

(4) Make a financial contribution to a political party, partisan political group, or to the campaign committee of a candidate for partisan political office.

(b) Subject to the provisions in § 734.406, an employee covered under this subpart may make a financial contribution to a political action committee through a voluntary allotment made under § 550.311(b) of this chapter if the head of the employee's agency permits agency employees to make such allotments to political action committees.

(c) An employee who is covered under this subpart and is a payroll official in an agency where employees are permitted to make allotments to political action committees may process the completed direct deposit forms for voluntary allotments which have been made to such committees under § 550.311(b) of this chapter.

*Example 1:* An employee, or a noncareer SES employee who is subject to subpart D of part 734, may attend a political convention or rally solely as a spectator. However, the employee and noncareer SES employee may not participate in demonstrations or parades which are sponsored by a political party, a partisan political group, or an individual who is running for nomination to be a candidate for partisan political office.

*Example 2:* An employee may attend a political party's annual barbecue, but he or she may not organize, distribute invitations to, or sell tickets to the barbecue.

*Example 3:* An employee who desires to contribute to a political action committee through an allotment personally may obtain blank direct deposit forms from his or her payroll office. The employee may not complete the direct deposit form while he or she is on duty, on Federal property, or in a Federally owned or leased vehicle. The employee also may not personally deliver his or her completed direct deposit form, or the completed direct deposit form of another employee, to his or her payroll office. However, the employee may mail the completed form to his or her agency payroll office.

14. In § 734.406, Examples 1 through 8 are added to read as follows:

**§ 734.406 Participation in political activities while on duty, in uniform, in any room or building occupied in the discharge of official duties, or using a Federal vehicle; prohibition.**

\* \* \* \* \*

*Example 1:* An employee who uses his or her privately owned vehicle on a recurrent basis for official business may place a bumper sticker on the vehicle, as long as he or she covers the bumper sticker while the vehicle is being used for official duties.

*Example 2:* An employee who uses his or her privately owned vehicle on official business, must cover any partisan political bumper sticker while the vehicle is being used for official duties, if the vehicle is

clearly identified as being on official business.

*Example 3:* An employee or career SES employee who uses his or her privately owned vehicle only on an occasional basis to drive to another Federal agency for a meeting, or to take a training course, if not required to cover a partisan political bumper sticker on his or her vehicle.

*Example 4:* An employee may not place a partisan political bumper sticker on any Government owned or Government leased vehicle.

*Example 5:* An employee may place a bumper sticker on his or her privately owned vehicle and park the vehicle in a parking lot of an agency or instrumentality of the United States Government or in a non-Federal facility for which the employee receives a subsidy from his or her employing agency or instrumentality.

*Example 6:* An employee, or noncareer SES employee who is subject to subpart D of this part 734, may not wear partisan political buttons or display partisan political pictures, signs, stickers, or badges while he or she is on duty or at his or her place of work.

*Example 7:* An employee who contributes financially to a political action committee through a voluntary allotment made under § 550.311(b) of this title may not complete the direct deposit forms while he or she is on duty, in a "room or building" defined in § 734.101, or in a Federally owned or leased vehicle.

*Example 8:* An employee who contributes financially to a political action committee may not personally deliver his or her completed direct deposit form, or the completed direct deposit form of another employee, to the payroll employees who would process or administer such forms. However, the employee may mail his or her direct deposit form to his or her agency payroll office.

15. Section 734.408 is revised to read as follows:

**§ 734.408 Participation in political management and political campaigning; prohibitions.**

An employee covered under this subpart may not take an active part in political management or in a political campaign, except as permitted by subpart D of this part.

16. In § 734.412, paragraphs (a), (b), and (c) are revised to read as follows:

**§ 734.412 Participation in elections; prohibitions.**

(a) Be a candidate for partisan political office;

(b) Act as recorder, watcher, challenger, or similar officer at polling places in concert with a political party, partisan political group, or a candidate for partisan political office;

(c) Drive voters to polling places in concert with a political party, partisan political group, or a candidate for partisan political office;

17. In § 734.502 paragraph (d) is revised to read as follows:

**§ 734.502 Participation in political activity while on duty, in uniform, in any room or building occupied in the discharge of official duties, or using a Federal vehicle.**

\* \* \* \* \*

(d) An employee, to whom subpart E of this part does not apply, who is not on duty may participate in political activities in rooms of the White House or the Residence of the Vice President which are part of the Residence area or which are not regularly used solely in the discharge of official duties.

