

# Rules and Regulations

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## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

#### 7 CFR Part 301

[Docket No. 01-058-2]

#### Karnal Bunt; Regulated Areas

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

**ACTION:** Affirmation of interim rule as final rule.

**SUMMARY:** We are adopting as a final rule, without change, an interim rule that amended the Karnal bunt regulations by adding Throckmorton and Young Counties in Texas to the list of regulated areas. The interim rule, which followed the detection of bunted kernels in grain grown in this area, was necessary to prevent the spread of Karnal bunt to noninfected areas of the United States.

**EFFECTIVE DATE:** The interim rule became effective June 8, 2001.

**FOR FURTHER INFORMATION CONTACT:** Dr. Vedpal S. Malik, National Karnal Bunt Coordinator, PPQ, APHIS, 4700 River Road Unit 134, Riverdale, MD 20737-1231; (301) 734-6774.

#### SUPPLEMENTARY INFORMATION:

##### Background

In an interim rule effective June 8, 2001, and published in the **Federal Register** on June 14, 2001 (66 FR 32209-32210, Docket No. 01-058-1), we amended the Karnal bunt regulations in 7 CFR 301.89-3 by adding Throckmorton and Young Counties, in their entirety, to the list of regulated areas in Texas. This action was necessary due to the detection of bunted kernels in grain grown in this area.

Comments on the interim rule were required to be received on or before August 13, 2001.

We did not receive any comments. Therefore, for the reasons given in the interim rule, we are adopting the interim rule as a final rule.

This action also affirms the information contained in the interim rule concerning Executive Orders 12866, 12372, and 12988 and the Paperwork Reduction Act.

Further, for this action, the Office of Management and Budget has waived the review process required by Executive Order 12866.

#### Regulatory Flexibility Act

This rule affirms an interim rule that amended the Karnal bunt regulations by adding Throckmorton and Young Counties, TX, to the list of regulated areas. As a result of that action, the interstate movement of regulated articles from those areas is restricted.

The Regulatory Flexibility Act requires that agencies consider the economic effects of their rules on small businesses, organizations, and governmental jurisdictions. The entities most likely to have been affected by the interim rule are wheat producers. The size of these entities is unknown. It is reasonable to assume, however, that most have gross annual receipts of less than \$750,000 and are, therefore, small in size according to the U.S. Small Business Administration's criteria. This assumption is based on composite data from the 1997 Census of Agriculture, which reports that wheat was harvested for grain from 1,042 acres on 141 farms in Throckmorton County in 1997; that grain had a market value of \$4.785 million. In Young County, wheat was harvested for grain from 50,872 acres on 194 farms in 1997; that grain had a market value of \$4,063 million.

Producers in regulated areas may grow Karnal bunt host crops, but the wheat, durum wheat, or triticale must be tested for Karnal bunt before the harvested crop is moved from the field in which it was grown. This required testing is provided to producers free of charge. Negative-testing grain may be moved out of the regulated area without restriction. Grain found to contain bunted kernels may be moved outside a regulated area only under a limited permit and only to a specified destination for specified handling, utilization, or processing that will mitigate the Karnal bunt risk associated with the grain.

Compensation has been made available to producers in regulated areas to address the loss in value of positive-testing grain. As the 2000-2001 crop season was the first regulated crop season for Throckmorton and Young Counties, producers there were eligible for compensation payments of up to \$1.80 per bushel. Those payments have, in many cases, already been made to producers affected by the detection of Karnal bunt in Throckmorton and Young Counties, thus limiting the negative effects of Karnal bunt infection and the subsequent regulatory restrictions intended to prevent the further spread of the disease.

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.

#### List of Subjects in 7 CFR Part 301

Agricultural commodities, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Transportation.

#### PART 301—DOMESTIC QUARANTINE NOTICES

Accordingly, we are adopting as a final rule, without change, the interim rule that amended 7 CFR part 301 and that was published at 66 FR 32209-32210 on June 14, 2001.

**Authority:** 7 U.S.C. 166, 7711, 7712, 7714, 7731, 7735, 7751, 7752, 7753, and 7754; 7 CFR 2.22, 2.80, and 371.3.

Section 301.75-15 also issued under Sec. 204, Title II, Pub. L. 106-113, 113 Stat. 1501A-293; sections 301.75-15 and 301.75-16 also issued under Sec. 203, Title II, Pub. L. 106-224, 114 Stat. 400 (7 U.S.C. 1421 note).

Done in Washington, DC this 29th day of January, 2002.

**W. Ron DeHaven,**

*Acting Administrator, Animal and Plant Health Inspection Service.*

[FR Doc. 02-2603 Filed 2-1-02; 8:45 am]

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