

completed at the end of the extended appraisal period.

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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. 96-016-26]

RIN 0579-AA83

Karnal Bunt; Additions to Regulated Areas

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule and request for comments.

SUMMARY: We are amending the Karnal bunt regulations by adding portions of McCulloch, Mills, and San Saba Counties, TX, to the list of regulated areas and by expanding the boundaries of the regulated areas in La Paz, Maricopa, and Pinal Counties, AZ, due to the detection of Karnal bunt in those new areas. This action is necessary on an emergency basis to prevent the spread of Karnal bunt into noninfested areas of the United States.

DATES: Interim rule effective November 18, 1997. Consideration will be given only to comments received on or before December 24, 1997.

ADDRESSES: Please send an original and three copies of your comments to Docket No. 96-016-26, Regulatory Analysis and Development, PPD, APHIS, suite 3C03, 4700 River Road Unit 118, Riverdale, MD 20737-1238. Please state that your comments refer to Docket No. 96-016-26. Comments received may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect comments are requested to call ahead on (202) 690-2817 to facilitate entry into the comment reading room.

FOR FURTHER INFORMATION CONTACT: Mr. Mike Stefan, Operations Officer, Domestic and Emergency Operations, PPQ, APHIS, 4700 River Road Unit 134, Riverdale, MD 20737-1236, (301) 734-8247.

SUPPLEMENTARY INFORMATION: Karnal bunt is a fungal disease of wheat (*Triticum aestivum*), durum wheat (*Triticum durum*), and triticale

(*Triticum aestivum* X *Secale cereale*), a hybrid of wheat and rye. Karnal bunt is caused by the smut fungus *Tilletia indica* (Mitra) Mundkur and is spread by spores, primarily through the movement of infected seed. In the absence of measures taken by the U.S. Department of Agriculture (USDA) to prevent its spread, the establishment of Karnal bunt in the United States could have significant consequences with regard to the export of wheat to international markets. The regulations regarding Karnal bunt are set forth in 7 CFR 301.89-1 through 301.89-14.

The regulations in § 301.89-3(a) provide that the Administrator of the Animal and Plant Health Inspection Service will regulate each State, or each portion of a State, in which Karnal bunt, or any stage of development of *T. indica*, is present or in which circumstances exist that make it reasonable to believe that Karnal bunt is present. We currently require that a bunted wheat kernel be found in or associated with a field before an area will be designated a regulated area. A field's association with a bunted wheat kernel will be established when it has been determined that: (1) A bunted wheat kernel was found in the field during surveys; (2) seed from a lot contaminated with a bunted wheat kernel was planted in the field; or (3) the field was found during surveys to contain spores consistent with Karnal bunt and has been determined to be associated with grain at a handling facility containing a bunted wheat kernel.

The regulations in § 301.89-3(b) provide that less than an entire State will be designated as a regulated area only if the Administrator determines that the State has adopted and is enforcing restrictions on the intrastate movement of regulated articles that are equivalent to those imposed by the regulations on the interstate movement of regulated articles, and the designation of less than the entire State as a quarantined area will prevent the spread of Karnal bunt. The Administrator may also designate less than an entire State as a regulated area by exercising his or her extraordinary emergency authority under 7 U.S.C. 150dd when it is determined that a State is not taking adequate measures to prevent the spread of Karnal bunt.

Under § 301.89-3(e) of the regulations, a regulated area is further subdivided into areas classified as either restricted areas or surveillance areas. Restricted areas are further divided into restricted areas for seed and restricted areas for regulated articles other than seed. Restricted areas for seed are

generally larger than restricted areas for regulated articles other than seed and surveillance areas, and will encompass both.

A restricted area for seed is a distinct definable area that includes at least one field that has been: (1) Found during survey to contain a bunted wheat kernel; (2) planted with seed from a lot found to contain a bunted wheat kernel; or (3) found during survey to contain spores consistent with Karnal bunt and has been determined to be associated with grain at a handling facility containing a bunted wheat kernel.

Individual fields associated with a bunted wheat kernel, such as bunted kernels from a handling facility, are designated as restricted areas for regulated articles other than seed. The identity of those fields is determined using the same criteria discussed above with regard to restricted areas for seed, but it is the field itself, without any adjacent areas, that is designated as the restricted area for regulated articles other than seed.