\* \* \* \* \*

18. Section 734.504 is added to read as follows:

\* \* \* \* \*

**§ 734.504 Contributions to political action committees through voluntary payroll allotments prohibited.**

An employee described in § 734.502(a) may not financially contribute to a political action committee through a voluntary allotment made under § 550.311(b) of this title.

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**DEPARTMENT OF AGRICULTURE**

**Animal and Plant Health Inspection Service**

**7 CFR Part 301**

[Docket No. 96-016-7]

**Karnal Bunt; Compensation**

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

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

**SUMMARY:** We are amending the regulations to provide compensation for certain growers and handlers, owners of grain storage facilities, and flour millers in order to mitigate losses and expenses incurred because of Karnal bunt. The payment of compensation is necessary in order to reduce the economic impact of the Karnal bunt quarantine on affected wheat growers and other individuals, and to help obtain cooperation from affected individuals in Karnal bunt eradication efforts.

**DATES:** Interim rule effective June 27, 1996. Consideration will be given only to comments received on or before September 3, 1996.

**ADDRESSES:** Please send an original and three copies of your comments to Docket No. 96-016-7, 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. 96-016-7. 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:

##### Background

Karnal bunt is a serious 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. The spores can be carried on a variety of surfaces, including plants and plant parts, seeds, soil, elevators, buildings, farm equipment, tools, and even vehicles. Spores and the sporidia they produce also can be windborne. Although the sporidia are fragile and may be able to move only short distances, Teliospores are thought to move longer distances.

Karnal bunt is a serious disease that can affect both yield and grain quality when present at levels over 3 to 5 percent. It adversely affects the color, odor, and palatability of flour and other foodstuffs made from heavily infested wheat. Wheat containing a significant amount of bunted kernels is reduced in quality. Karnal bunt does not present a risk to human or animal health.

On March 8, 1996, Karnal bunt was detected in Arizona during a seed certification inspection done by the Arizona Department of Agriculture. On March 20, 1996, the Secretary of Agriculture signed a "Declaration of Extraordinary Emergency" authorizing the Secretary to take emergency action under 7 U.S.C. 150dd with regard to Karnal bunt within the States of Arizona, New Mexico, and Texas. In an interim rule effective on March 25, 1996, and published in the Federal Register on March 28, 1996 (61 FR 13649-13655, Docket No. 96-016-3), the Animal and Plant Health Inspection Service (APHIS) established the Karnal bunt regulations (7 CFR 301.89-1 through 301.89-11), and quarantined all of Arizona and portions of New Mexico

and Texas because of Karnal bunt. The regulations define regulated articles and restrict the interstate movement of these regulated articles from the quarantined areas.

After the establishment of the regulations, Karnal bunt was detected in lots of seed that were either planted or stored in certain areas in California. On April 12, 1996, the Secretary of Agriculture signed a "Declaration of Extraordinary Emergency" authorizing the Secretary to take emergency action under 7 U.S.C. 150dd with regard to Karnal bunt within California. In an interim rule effective on April 19, 1996, and published in the Federal Register on April 25, 1996, APHIS also quarantined portions of California because of Karnal bunt (61 FR 18233-18235, Docket No. 96-016-5).

Under an extraordinary emergency, the Secretary is authorized, but not obligated, to compensate growers and other persons for economic losses incurred by them as a result of the quarantine or emergency action. This interim rule amends the Karnal bunt regulations to provide compensation for certain growers and handlers, owners of grain storage facilities, and flour millers in order to mitigate losses and expenses incurred because of actions taken by the Department regarding Karnal bunt. We are adding a new § 301.89-12 that lists classes of individuals who are eligible to receive compensation for actions taken or losses experienced because of actions taken by the Department regarding Karnal bunt. This section also sets forth the rates of compensation and explains how to make a claim for compensation, including what forms need to be filed and what documents need to be provided by the claimant to the United States Department of Agriculture (USDA).

