will post all comments on <http://www.regulations.gov>. If you wish to submit confidential business information (CBI) as defined in the User Notice at <http://www.regulations.gov>, please submit the information to Mr. Miller, address above. Highlight the information that you consider to be CBI and explain why you believe SBA should hold this information as confidential. SBA will review the information and make the final determination whether it will publish the information.

FOR FURTHER INFORMATION CONTACT: Richard L. Miller, Small Business Job's Act Tour—Office of Government Contracting and Business Development, 409 Third Street, SW., Washington, DC

20416, at (202) 205-6895; *Fax:* (202) 481-4291; *e-mail:* richard.miller@sba.gov.

SUPPLEMENTARY INFORMATION

I. Background

On September 27, 2010, President Obama signed the SBJA, which makes many significant small business program improvements. The new law provides critical resources to help small businesses continue to drive economic recovery and create jobs. The new law extended the successful SBA enhanced loan provisions while offering billions more in lending support, tax cuts, and other opportunities for entrepreneurs and small business owners. The new law also contained numerous provisions to help enhance small businesses ability to compete in government contracting and subcontracting. For example, the law addresses small business set-asides on multiple award contracts, contract consolidation, and timely payments to small business subcontractors. The contracting provisions also dovetail with recommendations released by the Interagency Task Force on Small Business Contracting in September (<http://www.sba.gov/content/interagency-task-force-federal-contracting-opportunities-small-businesses>). The Task Force was established by the President in April 2010 to identify ways in which to increase small business participation in the federal marketplace so that agencies meet and exceed their small business contracting goals.

Accordingly, SBA will conduct a Small Business Jobs Act Tour that will cover 13 cities. The objective of the tour is to provide information on SBJA provisions and to receive input on key SBJA provisions.

II. Topics and Agenda

While the agenda may vary from city to city, a typical agenda is below. Please visit <http://www.sba.gov/jobsacttour> for updates on each location's agenda.

9 to 10 am	Opening Keynote & Overview of Small Business Jobs Act.
10 to 10:15 am	Break.
10:15 to 11:30 am	Room 1—CONTRACTING Discussion and intake session surrounding key Jobs Act provisions: multiple-award set-asides, bundling, consolidation of requirements, subcontracting, mentor-protégé programs, presumption of loss and misrepresentation issues, and annual certification issues.
	Room 2—LENDER ROUNDTABLE Discussion for current and prospective SBA lenders: new efforts to simplify/streamline, enhance customer service in areas such as lending policy, processing, and oversight.
	Room 3—EXPORTING Discussion of new exporting tools: increased loan sizes, the Export Express program, state-level STEP grants, and additional efforts under the National Export Initiative.
11:30 am to 12:45 pm	Room 1—CONTRACTING (session above continues) Room 2—LENDER ROUNDTABLE (session above continues)