A surveillance area is an area that includes at least one field that was either found during survey to contain a bunted wheat kernel, or that was found to contain spores consistent with Karnal bunt and has been determined to be associated with grain at a handling facility containing a bunted wheat kernel.

All Karnal bunt host crops are prohibited from being planted in an area restricted for the movement of regulated articles other than seed. Under the regulations, a surveillance area surrounds an area restricted for the movement of regulated articles other than seed. While Karnal bunt host crops may be planted in the surveillance area, they may not be used for seed. Surrounding and encompassing the surveillance area is an area where the movement of seed is restricted unless certain conditions are met.

Recently, during surveys conducted as part of the National Karnal Bunt Survey, bunted wheat kernels were detected in areas of Texas that lie outside the regulated area in that State, and in fields in Arizona that are within the State's regulated area but outside of the established restricted areas for regulated articles other than seed and surveillance areas.

Therefore, in accordance with the criteria described above, we are amending the regulations to reflect those recent detections of bunted wheat kernels. Specifically, in Texas we are designating 17 fields in San Saba County as restricted areas for regulated articles other than seed; designating portions of McCulloch and Mills

Counties and all of San Saba County as restricted areas for seed; and designating portions of McCulloch, Mills, and San Saba Counties as surveillance areas. In Arizona, we are designating four fields—two in Maricopa County and one each in La Paz and Pinal Counties—as restricted areas for regulated articles other than seed and designating additional portions of those three counties as surveillance areas. The description of surveillance areas in La Paz, Maricopa, and Pinal Counties, AZ, has also been amended to make the boundary lines of the surveillance areas more accurate by removing nonagricultural acreage and areas outside the 3-mile radius used to establish the surveillance areas in Arizona. The boundaries of the new regulated areas in Texas and Arizona are set forth in the description of regulated areas contained in § 301.89–3(f) in the rule portion of this document.

Immediate Action

The Administrator of the Animal and Plant Health Inspection Service has determined that there is good cause for publishing this interim rule without prior opportunity for public comment. Immediate action is necessary to prevent Karnal bunt from spreading to noninfested areas of the United States.

Because prior notice and other public procedures with respect to this action are impracticable and contrary to the public interest under these conditions, we find good cause under 5 U.S.C. 553 to make it effective upon signature. We will consider comments that are received within 60 days of publication of this rule in the **Federal Register**. After the comment period closes, we will publish another document in the **Federal Register**. It will include a discussion of any comments we receive and any amendments we are making to the rule as a result of the comments.

Executive Order 12866 and Regulatory Flexibility Act

This rule has been reviewed under Executive Order 12866. For this action, the Office of Management and Budget has waived its review process required by Executive Order 12866.

This interim rule amends the Karnal bunt regulations by adding portions of McCulloch, Mills, and San Saba Counties, TX, to the list of regulated areas and by expanding the boundaries of the regulated areas in La Paz, Maricopa, and Pinal Counties, AZ, due to the detection of Karnal bunt in those new areas. This action is necessary on an emergency basis to prevent the spread of Karnal bunt into noninfested areas of the United States. This action

imposes certain restrictions on the movement of regulated articles from regulated areas.

This emergency situation makes compliance with section 603 and timely compliance with section 604 of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) impracticable. If we determine that this rule would have a significant economic impact on a substantial number of small entities, then we will discuss the issues raised by section 604 of the Regulatory Flexibility Act in our Final Regulatory Flexibility Analysis.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

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 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), and there are no new requirements. The assigned OMB control number is 0579–0121.

List of Subjects in 7 CFR Part 301

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

Accordingly, 7 CFR part 301 is amended as follows:

PART 301—DOMESTIC QUARANTINE NOTICES

1. The authority citation for part 301 continues to read as follows:

Authority: 7 U.S.C. 147a, 150bb, 150dd, 150ee, 150ff, 161, 162, and 164–167; 7 CFR 2.22, 2.80, and 371.2(c).