##### Compensation for Destroyed Crops in New Mexico and Texas

Approximately 4,000 acres of planted wheat in New Mexico and Texas were traced back to seed produced in Arizona and known to be contaminated with Karnal bunt. Under an extraordinary emergency, the Secretary of Agriculture has the authority to order the destruction of crops (see 7 U.S.C. 150dd(b)). On April 1, 1996, the Secretary signed a memorandum authorizing APHIS to issue orders for the destruction by plowing of all wheat crops in New Mexico and Texas that were planted with seed known to be contaminated with Karnal bunt. Destruction of these crops was determined to be beneficial in preventing the spread of Karnal bunt because the crops in New Mexico and

Texas were at an early stage of growth, before Karnal bunt infection of the current crop could occur.

The vehicle for issuing destruction orders is an Emergency Action Notification (PPQ Form 523) given by an APHIS inspector to the owner of the wheat crop that is to be destroyed. Pursuant to the Secretary's authorization, APHIS began issuing Emergency Action Notifications for the destruction of contaminated wheat fields in New Mexico and Texas on April 1, 1996.

Consequently, we are listing as eligible for compensation growers in New Mexico and Texas who have destroyed crops of wheat pursuant to an Emergency Action Notification (PPQ Form 523) issued by an inspector. Compensation for these individuals has been set at the rate of \$300 per acre of destroyed crop. The rate of \$300 per acre includes a payment of \$275 per acre compensation for expenses incurred by the owner of the wheat crop in planting and cultivating the contaminated wheat (this is based on the average cost of expenses such as seed, fertilizer, irrigation, and employee expenses) plus \$25 per acre to pay for crop destruction and soil preparation for replanting the plowed acres with a new crop.

To receive compensation, the growers must complete and submit to an inspector whichever of the following three forms are applicable, as determined by the inspector: ASCS Form 574, ASCS Form 578, and FCI Form 73. The forms will be furnished by USDA. ASCS Form 574 is a form used to request acreage or disaster credit, and will document a record of management practices for the crop and the reason for its destruction. ASCS Form 578 is a form used to document a farmer's total acreage and how the farmer uses that acreage. Most affected farmers will already have a copy of ASCS Form 578 on file with the USDA in connection with their enrollment in federal crop insurance or other USDA programs, but will have to revise this form to reflect that the crop on some or all of the acreage listed on the form has been ordered destroyed by an inspector because of Karnal bunt. FCI Form 73 will be used to certify the number of destroyed acres of wheat and the reason for their destruction.

##### Compensation for Lost Value of Wheat in the Quarantined Area

Most other wheat grown in the quarantined areas, especially in the quarantined areas outside of New Mexico and Texas, was past the early stage of growth at which plowing the

crop under would prevent infection of the current crop with Karnal bunt. Much of the wheat grown in the quarantined area is under contract with millers or grain handlers for processing or for use as seed. Under the Karnal bunt regulations, growers and handlers in the quarantined area are restricted from selling wheat for propagative purposes (seed) and from moving wheat outside of the quarantined area. This means that, in most cases, growers and handlers in the quarantined area cannot move their wheat to the market for which it was contracted.

Growers and handlers may export their wheat to another country or may market the wheat within the quarantined area, where it will most likely be processed as animal feed. The value for wheat to be used as animal feed is typically lower than the value for wheat used for propagative purposes or for use in products for human consumption. Further, many growers and handlers are finding it difficult to market wheat from the quarantined area, whether or not it has tested positive for Karnal bunt infection, because wheat from the quarantined area may incur additional costs for handling and treatment. This may force some growers and handlers to accept a lower price for their wheat than they would have received if the area had not been quarantined for Karnal bunt.

