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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 319

[Docket No. 97–060–2]

RIN 0579–AA88

Karnal Bunt Status of the Mexicali Valley of Mexico

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending the wheat diseases regulations by recognizing a wheat-growing area within the Mexicali Valley of Mexico as being free from the wheat disease Karnal bunt. Surveys conducted by Mexican plant health authorities in that area of the Mexicali Valley since 1990 have shown the area to be free from Karnal bunt, and Mexican authorities are enforcing restrictions designed to protect the area from the introduction of Karnal bunt. This change will have the effect of removing certain restrictions on the importation into the United States of wheat seed, straw, and other wheat products from the Karnal bunt free area of the Mexicali Valley.

EFFECTIVE DATE: June 8, 1998.

FOR FURTHER INFORMATION CONTACT: Mr. Peter M. Grosser, Senior Import Specialist, Phytosanitary Issues Management Team, PPQ, APHIS, USDA, 4700 River Road Unit 140, Riverdale, MD 20737–1236; (301) 734–6799; fax (301) 734–5786; e-mail: pgrosser@aphis.usda.gov.

SUPPLEMENTARY INFORMATION:

Background

The regulations in ''Subpart—Wheat Diseases'' (7 CFR 319.59 through 319.59–2, referred to below as the regulations) restrict the importation into the United States of certain seeds, plants, and plant products from certain countries or localities in order to prevent the introduction of foreign strains of flag smut and Karnal bunt, two fungal diseases of wheat (*Triticum* spp.). Specific provisions relating to foreign strains of flag smut are located in paragraph (a) of § 319.59–2 of the regulations, and specific provisions concerning Karnal bunt are found in paragraph (b) of that section.

Under § 319.59–2(b) of the regulations, wheat seeds, plants, straw (except straw without heads that has been processed or manufactured into articles such as decorative wall hangings, clothing, or toys), chaff, and products of the milling process other than flour (i.e., bran, thistle sharps, and pollards) are designated as prohibited articles if they are from Afghanistan, India, Iraq, Mexico, or Pakistan, which are countries in which Karnal bunt is considered to exist. Prohibited articles may be imported into the United States only by the U.S. Department of Agriculture for experimental or scientific purposes in accordance with § 319.59–2(c).

On January 27, 1998, we published in the **Federal Register** (63 FR 3844–3848, Docket No. 97–060–1) a proposal to amend the regulations to recognize a wheat-growing area within the Mexicali Valley of Mexico as being free from the wheat disease Karnal bunt. We also proposed to make several other changes in the regulations for the sake of clarity or accuracy.

We solicited comments concerning our proposal rule for 60 days ending March 30, 1998. We received 10 comments by that date. The comments were from farmers, seed companies, a State agriculture agency, and crop improvement, grain promotion, and grain export associations. Three of the commenters supported the proposed rule, while the remaining commenters disagreed with the proposed rule or aspects of its supporting economic analyses. Their comments are discussed below.

Comment: The proposed rule and its establishment of a pest-free area for Karnal bunt should not proceed on the grounds that it perpetuates the idea that Karnal bunt is a pest of quarantine significance. The proposal is at odds with the widening international recognition that Karnal bunt should be considered only as a wheat grading factor and not a quarantine-significant pest.

Response: The position that Karnal bunt is a grading issue rather than a quarantine issue is one that has been discussed in international trade and scientific circles. However, given the present international perception of Karnal bunt as a quarantine issue, we do not believe that it would serve the interests of American agriculture to unilaterally remove our regulatory restrictions through which we seek to prevent the introduction and dissemination of Karnal bunt. Therefore, until such time as our trading partners view the disease as a grading issue, we believe that it will be necessary to continue our Karnal bunt-related regulatory activities and restrictions in order to protect our international agricultural standing.

With that in mind, APHIS and its partners in the North American Plant Protection Organization have asked the United Nations Food and Agriculture Organization (FAO) to coordinate the establishment of guidelines for addressing minor pests such as Karnal bunt that can cause significant trade disruptions due to their status as regulated pests. The FAO has agreed to assume that coordination role and plans to assemble a panel of scientists to begin work on those guidelines in June 1998.

