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Our Ref: PH/4/19/Vol.16/(107) **Date:** 9th December 2011

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RE: PUBLICATION OF FINAL RULES: IMPORTATION OF BEANS FROM KENYA TO USA

The United States of America Department of Agriculture Animal & Plant Health Inspection Service (USDA-APHIS) has published the final rule that allows importation of runner beans and French Beans from Kenya into the United States effective 5th December, 2011. The rule provides for a system that will mitigate against introduction of *Bactrocera cucurbitae, Chrysodeixis chalcites, Dacus ciliates, Helicoverpa armigera, Lampides boeticus, Liriomyza huidobrensis, Maconellicoccus hirsutus, Maruca vitrata, Spodoptera littoralis* and *Thaumatotibia leucotreta* which are quarantine pests that could potentially be introduced through unprocessed consignments. The rule provides also details on:-

a) Packinghouse requirements

The beans must be packed in packing facilities that are approved and registered with Kenya's National Plant Protection Organization (NPPO/KEPHIS). 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 only.

d) Phytosanitary certificate

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

NB: The detailed rules and the WTO notification as required under the WTO-Agreement Application of Sanitary and Phytosanitary measures are attached for reference.

This is a window of opportunity to enhance volumes of the said beans to the USA. To the best of my understanding, these rules are not negotiable at least for now. I hope our exporters under your umbrella will take up this opportunity.

James M. Onsando, PhD
MANAGING DIRECTOR

Rules and Regulations

Federal Register
Vol. 76, No. 213
Thursday, November 3, 2011

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

[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: Final rule.

SUMMARY: We are amending 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 will have to be produced in accordance with a systems approach that would include requirements for packing, washing, and processing. Both commodities will 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 will 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: *Effective Date:* December 5, 2011.

FOR FURTHER INFORMATION CONTACT: Mr. Marc Phillips, Import Specialist, Regulatory Coordination and Compliance, PPQ, APHIS, 4700 River Road, Unit 133, Riverdale, MD 20737; (301) 734–4394.

SUPPLEMENTARY INFORMATION:

Background

The regulations in "Subpart—Fruits and Vegetables" (7 CFR 319.56–1 through 319.56–53, 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.

On March 25, 2011, we published in the **Federal Register** (76 FR 16700–16703, Docket No. APHIS–2010–0101) a proposal [1] to amend the regulations by allowing French beans and runner beans from the Republic of Kenya to be imported into the United States if they are cut, shredded, or split and inspected for quarantine pests, and if certain other requirements are met.

We solicited comments concerning our proposal for 60 days ending May 24, 2011. We received two comments by that date. They were from a State department of agriculture and a member of the general public.

One commenter stated opposition to the importation of French and runner beans from Kenya without raising any issues related to the pest risk analysis or proposed rule.

The other commenter recommended that shipments of French and runner beans from Kenya not be permitted entry into the commenter's State until the shipping protocol has had sufficient time to demonstrate the effectiveness of the proposed mitigation measures.

The pest risk analysis we prepared for this action, which includes a qualitative, pathway-initiated pest risk assessment and a risk management document, not only identifies 10 quarantine pests that could potentially accompany shipments of fresh French and runner beans from Kenya, but also identifies mitigation measures that must be completed before these commodities can be safely imported into the United States. The cutting or shredding and splitting of the bean described in the proposed rule will expose and allow detection of internal feeders, thereby mitigating the risk of the quarantine pests being introduced into the United States via the importation of this commodity. As we receive imports from the program, we will continue to evaluate the effectiveness of the program.

[1] To view the proposed rule, the pest risk analysis, and the comments we received, go to *http://www.regulations.gov/#!docketDetail;D=APHIS-2010-0101.*

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

Executive Order 12866 and Regulatory Flexibility Act

This final rule has been 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 $12.35 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 1,660 MT. Producer welfare could decline by $2.84 million and consumer welfare could increase by $3.25 million, yielding an annual net welfare gain of about $410,000.

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 $64, 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 will not have a significant economic impact on a substantial number of small entities.

Executive Order 12988

This final rule allows French beans and runner beans to be imported into the United States from the Republic of Kenya. State and local laws and regulations regarding French beans and runner beans imported under this rule will be preempted while the fruit is in foreign commerce. Fresh fruits and vegetables are generally imported for immediate distribution and sale to the consuming public, and 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. 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 the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the information collection or recordkeeping requirements included in this rule have been approved by the Office of Management and Budget (OMB) under OMB control number 0579–0373.

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 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 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.

■ 2. A new § 319.56–54 is added to read as follows:

§ 319.56–54 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.