Therefore, we are listing as eligible for compensation growers and handlers of wheat grown in the quarantined area for the loss in value of their wheat due to the quarantine for Karnal bunt. We will compensate for the loss in value of wheat testing negative and wheat testing positive from the quarantined area. Compensation calculations will be different depending on the purpose for which the wheat was grown and the purpose for which the wheat is eventually sold. Compensation calculations will also be different for growers and for handlers.

This rule only includes calculations for compensation of wheat grown for nonpropagative purposes (meaning it was not grown for use as seed). We do intend to compensate seed producers for the loss in value of their seed. However, we are still developing protocols for seed movement and disposition, and those protocols will affect how that compensation will be calculated. A rule providing for compensation for seed producers will be published at a later date. The calculations for nonpropagative wheat compensation are discussed below.

#### Growers of Nonpropagative Wheat

For growers of wheat grown under contract for nonpropagative purposes in the quarantined area, the amount of compensation will be based on the difference between the contracted price and the salvage value (described below). Salvage value for wheat grown under contract will be as follows:

If the contracted wheat is tested by APHIS and found positive for Karnal bunt, and the positive wheat is sold for use as animal feed, salvage value equals \$6 per hundred weight or \$3.60 per bushel for all classes of wheat. This value is based on the feeding value of wheat relative to other feed grains, in addition to considering the costs of required treatment of positive wheat for use in livestock feed and the costs of transporting wheat to processing centers and to feeding locations. If the positive wheat is sold for uses other than animal feed (e.g., milling or export), salvage value equals whichever price is higher of the following: the average price paid in the region of the quarantined area where the wheat is sold for the relevant class of wheat for the period between May 1 and June 30, 1996; or, \$3.60 per bushel. (Relevant class of wheat means the type of wheat, for example, Durum or Hard red winter wheat. Because these classes of wheat are suitable for different products, they command different market prices.) If contracted wheat is tested by APHIS and found negative for Karnal bunt, regardless of the eventual use of the wheat, salvage value equals the same as for positive contracted wheat sold for uses other than animal feed.

For growers of nonpropagative wheat not grown under contract, compensation will be based on the difference between the estimated market price for the relevant class of wheat and the salvage value. Salvage values will be the same as described above for contracted wheat. The estimated market price is intended to represent what the market price would have been if there were no quarantine for Karnal bunt, and will be calculated by APHIS for each class of wheat, taking into account the prices offered by relevant terminal markets (animal feed, milling, or export) for the period between May 1 and June 30, 1996, with adjustments for transportation and other handling costs.

For nonpropagative wheat, whether grown under contract or not, whether positive or negative, compensation will not exceed \$2.50 per bushel.

To receive compensation, the grower must complete and submit to an inspector whichever of the following three forms are applicable, as

determined by the inspector: ASCS Form 574, ASCS Form 578, and FCI Form 73. These are the same forms described above for claims for destroyed crops, and will be furnished by USDA. In addition, the grower must submit a copy of the contract the grower has for the wheat, if the wheat was under contract, and a copy of the receipt for the final sale of the wheat, showing the intended use for which the wheat was sold.

#### Handlers of Nonpropagative Wheat

There are two circumstances under which handlers will be eligible for compensation: (1) Handlers who honor contracts by paying the grower full contract price on wheat grown for nonpropagative purposes in the quarantined area that was tested by APHIS and found positive for Karnal bunt; and (2) handlers who purchase contracted or noncontracted wheat grown for nonpropagative purposes in the quarantined area that was tested by APHIS and found negative for Karnal bunt prior to purchase, but which is tested by APHIS and found positive for Karnal bunt after purchase. The amount of compensation for both these circumstances will be based on the difference between the estimated market price (as described previously in this document) and the salvage value. Salvage value will be the same as for grower compensation (described previously in this document). However, compensation will not exceed \$2.50 per bushel under any circumstances.

The calculations described above do not provide for compensation for handlers who purchase positive wheat not grown under contract, or who purchase negative wheat that does not later test positive. Handlers who purchase positive wheat not grown under contract, or for less than contract price, will likely pay a very low price for the wheat, so that compensation for loss in value will not be necessary. Handlers who purchase negative wheat that continues to test negative after purchase will likewise not experience a loss in value for the wheat compared to the price they paid for it. Handlers who purchase negative wheat that later tests positive would, however, experience a loss in expected value because positive wheat is worth less than negative wheat.