Comment: APHIS cannot justify declaring the Mexicali Valley free from Karnal bunt as long as the Agency continues to regulate adjacent areas of Arizona and California for the same disease. Given that Karnal bunt can spread by natural, as well as artificial means, one cannot expect that the Mexicali Valley could escape inoculation by the disease during the period that contiguous areas became infected.

Response: We believe that it is indeed possible for the Mexicali Valley to be declared free of Karnal bunt while a regulatory program for the same disease remains in place across the border in Arizona and California. While natural spread can certainly occur, it has been shown that the greatest risk of spreading Karnal bunt is through artificial means, especially through the movement of infected seed from one area to another.

If taking measures to prevent the artificial spread of Karnal bunt was an inadequate response to the disease, as

the commenter suggests, then it is logical to assume that the disease would have spread throughout all the agricultural areas of California, Arizona, New Mexico, and Texas and beyond, and not just into the Mexicali Valley. However, APHIS and its State cooperators have been able to confine Karnal bunt to limited pockets of the wheat-producing areas of the southwestern United States by restricting the movement of seed, grain, and regulated articles such as cultivating equipment. Mexico protects the Mexicali Valley's Karnal bunt free status by employing similar regulatory strategies to prevent the artificial spread of Karnal bunt. Additionally, the fact that an international border lies between the regulated areas in the United States and the Mexicali Valley helped prevent the spread of Karnal bunt into the Mexicali Valley by eliminating the influence of factors that played a role in the spread of Karnal bunt through the southwestern United States, such as the unrestricted movement of seed, grain, and cultivating and harvesting equipment.

Comment: The proposed rule appears to be supported by available data, but we are concerned that APHIS would grant Karnal bunt free status to the Mexicali Valley while Mexico refuses to apply the same standards and continues to prohibit the importation of wheat from areas of California that are outside the Karnal bunt regulated areas in that State.

Response: The proposed rule and this final rule deal with the Karnal bunt status of the Mexicali Valley. While we acknowledge that the U.S. Department of Agriculture is working with Mexican plant health authorities to resolve their remaining questions regarding the Karnal bunt status of California, the issue of U.S. wheat exports to Mexico is outside the scope of this rulemaking. In addition, to maintain restrictions in light of the area's demonstrated freedom from Karnal bunt would run counter to our obligations under international trade agreements.

Comment: We are uncertain as to the intensity of the surveys that were conducted to establish the Mexicali Valley's Karnal bunt status. In addition, Karnal bunt may spread into the Mexicali Valley by natural means despite the Mexican regulatory policies designed to exclude the disease. Therefore, to ensure the Mexicali Valley remains free from Karnal bunt, there should be continued testing and review of the program.

Response: There will be continued monitoring and review of the Karnal bunt status of the Mexicali Valley as called for by the commenter. The Mexican plant health regulations establishing the Mexicali Valley as a Karnal bunt free area require the State-level plant protection organizations in Baja California and Sonora (the States in which the free area is located) to cooperate with Mexican Federal plant protection authorities to establish a yearly sampling program. Samples must be collected in the field during the growing season, as well as at grain elevators after harvest, and the samples must be sent to an officially approved laboratory to be examined for spores. We believe that the required sampling and testing program, along with the restriction on the movement into the free area of articles that present a risk of disseminating Karnal bunt, will serve to protect the Karnal bunt free status of the Mexicali Valley. In the event that Karnal bunt is detected in the free area, the Mexican plant health regulations call for the immediate application of phytosanitary measures to respond to the situation, at which point APHIS would suspend imports of wheat from the affected area until the extent of the outbreak is delimited and a determination is made regarding the Karnal bunt status of the Mexicali Valley.

Comment: The prohibition on the importation of wheat grown in the Mexicali Valley should remain in place unless there is ''a long term continuing rigid inspection that could absolutely guarantee'' the wheat's freedom from Karnal bunt.

