

# Rules and Regulations

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## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

#### 7 CFR Part 301

[Docket No. APHIS–2009–0036]

#### 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 to remove certain areas or fields in Riverside County, CA, from the list of regulated areas based on our determination that those areas or fields meet our criteria for release from regulation of Karnal bunt, a fungal disease of wheat. This interim rule relieved restrictions on certain areas or fields that are no longer necessary.

**DATES:** Effective on **December 18, 2009**, we are adopting as a final rule the interim rule that was published at 74 FR 26774–26777 on June 4, 2009, and that was corrected in a document that was published at 74 FR 27423 on June 10, 2009.

**FOR FURTHER INFORMATION CONTACT:** Ms. Lynn Evans-Goldner, Karnal Bunt Program Manager, Plant Pathogen and Weed Programs, EDP, PPQ, APHIS, 4700 River Road Unit 26, Riverdale, MD 20737–1236; (301) 734–7228.

#### SUPPLEMENTARY INFORMATION:

##### Background

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 fungus *Tilletia indica* (Mitra) Mundkur and is spread

primarily through the planting of infected seed followed by very specific environmental conditions matched during specific stages of wheat growth. The U.S. Department of Agriculture's Animal and Plant Health Inspection Service (APHIS) regulates the movement of articles in the United States that could spread Karnal bunt and works toward eventual eradication of Karnal bunt through bio-sanitary measures.

In an interim rule<sup>1</sup> effective and published in the **Federal Register** on June 4, 2009 (74 FR 26774–26777, Docket No. APHIS–2009–0036), we amended the Karnal bunt regulations contained in 7 CFR 301.89–1 through 301.89–16 by removing certain areas or fields in Riverside County, CA, from the list of regulated areas in § 301.89–3(g). That action was based on our determination that these fields or areas are eligible for release from regulation under the criteria in § 301.89–3(f). The interim rule relieved restrictions on fields within those areas that were no longer necessary. As a result of the interim rule, 286 fields and 8,226 acres were removed from the list of regulated areas in Riverside County, CA; 35,271 acres in Riverside County remain regulated for Karnal bunt.

Comments on the interim rule were required to be received on or before August 3, 2009. We received one comment by that date, from a wheat industry organization. The commenter supported the interim rule. Therefore, for the reasons given in the interim rule, we are adopting the interim rule as a final rule without change.

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

Further, for this action, the Office of Management and Budget has waived its review under Executive Order 12866.

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

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

<sup>1</sup> To view the interim rule, a correction to the interim rule, and the comment we received, go to (<http://www.regulations.gov/fdmspublic/component/main?main=DocketDetail&d=APHIS-2009-0036>).

## PART 301—DOMESTIC QUARANTINE NOTICES

■ Accordingly, we are adopting as a final rule, without change, the interim rule amending 7 CFR part 301 that was published at 74 FR 26774–26777 on June 4, 2009, and that was corrected in a document that was published at 74 FR 27423 on June 10, 2009.

Done in Washington, DC, this 11<sup>th</sup> day of December 2009.

Kevin Shea,

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

[FR Doc. E9–30130 Filed 12–17–09; 8:45 am]

BILLING CODE: 3410–34–S

## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

#### 9 CFR Part 77

[Docket No. APHIS–2009–0046]

#### Tuberculosis in Cattle and Bison; State and Zone Designations; Michigan

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

**ACTION:** Interim rule and request for comments.

**SUMMARY:** We are amending the bovine tuberculosis regulations to adjust the boundaries of the modified accredited and modified accredited advanced tuberculosis risk classification zones for the State of Michigan. We have determined that Antrim, Charlevoix, Cheboygan, Crawford, Emmet, and Otsego Counties, MI, which are currently designated as modified accredited, now meet our requirements for modified accredited advanced status. Therefore, we are removing these six counties from the list of modified accredited zones and adding them to the list of modified accredited advanced zones. This action lessens restrictions on the interstate movement of cattle and bison from these areas of Michigan.

**DATES:** This interim rule is effective **December 18, 2009**. We will consider all comments that we receive on or before **February 16, 2010**.

**Compliance Date:** The date for complying with the identification requirements for sexually intact heifers moving from the modified accredited

advanced zone in Michigan to approved feedlots and for steers and spayed heifers moving from the modified accredited advanced zone in Michigan to any destination (9 CFR 77.10(b)), and for complying with the identification and certification requirements for sexually intact heifers moving from the modified accredited advanced zone in Michigan to unapproved feedlots (9 CFR 77.10(d)), is delayed until further notice. The compliance date for all other provisions in 9 CFR part 77 applicable to the interstate movement of cattle and bison from the State of Michigan is **December 18, 2009**.

**ADDRESSES:** You may submit comments by either of the following methods:

- Federal eRulemaking Portal: Go to (<http://www.regulations.gov/fdmspublic/component/main?main=DocketDetail&d=APHIS-2009-0046>) to submit or view comments and to view supporting and related materials available electronically.

