

Proposed Rules

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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 AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 319

[Docket No. 02-058-1]

RIN 0579-AB49

Flag Smut Import Prohibitions on Wheat and Related Products

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Advance notice of proposed rulemaking and request for comments.

SUMMARY: We are soliciting public comment on whether and how we should amend the regulations regarding the importation of wheat and related items. Under these regulations, importation of wheat and related items from a number of countries and localities is currently prohibited to prevent the introduction of foreign strains of flag smut into the United States. We are considering easing restrictions on the importation of wheat and related articles from these countries and localities based on a recent risk assessment. After evaluating public comment on the issues presented in this document, we will determine whether to propose changes to our regulations.

DATES: We will consider all comments that we receive on or before April 8, 2003.

ADDRESSES: You may submit comments by postal mail/commercial delivery or by e-mail. If you use postal mail/commercial delivery, please send four copies of your comment (an original and three copies) to: Docket No. 02-058-1, 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. 02-058-1. If you use e-mail, address your comment to regulations@aphis.usda.gov. Your comment must be contained in the body of your message; do not send attached

files. Please include your name and address in your message and "Docket No. 02-058-1" on the subject line.

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.

APHIS documents published in the **Federal Register**, and related information, including the names of organizations and individuals who have commented on APHIS dockets, are available on the Internet at <http://www.aphis.usda.gov/ppd/rad/webrepor>.

FOR FURTHER INFORMATION CONTACT: Mr. Wayne Burnett, Senior Import Specialist, PPQ, APHIS, 4700 River Road Unit 140, Riverdale, MD 20737-1236; (301) 734-6799.

SUPPLEMENTARY INFORMATION:

Background

The regulations in "Subpart—Wheat Diseases" (7 CFR 319.59 through 319.59-2, referred to below as the regulations) prohibit the importation of wheat and related items into the United States from certain parts of the world to prevent the introduction of foreign strains of flag smut and Karnal bunt. This advance notice of proposed rulemaking concerns only the prohibitions on flag smut. Flag smut is a plant disease caused by a highly infective fungus, *Urocystis agropyri*, which attacks wheat and substantially reduces its yield.

Flag smut was first described in 1868 in Australian wheat fields. Affected plants within the growing crop are often severely stunted and produce excessive numbers of tillers. Unlike other bunts and smuts of wheat, flag smut does not affect the quality of harvested grain for feed or flour. Flag smut of wheat was first discovered in the United States in 1919, and a quarantine on wheat from countries having flag smut was put in effect. Until the 1930's, flag smut was a significant disease of wheat in the United States, but has recently been found only on wheat in the Pacific Northwest when seed is sown in late August and early September at depths of more than 2 inches.

To address the risk presented by foreign strains of flag smut, the regulations prohibit the importation, except by the United States Department of Agriculture under a departmental permit, of certain articles from specified countries and localities. Specifically, the regulations prohibit the importation of the following articles of *Triticum* spp. (wheat) or *Aegilops* spp. (barb goatgrass, goatgrass):

- Seeds;
- Plants;
- Straw (other than straw, with or without heads, that has been processed or manufactured for use indoors, such as for decorative purposes or for use as toys);
- Chaff; and
- Products of the milling process (*i.e.*, bran, shorts, thistle sharps, and pollards) other than flour.

The regulations also prohibit the importation of seeds of *Melilotus indica* (annual yellow sweetclover) and seeds of any other field crops that have been separated from wheat during the screening process.

The countries and localities from which the importation of those articles is prohibited are listed in § 319.59-2(a)(2) of the regulations. The listed countries and localities are: 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, Kazakhstan, 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.

We recently evaluated the need for continuing the prohibitions to protect against foreign strains of flag smut. We are considering removing these prohibitions because a risk assessment we have prepared regarding flag smut indicates: (1) Flag smut exists in the United States in only two counties in the Pacific Northwest; (2) there is no evidence that foreign strains of flag smut differ genetically from strains present in the United States or that they pose more risk than domestic strains to wheat production in the United States; (3) we do not currently regulate the interstate