Response: As noted in the response to the previous comment, there will be a program of continued surveillance and monitoring to ensure that the Mexicali Valley remains free from Karnal bunt. No inspection system, however well designed and thorough, could ever ''absolutely guarantee'' that wheat or any other commodity is free from a pest or disease. To demand an absolute guarantee from Mexico would be to set a zero risk standard that cannot be attained by Mexico, the United States, or any other country that exports agricultural products. If zero tolerance for pest risk were the standard applied to international trade in agricultural commodities, it is quite likely that no country would ever be able to export a fresh agricultural commodity to any other country. There will always be some degree of pest risk associated with the movement of agricultural products; APHIS' goal is to reduce that risk to an insignificant level.

Comment: The economic analysis presented in the proposed rule assumes that the economic impact of the rule would be spread among all the wheat growers across the United States, resulting in, at worst, a loss of about $100 per farm. Because growers in the Mexicali Valley will almost certainly begin producing durum-variety wheat in order to compete in the same markets as growers in the southwestern United States, it is much more likely that the economic impact of the rule will be felt almost exclusively in the southwestern United States, and far more acutely than predicted in the economic analysis.

Response: As the commenter has noted, our examination of potential economic impacts in the proposed rule's economic analysis did not focus on any particular wheat-producing region in the United States. Rather, our economic analysis considered the potential effects that the importation of wheat from the Mexicali Valley could have on the domestic wheat industry as a whole. We took that broader approach because the available U.S. and Mexicali Valley wheat production data did not give us any reason to believe that any particular U.S. wheat-producing region would be disproportionately affected by the proposed entry of Mexicali Valley wheat.

The commenter's assertion that the economic impact of the rule will be felt almost exclusively in the southwestern United States is based on the presumption that growers in the Mexicali Valley will almost certainly begin producing durum-variety wheat in order to compete in the same markets as growers in the southwestern United States. Durum wheat does indeed account for a large share of wheat production in the southwestern United States—in 1996, approximately 42 percent of the wheat produced in Arizona and California was durum wheat, with winter wheat making up the remaining 58 percent. As noted in the proposed rule, the 1994 through 1996 averages for wheat class, production share, and use distribution of Mexicali Valley wheat indicate that durum variety wheat accounted for an average of only 2.23 percent of Mexicali Valley wheat production. Although we acknowledge the possibility that growers in the Mexicali Valley may decide to raise more durum wheat in order to compete with growers in the southwestern United States, we are unaware of any market or other incentives that would propel a large-scale increase in durum production. Therefore, we do not believe that Mexicali Valley growers will increase their durum production from its current level of 2.23 percent to the levels envisioned by the commenter. For that reason, we continue to believe that the economic analysis presented in the

proposed rule adequately met its stated purpose of considering the potential effects on the domestic wheat industry of the importation of wheat from the Mexicali Valley.

Comment: The economic analysis presented in the proposed rule states that the total economic cost of wheat production in the United States averages $155 per acre and compares that to an average total economic cost of $227.60 to $247.50 in Mexico to reach a conclusion that the costs of production in the Mexicali Valley are much higher than in the United States. The actual cost of irrigated production in the southwestern United States—the area that will likely be impacted almost exclusively by the rule—is approximately $350 per acre, roughly $100 higher than Mexicali Valley production costs.

Response: As explained in the response to the previous comment, our economic analysis was based on available data, and not on the assumption that declaring the Mexicali Valley to be free from Karnal bunt would lead growers there to shift their choice of wheat variety almost exclusively to durum. Further, we could not accurately assess the costs of U.S. durum wheat production by looking exclusively at the cost of irrigated production in the southwestern United States. To gain an appreciation for the costs associated with the production of durum variety wheat in the United States, we need to consider the Northern Plains region, where approximately three quarters of U.S.-grown durum wheat is produced, and on the Pacific region, where the remaining quarter of U.S.-grown durum wheat is produced.