- Postal Mail/Commercial Delivery: Please send two copies of your comment to Docket No. APHIS-2009-0046, Regulatory Analysis and Development, PPD, APHIS, Station 3A-03.8, 4700 River Road Unit 118, Riverdale, MD 20737-1238. Please state that your comment refers to Docket No. APHIS-2009-0046.

**Reading Room:** 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.

**Other Information:** Additional information about APHIS and its programs is available on the Internet at (<http://www.aphis.usda.gov>).

**FOR FURTHER INFORMATION CONTACT:** Dr. C. William Hench, Senior Staff Veterinarian, Eradication and Surveillance Team, National Center for Animal Health Programs, VS, APHIS, 2150 Centre Avenue, Building B-3E20, Fort Collins, CO 80526-8117; (970) 494-7378.

#### SUPPLEMENTARY INFORMATION:

##### Background

Bovine tuberculosis is a contagious and infectious granulomatous disease caused by the bacterium *Mycobacterium bovis*. Although commonly defined as a chronic debilitating disease, bovine tuberculosis can occasionally assume an acute, rapidly progressive course. While

any body tissue can be affected, lesions are most frequently observed in the lymph nodes, lungs, intestines, liver, spleen, pleura, and peritoneum. Although cattle are considered to be the true hosts of *M. bovis*, the disease has been reported in several other species of both domestic and nondomestic animals, as well as in humans.

At the beginning of the past century, tuberculosis caused more losses of livestock than all other livestock diseases combined. This prompted the establishment in the United States of the National Cooperative State/Federal Bovine Tuberculosis Eradication Program for tuberculosis in livestock.

In carrying out the national eradication program, the Animal and Plant Health Inspection Service (APHIS) issues and enforces regulations. The regulations require the testing of cattle and bison for tuberculosis, define the Federal tuberculosis status levels for States or zones (accredited-free, modified accredited advanced, modified accredited, accreditation preparatory, and nonaccredited), provide the criteria for attaining and maintaining those status levels, and contain testing and movement requirements for cattle and bison leaving States or zones of a particular status level. These regulations are contained in 9 CFR part 77 (referred to below as the regulations) and in the Bovine Tuberculosis Eradication Uniform Methods and Rules, 1999 (UMR), which is incorporated by reference into the regulations. The regulations restrict the interstate movement of cattle, bison, and captive cervids to prevent the spread of tuberculosis. Subpart B of the regulations contains requirements for the interstate movement of cattle and bison not known to be infected with or exposed to tuberculosis. The interstate movement requirements depend upon whether the animals are moved from an accredited-free State or zone, modified accredited advanced State or zone, modified accredited State or zone, accreditation preparatory State or zone, or nonaccredited State or zone.

##### Request for Boundary Adjustment of Modified Accredited Advanced Zone in Michigan

The status of a State or zone is based on its freedom from evidence of tuberculosis in cattle and bison, the effectiveness of the State's tuberculosis eradication program, and the degree of the State's compliance with the standards for cattle and bison contained in the UMR. In addition, the regulations allow that a State may request split-State status via partitioning into specific geographic regions or zones with

differential status designations if bovine tuberculosis is detected in a portion of a State and the State demonstrates that it meets certain criteria with regard to zone classification.

The State of Michigan is currently divided into three zones with different classifications. The first zone, which is classified as accredited-free, is comprised of an area in Michigan known as the Upper Peninsula that comprises Alger, Baraga, Chippewa, Delta, Dickinson, Gogebic, Houghton, Iron, Keweenaw, Luce, Mackinac, Marquette, Menominee, Ontonagon, and Schoolcraft Counties. The second zone, which is classified as modified accredited, comprises Alcona, Alpena, Antrim, Charlevoix, Cheboygan, Crawford, Emmet, Montmorency, Oscoda, Otsego, and Presque Isle Counties and those portions of Iosco and Ogemaw Counties that are north of the southernmost boundary of the Huron National Forest and the Au Sable State Forest. The third zone covers the remainder of the State and is classified as modified accredited advanced.

We have received a request from the State of Michigan for an addition to the modified accredited advanced zone. Specifically, State animal health officials asked that the status of Antrim, Charlevoix, Cheboygan, Crawford, Emmet, and Otsego Counties be raised from modified accredited to modified accredited advanced. In their request, Michigan officials demonstrated to APHIS that the counties listed above meet the criteria for modified accredited advanced status set forth in the definition of *modified accredited advanced State or zone* in § 77.5 of the regulations, which provides that the Administrator may allow a State or zone with fewer than 30,000 herds to have up to 3 affected herds for each of the most recent 2 years. The six counties listed in Michigan's status upgrade request contain a total of 570 herds of cattle and bison. In accordance with the regulations, Michigan has demonstrated that each of these counties, which have been classified as modified accredited, has had fewer than 3 affected herds for each of the most recent 2 years. Additionally, the State complies with the conditions of the UMR.