To receive compensation, the handler must complete and submit to an inspector whichever of the following three forms are applicable, as determined by the inspector: ASCS Form 574, ASCS Form 578, and FCI Form 73. The forms will be furnished by USDA. In addition, the handler must submit a copy of the contract the

handler had with the grower for the wheat, if the wheat was under contract, to verify that the contract was honored. If the wheat was not purchased under contract, the handler must submit a copy of the receipt for the final sale of the wheat, showing the intended use for which the wheat was sold.

If a grower or handler of nonpropagative wheat in the quarantined area is not able to or elects not to sell their wheat, they will be eligible to receive compensation at the rate of \$2.50 per bushel. However, compensation will only be paid if the grower or handler has destroyed the wheat by burying it in a sanitary landfill. To receive compensation, the grower or handler must complete and submit to an inspector whichever of the following three forms are applicable, as determined by an inspector: ASCS Form 574, ASCS Form 578, and FCI Form 73. The forms will be furnished by USDA. The grower or handler must also submit a receipt from a sanitary landfill verifying how much wheat was buried.

#### Compensation for Decontamination of Grain Storage Facilities

Owners of grain storage facilities that have been decontaminated pursuant to an Emergency Action Notification (PPQ Form 523) issued by an inspector are eligible for compensation. These grain storage facilities have been determined by APHIS to be contaminated with Karnal bunt. We estimate that the cost of decontamination, which consists of treatment with a chlorine solution and water, detergent and water, steam, or fumigation with methyl bromide in accordance with § 301.89-11 of the regulations, can range between \$30,000 to \$50,000 per facility.

We will compensate owners of contaminated grain storage facilities on a one time only basis for up to 50 percent of the cost of decontamination. However, compensation will not exceed \$20,000 per premise. We will add a definition for "premise" to § 301.89-1 to mean "all structures, conveyances, or materials associated with a grain storage facility at a single location." Compensation is limited to the direct costs of decontaminating facilities. General clean-up, repair, and refurbishment costs are excluded from compensation.

To receive compensation, owners of grain storage facilities must submit to the inspector records demonstrating that decontamination was performed on all structures, conveyances, or materials ordered to be decontaminated by the Emergency Action Notification on the facility premise. The records must include a copy of the Emergency Action

Notification, contracts with individuals or companies hired to perform the decontamination, receipts for equipment and materials purchased to perform the decontamination, time sheets for employees of the grain storage facility who perform actions related to the decontamination, and any other documentation that helps show decontamination has been completed and its cost.

#### Compensation for Treating Millfeed

In accordance with compliance agreements established between APHIS and flour millers located in high-risk areas (areas where there is a high risk of spreading Karnal bunt into surrounding areas), millfeed (a byproduct of milling wheat into flour) produced from wheat from the quarantined area must be treated using a heat process. This treatment adds approximately \$35 per short ton to the cost of producing millfeed products, such as animal feed. It is unlikely that millers would purchase wheat from the quarantined area without compensation for the cost of millfeed treatment. Loss of these markets would further lower the value of wheat in the quarantined area.

Flour millers who heat-treat millfeed made from wheat produced in the quarantined area are eligible to receive compensation at the rate of \$35.00 per short ton of millfeed. The amount of millfeed compensated will be calculated by multiplying the weight of wheat that is milled from the quarantined area by 25 percent (the average percent of millfeed derived from a short ton of grain). We will calculate the amount of millfeed to be compensated in this manner because many millers routinely mix together different types of wheat from different areas. The resulting millfeed would be a product of wheat from quarantined and nonquarantined areas. However, we will only compensate for the cost of treating millfeed made from wheat produced in the quarantined area. Therefore, the amount compensated cannot be determined by simply weighing the total amount of millfeed at the end of the milling process.