The average costs of wheat production in the United States were $154.52, $170.03 and $180.48 per acre in 1994, 1995, and 1996, respectively, but, as the commenter notes, wheat production costs vary by region. The production costs in the Northern Plains region, which includes North Dakota, the largest U.S. producer of durum wheat, were $143.19 per acre/$4.44 per bushel in 1994, $156.66 per acre/$5.74 per bushel in 1995, and $168.37 per acre/$6.26 per bushel in 1996. For those same years, the production costs in the Pacific region, which includes Arizona and California, were $271.07 per acre/$2.93 per bushel, $303.19 per acre/$3.31 per bushel, and $344.78 per acre/$3.65 per bushel, respectively. The production costs cited for the Northern Plains and Pacific regions are the full ownership costs and include the costs of general farm overhead, capital replacement, and land, as well as the costs of variable inputs such as seed, fertilizer, labor, etc. The higher per-acre production costs and lower per-bushel production costs in the Pacific region are attributable in large measure to the greater use of irrigation, and the resulting higher yields, in that region. For 1996, the weighted production cost for all U.S. durum-producing areas was about $211.86 per acre/$4.86 per bushel.

The 1996 average variable input cost for durum wheat production in the United States ranged from $1.95 per bushel in the Pacific region to $3.35 per bushel in the Northern Plains region; the weighted average cost for the two regions was $3.00 per bushel, compared to $2.47 to $3.54 per bushel in the Mexicali Valley.

It is important to note that the production costs cited for the Mexicali Valley in the proposed rule were for variable inputs only and did not include general farm overhead, capital replacement, and land costs, which we were unable to obtain, so the full average cost of production in the Mexicali Valley is actually higher than the figures cited. As a result, growers in the Mexicali Valley would not enjoy the $100 per acre production cost advantage envisioned by the commenter. In the unlikely event that the production share of durum wheat in the Mexicali Valley increased significantly from its current average of 2.23 percent, we consider that the economic impact of the entry of Mexicali Valley growers into direct competition with U.S. growers for the domestic durum wheat market would be minimal.

Therefore, based on the rationale set forth in the proposed rule and in this document, we are adopting the provisions of the proposal as a final rule without change.

Effective Date

This is a substantive rule that relieves restrictions and, pursuant to the provisions of 5 U.S.C. 553, may be made effective less than 30 days after publication in the **Federal Register**. This rule recognizes a wheat-growing area in the Mexicali Valley of Mexico as being free from the wheat disease Karnal bunt. This will eliminate certain restrictions on the importation into the United States of wheat seed, straw, and other wheat products from the Karnal bunt free area of the Mexicali Valley. Therefore, the Administrator of the Animal and Plant Health Inspection Service has determined that this rule should be effective upon publication in the **Federal Register**.

Executive Order 12866 and Regulatory Flexibility Act

This rule has been reviewed under Executive Order 12866. The rule has been determined to be significant for the purposes of Executive Order 12866 and, therefore, has been reviewed by the Office of Management and Budget.

This rule amends the wheat diseases regulations by recognizing a wheat-growing area within the Mexicali Valley of Mexico as being free from the wheat disease Karnal bunt. This change is based on surveys conducted by Mexican plant health authorities in that area of the Mexicali Valley since 1990 that have shown the area to be free from Karnal bunt, and on the enforcement by Mexican authorities of restrictions designed to protect the area from the introduction of Karnal bunt. This change in the regulations will remove certain restrictions on the importation into the United States of wheat seed, straw, and other wheat products from the Karnal bunt free area of the Mexicali Valley.

This rule primarily affects wheat growers in the United States. There were 292,464 farms growing wheat in the United States in 1992, and 96 percent of those farms would be considered small entities. (According to the standard set by the Small Business Administration for agricultural producers, a producer with less than $0.5 million annually in sales qualifies as a small entity.) We have, therefore, examined the potential economic impact of this rule on small entities, as required by the Regulatory Flexibility Act, and in doing so, have assessed the anticipated costs and benefits of this rule, as required by Executive Order 12866.