2. In § 301.89–3, paragraph (f) is amended as follows:

a. Under the heading “Arizona”, in paragraph (2), the entries for La Paz County, Maricopa County, and Pinal County are amended by adding, in numerical order, the field numbers set

forth below, and paragraph (3) is revised to read as set forth below.

b. Under the heading “Texas”, in paragraph (1), entries for McCulloch County, Mills County, and San Saba County are added, in alphabetical order, to read as set forth below; in paragraph (2), an entry for San Saba County is added, in alphabetical order, to read as set forth below; and paragraph (3) is revised to read as set forth below.

§ 301.89–3 Regulated areas.

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(f) * * *

Arizona

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(2) * * *

La Paz County.

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319052007

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Maricopa County.

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302112806

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316150301

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Pinal County.

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315221403

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(3) Surveillance areas.

La Paz County. Beginning at the northwest corner of sec. 6, T. 7 N., R. 21 W.; then east to the northeast corner of sec. 1, T. 7 N., R. 21 W.; then south to the southeast corner of sec. 1, T. 6 N., R. 21 W.; then west to the southwest corner of sec. 6, T. 6 N., R. 21 W.; then north to the point of beginning; and

Beginning at the northeast corner of sec. 22, T. 6 N., R. 21 W.; then south to the southeast corner of sec. 34, T. 5 N., R. 21 W.; then west to the Colorado River; then north along the Colorado River to the northern side of sec. 21, T. 6 N., R. 22 W.; then east to the point of beginning.

Maricopa County. Beginning at the southeast corner of sec. 36, T. 1 N., R. 1 E.; then west to the southwest corner of sec. 31, T. 1 N., R. 1 E.; then north to the northwest corner of sec. 19, T. 2 N., R. 1 E.; then west to the northeast corner of sec. 20, T. 2 N., R. 1 W.; then south to the southeast corner of sec. 29, T. 2 N., R. 1 W.; then west to the south center of sec. 28, T. 2 N., R. 2 W.; then north to the north center of sec. 33, T. 3 N., R. 2 W.; then east to the northeast corner of sec. 36, T. 3 N., R. 2 W.; then north to the northwest corner of sec. 6, T. 3 N., R. 1 W.; then east to the northeast corner of sec. 1, T. 3 N., R. 1 W.; then south to the northeast corner of sec. 24, T. 3 N., R. 1 W.; then east to

the northeast corner of sec. 24, T. 3 N., R. 1 E.; then south to the point of beginning;

Beginning at the southwest corner of sec. 1, T. 1 S., R. 5 W.; then north along the Hassayampa River to sec. 10, T. 1 N., R. 5 W.; then east to the north center of sec. 16, T. 1 N., R. 4 W.; then south to the southeast corner of sec. 4, T. 1 S., R. 4 W.; then west to the point of beginning; and

Beginning at the southeast corner of sec. 36, T. 2 S., R. 5 E.; then west to the southwest corner of sec. 32, T. 2 S., R. 5 E.; then north to the northwest corner of sec. 20, T. 1 S., R. 5 E.; then east to the northwest corner of sec. 20, T. 1 S., R. 6 E.; then north to the northwest corner of sec. 8, T. 1 S., R. 6 E.; then east to the northeast corner of sec. 12, T. 1 S., R. 6 E.; then south to the southeast corner of sec. 1, T. 2 S., R. 6 E.; then west to the southwest corner of sec. 6, T. 2 S., R. 6 E.; then south to the point of beginning.

Pinal County. Beginning at the southwest corner of sec. 31, T. 5 S., R. 4 E.; then west to the southwest corner of sec. 33, T. 5 S., R. 3 E.; then north to the northwest corner of sec. 33, T. 5 S., R. 3 E.; then west to the southwest corner of sec. 26, T. 5 S., R. 2 E.; then north to the west center of sec. 14, T. 4 S., R. 2 E.; then east to the east center of sec. 14, T. 4 S., R. 3 E.; then south to the northeast corner of sec. 2, T. 5 S., R. 3 E.; then east to the northeast corner of sec. 6, T. 5 S., R. 4 E.; then south to the point of beginning.