To claim compensation, flour millers must submit to an inspector a copy of the limited permit under which the wheat was moved to the mill, in order to show that the wheat was produced in a quarantined area, and a copy of the bill of lading for the wheat, showing the weight of the wheat in short tons. Flour millers must also submit verification that the millfeed produced from wheat from the quarantined area was properly heat treated.

We believe the compensations described above will help ensure cooperation from affected individuals in APHIS' efforts to eliminate the spread of Karnal bunt and will help mitigate the economic impact of the Karnal bunt quarantine and emergency actions on affected wheat growers and others within the industry.

#### Miscellaneous

We are also making a miscellaneous change to the Karnal bunt regulations. Section 301.89-2(d) lists plants and plant parts of the species *Triticum aestivum* X *Seale cereals* as regulated articles. However, the correct scientific name for this species is *Triticum aestivum* X *Secale cereale*. We are amending § 301.89-2(d) to correct this error.

#### Emergency Action

In accordance with 7 U.S.C. 150dd(b)(2), the amount of compensation, if any, which the Secretary determines may be paid to individuals for economic losses incurred because of the declaration of an extraordinary emergency shall be final.

The Administrator of the Animal and Plant Health Inspection Service has determined that an emergency exists that warrants publication of this interim rule without prior opportunity for public comment. Immediate action is necessary to provide compensation for those persons who were and are required to take emergency actions to eliminate the spread of Karnal bunt or who experience economic losses because of the quarantine for Karnal bunt.

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 action amends the regulations to provide compensation for certain

growers and handlers, owners of grain storage facilities, and flour millers in order to mitigate losses and expenses incurred because of the Karnal bunt quarantine and emergency actions. This emergency situation makes compliance with section 603 and timely compliance with section 604 of the Regulatory Flexibility Act (5 U.S.C. 603 and 604) impracticable. This rule may have a significant economic impact on a substantial number of small entities. If we determine this is so, 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 12778

This rule has been reviewed under Executive Order 12778, 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 interim rule have been approved by the Office of Management and Budget (OMB). The assigned OMB control numbers are as follows: for PPQ Form 523 the number is 0579-0121; for ASCS Form 574 the number is 0563-0003; for ASCS Form 578 the number is 0560-0004; and for FCI Form 73 the number is 0563-0033.

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 150bb, 150dd, 150ee, 150ff, 161, 162, and 164-167; 7 CFR 2.22, 2.80, and 371.2(c).

#### **§ 301.89-2 [Amended]**

2. In § 301.89-1, a definition for *Premise* is added in alphabetical order to read as follows:

#### **§ 301.89-1 Definitions.**

\* \* \* \* \*

*Premise.* All structures, conveyances, or materials associated with a grain storage facility at a single location.

\* \* \* \* \*

3. In § 301.89-2, in paragraph (d), the entry for *Triticale* is amended by removing the words "*Seale cereals*" and adding the words "*Secale cereale*" in their place.

4. A new § 301.89-12 is added to read as follows:

#### **§ 301.89-12 Compensation.**

The following individuals are eligible to receive compensation from the United States Department of Agriculture (USDA) for losses or expenses incurred because of the Karnal bunt quarantine and emergency actions, as follows:

(a) *Growers who have destroyed crops.* Growers in New Mexico and Texas who have destroyed crops of wheat pursuant to an Emergency Action Notification (PPQ Form 523) issued by an inspector are eligible to be compensated at the rate of \$300 per acre of destroyed crop. To claim compensation, the grower must complete and submit to an inspector whichever of the following three forms are applicable, as determined by the inspector: ASCS Form 574, ASCS Form 578, and FCI Form 73. The forms will be furnished by USDA.

(b) *Growers and handlers who sell nonpropagative wheat grown in the quarantined area.* Growers and handlers who sell nonpropagative wheat grown in the quarantined area are eligible to be compensated for the loss in value of their wheat due to the quarantine for Karnal bunt, as follows:

(i) *Growers who sell nonpropagative wheat.* For growers who sell wheat grown for nonpropagative purposes, compensation will be as described in paragraphs (b)(1)(i) and (b)(1)(ii) of this section. However, compensation will not exceed \$2.50 per bushel under any circumstances.