The United States produced an average of 2,330 million bushels of wheat per year between 1992 and 1996. Of this amount, hard red winter wheat (grown primarily in Kansas, Oklahoma, and Texas) accounted for about 39 percent of production; hard red spring wheat (grown primarily in North Dakota, Minnesota, and Montana) accounted for about 24 percent of production; soft red winter wheat (grown primarily in Missouri, Illinois, and Ohio) accounted for about 19 percent of production; white wheat (grown primarily in Washington and Oregon) accounted for about 14 percent of production; and durum wheat (grown primarily in North Dakota, Arizona, California, and Montana) accounted for about 4 percent of production.

The United States is a net exporter of wheat, accounting for about 11.4 percent of world wheat production and

approximately 32 percent of world wheat exports. Of the average 2,330 million bushels of wheat produced per year between 1992 and 1996, an average of 51 percent of that wheat was exported from the United States, while wheat imports have accounted for less than 1 percent of the total U.S. wheat supply in recent years.

Mexico produced an average of about 137 million bushels of wheat per year between 1994 and 1996, most of which was grown in the States of Baja California, Guanajuato, Sinaloa, and Sonora. Mexico is a net importer of wheat, having imported in 1996 an amount of wheat equal to about 53 percent of production while exporting less than 4 percent of production; imports made up about 35 percent of Mexico's total wheat supply in 1996.

The Mexicali Valley is located in two of Mexico's leading wheat-producing States, Baja California and Sonora. The Mexicali Valley produced 445,967 metric tons of wheat in 1995; about 53 percent (236,171 metric tons) of that wheat was shipped to markets elsewhere in Mexico. Nearly all of the Mexicali Valley's wheat is sown in October and November and harvested from late May to early July. Table 1 shows the classes of wheat grown in the Mexicali Valley between 1994 and 1996 and the average production share and use distribution of each class.

TABLE 1: WHEAT CLASS, PRODUCTION SHARE, AND USE DISTRIBUTION OF MEXICALI VALLEY WHEAT; 1994–1996 AVERAGES

Wheat class	Production share (percent)	Use distribution (percent)			
		Food	Feed	Seed	Other
Hard Red Winter	61.3	65	25	3.2	6.8
White	36.2	61.5	24.6	2.6	11.3
Durum	2.2	38.5	2.1	58.8	0.6
Soft Red Winter	0.3	33.2	13.9	36	16.9

Between 1994 and 1997, producers in the Mexicali Valley shipped an average of 9 million bushels each year to other markets in Mexico; we have used that amount in Table 2, below, as an estimate of the total amount of wheat potentially available for export to U.S. markets.

Table 2: POTENTIAL IMPACT IN THE UNITED STATES OF THE REDIRECTION OF MEXICALI VALLEY WHEAT TO U.S. MARKETS (PRICE ELASTICITY IS −0.63).

	Percentage of Mexicali Valley-origin wheat shipments diverted from other (domestic or export) markets to the U.S. market				
	20	40	60	80	100
Imports (millions of bushels)	1.8	3.6	5.4	7.2	9
Percent change in price	−0.09	−0.17	−0.27	−.036	−0.45
Percent change in quantity	−0.04	−0.08	−0.13	−0.17	−0.22
Decrease in producer surplus (millions of dollars)	(5.92)	(11.83)	(17.75)	(23.66)	(29.56)
Increase in consumer surplus (millions of dollars)	5.92	11.84	17.77	23.70	29.64
Total surplus (millions of dollars)	0.003	0.0119	0.0268	0.0477	0.0745

Table 2 summarizes the estimated economic impacts, based on a price elasticity of −0.63, in the United States of different levels of wheat exports from the Mexicali Valley and of the estimated producer losses and consumer gains that would result. For example, a 20 percent diversion of Mexicali Valley wheat production from markets in other countries or the domestic Mexican market to the United States would be expected to result in a price decrease of 0.09 percent in the United States. U.S. producers would lose about $5.92 million (which, when distributed among the 292,464 wheat farms noted above, amounts to about $20.25 per farm), while consumers would gain about the same amount, for a net benefit in this scenario of about $3,000. At the other end of the spectrum, a 100 percent diversion of Mexicali Valley wheat production from other markets to the United States would be expected to result in a price decrease of 0.45 percent in the United States. U.S. wheat producers would lose about $29.56 million (or about $101.00 per farm), while consumers would gain about $29.64 million, for a net benefit in this scenario of about $74,500. In all cases, consumer gains slightly outweigh producer losses.