Based on our evaluation of Michigan's request in light of the criteria set forth in the regulations, we have determined that Antrim, Charlevoix, Cheboygan, Crawford, Emmet, and Otsego Counties meet the requirements listed in the regulations for modified accredited advanced status. Therefore, we are classifying those counties as modified accredited advanced and removing them

from Michigan's modified accredited zone.

#### Immediate Action

Immediate action is warranted to relieve restrictions on the interstate movement of cattle and bison from the newly classified modified accredited advanced zone in Michigan. Under these circumstances, the Administrator has determined that prior notice and opportunity for public comment are contrary to the public interest and that there is good cause under 5 U.S.C. 553 for making this action effective less than 30 days after publication in the **Federal Register**.

We will consider comments we receive during the comment period for this interim rule (see **DATES** above). After the comment period closes, we will publish another document in the **Federal Register**. The document will include a discussion of any comments we receive and any amendments we are making to the rule.

#### Executive Order 12866 and Regulatory Flexibility Act

For this action, the Office of Management and Budget has waived its review under Executive Order 12866.

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. The full analysis may be viewed on the Regulations.gov Web site (see **ADDRESSES** above for instructions for accessing Regulations.gov) or obtained from the person listed under **FOR FURTHER INFORMATION CONTACT**.

Michigan currently has three bovine tuberculosis status zones: Accredited-free, modified accredited advanced, and modified accredited. This rule will reclassify six counties from modified accredited to modified accredited advanced. The elevation of an area to modified accredited advanced status from modified accredited status removes certain interstate movement and whole herd bovine tuberculosis testing requirements. Cattle owners will benefit from time savings and reduced costs associated with bovine tuberculosis testing. The annual cost savings to all producers could be between \$266,000 and \$400,000. However, the six counties covered in this rule account for less than 4 percent of cattle operations and less than 2 percent of the total number of cattle in the State of Michigan. In addition, bovine tuberculosis testing costs are about 1 percent or less of the value of the cattle tested. Thus, the expected savings will be relatively small.

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 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) Has no retroactive effect and (2) does not require administrative proceedings before parties may file suit in court challenging this rule.

#### Paperwork Reduction Act

This rule contains no new information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.).

#### List of Subjects in 9 CFR Part 77

Animal diseases, Bison, Cattle, Reporting and recordkeeping requirements, Transportation, Tuberculosis.

■ Accordingly, we are amending 9 CFR part 77 as follows:

#### PART 77—TUBERCULOSIS

■ 1. The authority citation for part 77 continues to read as follows:

**Authority:** 7 U.S.C. 8301-8317; 7 CFR 2.22, 2.80, and 371.4.

■ 2. In § 77.11, paragraph (b)(1) is revised to read as follows:

#### § 77.11 Modified accredited States or zones.

\* \* \* \* \*

(b) \* \* \*

(1) A zone in Michigan that comprises Alcona, Alpena, Montmorency, Oscoda, and Presque Isle Counties and those portions of Iosco and Ogemaw Counties that are north of the southernmost boundary of the Huron National Forest and the Au Sable State Forest.

\* \* \* \* \*

Done in Washington, DC, this 11<sup>th</sup> day of December 2009.

**Kevin Shea,**

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

[FR Doc. E9-30128 Filed 12-17-09; 7:31 am]

**BILLING CODE:** 3410-34-S

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### 26 CFR Part 1

[TD 9475]

RIN 1545-BF83

#### Corporate Reorganizations; Distributions Under Sections 368(a)(1)(D) and 354(b)(1)(B)

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Final regulations and removal of temporary regulations.

**SUMMARY:** This document contains final regulations under section 368 of the Internal Revenue Code (Code). The regulations provide guidance regarding the qualification of certain transactions as reorganizations described in section 368(a)(1)(D) where no stock and/or securities of the acquiring corporation is issued and distributed in the transaction. This document also contains final regulations under section 358 that provide guidance regarding the determination of the basis of stock or securities in a reorganization described in section 368(a)(1)(D) where no stock and/or securities of the acquiring corporation is issued and distributed in the transaction. This document also contains final regulations under section 1502 that govern reorganizations described in section 368(a)(1)(D) involving members of a consolidated group. These regulations affect corporations engaging in such transactions and their shareholders.

**DATES:** *Effective Date:* These regulations are effective on *December 18, 2009*.

*Applicability Date:* For dates of applicability, see § 1.368-2(l)(4)(i).

**FOR FURTHER INFORMATION CONTACT:** Bruce A. Decker, (202) 622-7790 (not a toll-free number).

#### SUPPLEMENTARY INFORMATION:

#### Background

The Code provides general nonrecognition treatment for reorganizations specifically described in section 368(a). Section 368(a)(1)(D) describes as a reorganization a transfer by a corporation (transferor corporation) of all or a part of its assets to another corporation (transferee corporation) if, immediately after the transfer, the transferor corporation or one or more of its shareholders (including persons who were shareholders immediately before the transfer), or any combination thereof, is in control of the transferee corporation; but only if stock or securities of the controlled corporation