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Texas

(1) * * *

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McCulloch County. Beginning at the McCulloch/San Saba County line and the line of latitude 31.232299 N.; then west along the line of latitude 31.232299 N. to the line of longitude -99.134731 W.; then north along the line of longitude -99.134731 W. to the line of latitude 31.283487 N.; then east along the line of latitude 31.283487 N. to the McCulloch/San Saba County line; then south along the McCulloch/San Saba County line to the point of beginning.

Mills County. Beginning at the Mills/San Saba County line and the line of latitude 31.310619 N.; then east along the line of latitude 31.310619 N. to the line of longitude -98.743705 W.; then south along the line of longitude -98.743705 W. to the Mills/San Saba County line; then west and north along the Mills/San Saba County line to the point of beginning.

San Saba County. The entire county,

(2) * * *

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San Saba County.

40104 3201
40111 2801
40111 3301
40112 1901
40112 1902
40112 1903
40112 2001
40112 2101
40112 3301
40112 3401
40113 2302
40113 2401
40113 2405
40113 2406
40113 3301
40115 0701
40115 1601

(3) *Surveillance areas.*

McCulloch County. Beginning at the McCulloch/San Saba County line and the line of latitude 31.232299 N.; then west along the line of latitude 31.232299 N. to the line of longitude -99.134731 W.; then north along the line of longitude -99.134731 W. to the line of latitude 31.283487 N.; then east along the line of latitude 31.283487 N. to the McCulloch/San Saba County line; then south along the McCulloch/San Saba County line to the point of beginning.

Mills County. Beginning at the Mills/San Saba County line and the line of latitude 31.310619 N.; then east along the line of latitude 31.310619 N. to the line of longitude -98.743705 W.; then south along the line of longitude -98.743705 W. to the Mills/San Saba County line; then west and north along the Mills/San Saba County line to the point of beginning.

San Saba County. Beginning at the San Saba/Mills County line and the line of longitude -98.743705 W.; then south along the line of longitude -98.743705 W. to the line of latitude 31.167959 N.; then west along the line of latitude 31.167959 N. to the line of longitude -98.903233 W.; then north along the line of longitude -98.903233 W. to the line of latitude 31.310819 N.; then east along the line of latitude 31.310819 N. to the San Saba/Mills County line; then south along the San Saba/Mills County line to the point of beginning; and

Beginning at the San Saba/McCulloch County line and the line of latitude 31.283487 N.; then east along the line of latitude 31.283487 N. to the line of longitude -99.063487 W.; then south along the line of longitude -99.063487 W. to the line of latitude 31.232299 N.; then west along the line of latitude 31.232299 N. to the San Saba/McCulloch County line; then north along the San Saba/McCulloch County line to the point of beginning.

Done in Washington, DC, this 18th day of November 1997.

Terry L. Medley,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 97-30784 Filed 11-21-97; 8:45 am]

BILLING CODE 3410-34-P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 931

[Docket No. FV97-931-2 FIR]

Fresh Bartlett Pears Grown in Oregon and Washington; Reduced Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Department of Agriculture (Department) is adopting as a final rule, without change, the provisions of an interim final rule which decreased the assessment rate established for the Fresh Bartlett Pear Marketing Committee (Committee) under Marketing Order No. 931 for the 1997-98, and subsequent fiscal periods. The Committee is responsible for local administration of the marketing order which regulates the handling of fresh Bartlett pears grown in Oregon and Washington. Authorization to assess fresh Bartlett pear handlers enables the Committee to incur expenses that are reasonable and necessary to administer the program. The 1997-98 fiscal period began July 1 and ends June 30. The assessment rate will continue in effect indefinitely unless modified, suspended, or terminated.

EFFECTIVE DATE: December 24, 1997.

FOR FURTHER INFORMATION CONTACT:

Teresa L. Hutchinson, Northwest Marketing Field Office, Fruit and Vegetable Programs, AMS, USDA, 1220 SW Third Avenue, Room 369, Portland, OR 97204; telephone: (503) 326-2724, Fax: (503) 326-7440 or George J. Kelhart, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, Room 2525-S, P.O. Box 96456, Washington, DC 20090-6456; telephone: (202) 720-2491, Fax: (202) 205-6632. Small businesses may request information on compliance with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, Room 2525-S, P.O. Box 96456, Washington, DC 20090-6456; telephone: (202) 720-2491, Fax: (202) 205-6632.