How likely even a 20 percent diversion of Mexicali Valley wheat to the U.S. market will be, however, is unclear. The production area of the Mexicali Valley is closer to markets in the United States than it is to markets in central Mexico, which means that lower transportation costs may encourage Mexicali Valley producers to ship their wheat to the United States. However, the Mexican government is considering a transportation subsidy for growers in northwestern Mexico to offset the transportation advantage that growers in central Mexico have in marketing their crops in Mexico City. Such a subsidy may encourage Mexicali Valley producers to sell their wheat in Mexico.

Prices for Mexicali Valley wheat may well prove to be a determining factor with regard to the level of exports, as the costs of production in the Mexicali Valley are much higher than U.S. production costs. The cost of Mexicali Valley wheat averaged between $2.47 and $3.54 per bushel, with total economic costs (which include fertilizers, irrigation, harvest costs, interest on credit, etc.) ranging between $227.60 to $247.50 per acre. The cost of wheat grown in the United States, on the other hand, averaged $2.47 per bushel, with total economic costs averaging $155 per acre. With its higher production costs and the added cost of transportation across the border into the United States, it may prove difficult for

Mexicali Valley wheat to compete in the U.S. market.

The actual extent of any decrease in wheat prices in the United States resulting from this rule will depend to a great degree upon the size of the price elasticity of demand, the magnitude of the change in supply, and the size of the baseline price. For lower price elasticities, both losses and gains will be higher. We expect that the amount of wheat exported from the Mexicali Valley will not be large and will not, therefore, change wheat production and consumption patterns in the United States. Further, the increase in wheat supplies in the United States from an increase in imports from Mexico will likely be offset to some extent by an increase in exports of wheat from the United States to Mexico. Nevertheless, allowing the importation of wheat from the Mexicali Valley will likely have a net positive impact on the overall economy, since consumer benefits at any level of imports will be slightly higher than producer losses.

The only significant alternative to this rule was to make no changes in the wheat diseases regulations, i.e., to continue to prohibit the importation of wheat and wheat products from Mexico. We rejected that alternative because we believe that Mexico has demonstrated that the wheat-growing areas of the Mexicali Valley are free from Karnal bunt, which means that there is no longer any biological justification for that area of Mexico to be listed with the countries and localities considered to be affected with Karnal bunt. Maintaining a prohibition on the importation of wheat and wheat products from the Mexicali Valley in light of that area's demonstrated freedom from Karnal bunt would run counter to the United States' obligations under international trade agreements and would likely be challenged through the World Trade Organization. Conversely, declaring the wheat-growing areas of the Mexicali Valley free from Karnal bunt will likely have a beneficial effect on international trade in general, and trade between the United States and Mexico in particular, by reaffirming the United States' continuing commitment to using scientifically valid principles as the basis for regulation.

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 rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are inconsistent with this rule; (2) has no retroactive effect; and (3) does 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 final rule have been approved by the Office of Management and Budget (OMB). The assigned OMB control number is 0579–0132.

List of Subjects in 7 CFR Part 319

Bees, Coffee, Cotton, Fruits, Honey, Imports, Incorporation by reference, 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. 150dd, 150ee, 150ff, 151–167, 450, 2803, and 2809; 21 U.S.C. 136 and 136a; 7 CFR 2.22, 2.80, and 371.2(c).

§ 319.8–10 [Amended]

2. In Subpart—Foreign Cotton and Covers, § 319.8–10(d) is amended by removing the words ''§ 319.59 (notice of quarantine No. 59 relating to the flag smut disease)'' and adding the words ''§ 319.59–2(a)(2) of this part'' in their place, and footnote 5 and its reference in the text are removed.