(Approved by the Office of Management and Budget under control number 0579–0373)

Done in Washington, DC, this 28th day of October 2011.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2011–28509 Filed 11–2–11; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

9 CFR Part 381

[Docket No. FSIS–2007–0048]

RIN 0583–AC83

Classes of Poultry

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: The Food Safety and Inspection Service (FSIS) is amending the definitions and standards for the official U.S. classes of poultry so that they more accurately and clearly describe the characteristics of poultry in the market today. Poultry classes are defined primarily in terms of the age and sex of the bird. Genetic improvements and poultry management techniques have reduced the grow-out period for some poultry classes, while extensive cross breeding has produced poultry with higher meat yields but blurred breed distinctions. FSIS is taking this action to ensure that the labeling of poultry products is truthful and not misleading.

DATES: *Effective Date:* This rule is effective on January 1, 2014.

FOR FURTHER INFORMATION CONTACT: Rosalyn Murphy-Jenkins, Director, Labeling and Program Delivery Division, Office of Policy and Program Development, FSIS, U.S. Department of Agriculture (USDA), Washington, DC 20250–3700, Telephone (301) 504–0879, Fax (301) 504–0872.

SUPPLEMENTARY INFORMATION:

Background

On September 29, 2003, FSIS proposed to amend the definitions and standards for the official U.S. classes of poultry (68 FR 55902). Before publishing the 2003 proposed rule, the Agency had reviewed the poultry class definitions with USDA's Agricultural Marketing Service (AMS) Poultry Programs, and both agencies discussed the issue with members of the poultry industry and others knowledgeable about poultry genetics and breeding. After examining current poultry production methods and reviewing the

WORLD TRADE ORGANIZATION

G/SPS/N/USA/2188/Add.1
8 November 2011

(11-5697)

Committee on Sanitary and Phytosanitary Measures Original: English

NOTIFICATION

Addendum

The following communication, received on 7 November 2011, is being circulated at the request of the Delegation of the the United States.

Final Rule: Importation of French Beans and Runner Beans from the Republic of Kenya into the United States (Docket No. APHIS-2010-0101)

The Animal and Plant Health Inspection Service is amending 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 will have to be produced in accordance with a systems approach that would include requirements for packing, washing, and processing. Both commodities will 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 will 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.

This final rule is available in English at: Federal Register: 3 November 2011 (Volume 76, Number 213) Notices Pages 68057-68058. To view online, go to http://www.gpoaccess.gov/fr/advanced.html, select 2011 FR Vol. 76, and type "page 68057" in the search box (with quotation marks).

This action is subsequent to a notice published in the Federal Register (76 FR 16700-16703, Docket No. APHIS-2010-0101) on 25 March 2011 announcing a proposal to amend the regulations by allowing French beans and runner beans from the Republic of Kenya to be imported into the United States if they are cut, shredded, or split and inspected for quarantine pests, and if certain other requirements are met. We solicited comments concerning our proposal for 60 days ending 24 May 2011. We received two comments by that date. They were from a State department of agriculture and a member of the general public.

This rule is effective 5 December 2011.

This addendum concerns a:

[ ] Modification of final date for comments
[X] Notification of adoption, publication or entry into force of regulation
[ ] Modification of content and/or scope of previously notified draft regulation
[ ] Withdrawal of proposed regulation

./.

[ ] Change in proposed date of adoption, publication or date of entry into force
[ ] Other:

Comment period: ***(If the addendum extends the scope of the previously notified measure in terms of products and/or potentially affected Members, a new deadline for receipt of comments should be provided, normally of at least 60 calendar days. Under other circumstances, such as extension of originally announced final date for comments, the comment period provided in the addendum may vary.)***

[ ] Sixty days from the date of circulation of the addendum to the notification and/or *(dd/mm/yy)*: Not applicable

Agency or authority designated to handle comments: [ ] National Notification Authority, [ ] National Enquiry Point. Address, fax number and e-mail address (if available) of other body:

For further information contact: Mr. Marc Phillips, Import Specialist, Regulatory Coordination and Compliance, PPQ, APHIS, 4700 River Road, Unit 133, Riverdale, MD 20737; +1 (301) 734-4394.

Text available from: [X] National Notification Authority, [ ] National Enquiry Point. Address, fax number and e-mail address (if available) of other body:

United States SPS National Notification Authority, USDA Foreign Agricultural Service, International Regulations and Standards Division (IRSD), Stop 1014, Washington D.C. 20250; Tel: +(1 202) 720 1301; Fax: +(1 202) 720 0433; E-mail: us.spsenquirypoint@fas.usda.gov

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