§ 319.8–11 [Amended]

3. In Subpart—Foreign Cotton and Covers, § 319.8–11(a), in the introductory text of the paragraph, footnote 6 and its reference in the text are redesignated as footnote 5.

§ 319.8–17 [Amended]

4. In Subpart—Foreign Cotton and Covers, § 319.8–17(d), footnote 7 and its reference in the text are redesignated as footnote 6.

5. The authority citation for ''Subpart—Wheat Diseases'' is removed.

§ 319.59 [Amended]

6. In Subpart—Wheat Diseases, § 319.59 is amended as follows:

a. In paragraph (a), in the first sentence, the reference ''§ 319.59–2(b)'' is removed and the reference ''§ 319.59–2(c)'' is added in its place.

b. In paragraph (a), in the last sentence, the reference ''§ 319.59–2(a)'' is removed and the reference ''§ 319.59–2 (a) and (b)'' is added in its place, and the reference ''§ 319.59–2(b)'' is removed and the reference ''§ 319.59–2(c)'' is added in its place.

c. In paragraph (b), in the first sentence, the words ''abandoned by the importer for destruction'' are removed and the words ''destroyed as deemed necessary by an inspector at the expense of the importer'' are added in their place.

d. In paragraph (b), in the last sentence, the words ''abandoned for destruction by'' are removed and the words ''destroyed as deemed necessary by an inspector at the expense of'' are added in their place.

7. In Subpart—Wheat Diseases, § 319.59–2 is amended as follows:

a. In the introductory text of paragraph (a), the words ''in paragraph (b)'' are removed and the words ''in paragraph (c)'' added in their place.

b. In paragraph (a)(1)(i), the word ''*Triticums*'' is removed and the word ''*Triticum*'' added in its place.

c. Paragraph (a)(2) is revised to read as set forth below.

d. In paragraph (b)(2), the words ''(except for that portion of the Mexicali Valley described in paragraph (b)(3) of this section),'' are added after the word ''Mexico''.

e. A new paragraph (b)(3) is added to read as set forth below.

f. In paragraph (c)(2), the reference ''7 CFR 319.37–14(b)'' is removed and the reference ''§ 319.37–14(b) of this part'' added in its place.

§ 319.59–2 Prohibited articles.

(a) * * *

(2) Afghanistan, Algeria, Armenia, Australia, Azerbaijan, Bangladesh, Belarus, Bulgaria, Chile, China, Cyprus, Egypt, Estonia, Falkland Islands, Georgia, Greece, Guatemala, Hungary, India, Iran, Iraq, Israel, Italy, Japan, Kazakstan, Kyrgyzstan, Latvia, Libya, Lithuania, Moldova, Morocco, Nepal, North Korea, Oman, Pakistan, Portugal, Romania, Russia, Spain, Tajikistan, Tanzania, Tunisia, Turkey, Turkmenistan, South Africa, South Korea, Ukraine, Uzbekistan, and Venezuela.

(b) * * *

(3) The following area of the Mexicali Valley in Mexico has been determined to be free from Karnal bunt: Those portions of the municipality of Mexicali, in the State of Baja California, and the municipality of San Luis Rio Colorado, in the State of Sonora, that are included in the Distrito de Desarrollo Rural (Rural Development District) 002 Rio Colorado.

Except for wheat (*Triticum* spp.) plants, which are prohibited importation under § 319.37–2(a) (see Poaceae) of this part, any articles described in paragraph (b)(1) of this section that are from that designated area may be imported into the United States subject to the following conditions:

(i) The articles are offered for entry at the port of Calexico, CA; and

(ii) The articles offered for entry are made available for examination by an inspector and remain at the port until released, or authorized further movement pending release, by an inspector; and

(iii) The articles are accompanied by a phytosanitary certificate issued by the Mexican national plant protection organization that certifies that the articles are from the area of the Mexicali Valley described in this paragraph and remained within that area prior to and during their movement to the United States.

* * * * *

8. In Subpart—Packing Materials, § 319.69(b)(1) is revised to read as follows:

319.69 Notice of quarantine.

* * * * *

(b) * * *

(1) Cereal straw, hulls, and chaff (such as oats, barley, and rye) from all countries, except rice straw, hulls, and chaff, which are prohibited importation from all countries by paragraph (a)(1) of this section, and except wheat straw, hulls, and chaff, which are restricted importation by § 319.59 of this part from any country or locality listed in § 319.59–2 of this part.

* * * * *

Done in Washington, DC, this 4th day of June, 1998.

Charles P. Schwalbe,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 98–15337 Filed 6–4–98; 3:22 pm]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

7 CFR Part 1412

Amendment to the Production Flexibility Contract Regulations

RIN 0560–AF25

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: The Commodity Credit Corporation (CCC) is issuing its final rule with respect to the amendments to the production flexibility contract regulations published as an interim final rule in the **Federal Register** on October 23, 1997. After considering the comments received from the public, this rule adopts the interim rule as final with changes as indicated. The rule also incorporates a specific change required by the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1998, which provides that if wild rice is planted on contract acreage, the contract payment shall be reduced in an amount reflecting each contract acre planted to wild rice.

EFFECTIVE DATE: June 8, 1998.

FOR FURTHER INFORMATION CONTACT: Lynn H. Tjeerdsma, Farm Service Agency, United States Department of Agriculture, STOP 0517, 1400 Independence Avenue, SW., Washington, DC 20250–0517, telephone 202–720–6602, Internet address: ltjeerds@wdc.fsa.usda.gov.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This rule has been determined to be not significant and was not reviewed by the Office of Management and Budget (OMB).

Regulatory Flexibility Act

It has been determined that the Regulatory Flexibility Act is not applicable because CCC is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this rule.

Environmental Evaluation

An Environmental Evaluation with respect to the proposed rule has been completed. It has been determined that this action will not have significant adverse effects on environmental factors such as wildlife habitat, water quality, air quality, land use, or appearance. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

Executive Order 12988

This rule has been reviewed in accordance with Executive Order 12988. The provisions of this proposed rule preempt State laws to the extent such laws are inconsistent with the provisions of this rule. The provisions of this rule are not retroactive. Before any judicial action may be brought concerning the provisions of this rule, the administrative remedies must be exhausted.

Executive Order 12372

This program/activity is not subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials. See the Notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115 (June 24, 1983).

Paperwork Reduction Act

The amendments to 7 CFR part 1412 set forth in this rule were previously approved under OMB Control Number 0560–0092. An information collection notice was published in the **Federal Register** (62 FR 27216) on May 19, 1997. No comments were received regarding this notice. A revised information collection package has been submitted to OMB.

Executive Order 12612

It has been determined that this rule does not have sufficient Federalism implications to warrant the preparation of a Federalism Assessment. The provisions contained in this rule will not have a substantial direct effect on States or their political subdivisions or on the distribution of power and responsibilities among the various levels of Government.

Unfunded Mandates Reform Act of 1995

This rule contains no Federal mandates under the regulatory provisions of Title II of the Unfunded Mandates Reform Act of 1995 (UMBRA) for State, local, and tribal governments or the private sector. Therefore, this rule is not subject to the requirements of sections 202 and 205 of the UMBRA.

Background

On October 23, 1997, CCC published an interim rule in the **Federal Register** (62 FR 55150) to add a final date for producers to designate payment shares and provide supporting documentation to be eligible to earn contract payments in a fiscal year when payment shares have not been designated in such fiscal year; change the dates by which a producer or owner must inform county committee of changes in interest; add a final date for producers to request advance payments; clarify cash lease provisions; change the provisions for determining whether a lease is a cash lease or a share lease with respect to combination leases; and change the date by which all landowners, tenants, and sharecroppers failing to reach an agreement regarding the division of contract payments for a fiscal year must execute a contract to be eligible to receive the contract payment for that