(i) If the wheat was grown under contract, compensation will equal the contracted price minus the salvage value, as described in paragraph (b)(3) of this section.

(ii) If the wheat was not grown under contract, compensation will equal the estimated market price for the relevant class of wheat (meaning type of wheat, such as Durum or Hard red winter) minus the salvage value, as described in paragraph (b)(3) of this section. The

estimated market price will be calculated by APHIS for each class of wheat, taking into account the prices offered by relevant terminal markets (animal feed, milling, or export) for the period between May 1 and June 30, 1996, with adjustments for transportation and other handling costs.

(2) *Handlers who sell nonpropagative wheat.* Handlers are eligible to be compensated only under the circumstances described in paragraphs (b)(2)(i) and (b)(2)(ii) of this section. Compensation for both circumstances will equal the estimated market price for the relevant class of wheat (meaning type of wheat, such as Durum or Hard red winter) minus the salvage value, as described in paragraph (b)(3) of this section. The estimated market price will be calculated by APHIS for each class of wheat, taking into account the prices offered by relevant terminal markets (animal feed, milling, or export) for the period between May 1 and June 30, 1996, with adjustments for transportation and other handling costs. However, compensation will not exceed \$2.50 per bushel under any circumstances.

(i) Handlers who honor contracts by paying the grower full contract price on wheat grown for nonpropagative purposes in the quarantined area that was tested by APHIS and found positive for Karnal bunt; or

(ii) Handlers who purchase contracted or noncontracted wheat grown for nonpropagative purposes in the quarantined area that was tested by APHIS and found negative for Karnal bunt prior to purchase but that was tested by APHIS and found positive for Karnal bunt after purchase.

(3) *Salvage value.* Salvage values will be as follows:

(i) If the wheat is positive for Karnal bunt and is sold for use as animal feed, salvage value equals \$6.00 per hundredweight or \$3.60 per bushel for all classes of wheat.

(ii) If the wheat is positive for Karnal bunt and is sold for a use other than animal feed, salvage value equals whichever is higher of the following: the average price paid in the region of the quarantined area where the wheat is sold for the relevant class of wheat (meaning type of wheat, such as Durum or Hard red winter) for the period between May 1 and June 30, 1996; or, \$3.60 per bushel.

(iii) If the wheat is negative for Karnal bunt and is sold for any use, salvage value equals whichever is higher of the following: the average price paid in the region of the quarantined area where the wheat is sold for the relevant class of wheat (meaning type of wheat, such as

Durum or Hard red winter) for the period between May 1 and June 30, 1996; or, \$3.60 per bushel.

(4) *To claim compensation.* To claim compensation, a grower or handler must complete and submit to an inspector whichever of the following three forms are applicable, as determined by the inspector: ASCS Form 574, ASCS Form 578, and FCI Form 73. The forms will be furnished by USDA. Growers must also submit a copy of the contract the grower has for the wheat, if the wheat was under contract; handlers must also submit a copy of the contract the handler had with the grower for the wheat, if the wheat was under contract. Finally, a grower or handler must submit a copy of the receipt for the final sale of the wheat, showing the intended use for which the wheat was sold.

(c) *Nonpropagative wheat that is not sold.* If a grower or handler of nonpropagative wheat in the quarantined area is not able to or elects not to sell their wheat, they will be eligible to receive compensation at the rate of \$2.50 per bushel. Compensation will only be paid if the grower or handler has destroyed the wheat by burying it in a sanitary landfill. To claim compensation, the grower or handler must complete and submit to an inspector whichever of the following three forms are applicable, as determined by the inspector: ASCS Form 574, ASCS Form 578, and FCI Form 73. The forms will be furnished by USDA. In addition, the grower or handler must submit a receipt from the sanitary landfill verifying how much wheat was buried.

(d) *Decontamination of grain storage facilities.* Owners of grain storage facilities that have been decontaminated pursuant to an Emergency Action Notification (PPQ Form 523) issued by an inspector are eligible to be compensated, on a one time only basis, for up to 50 percent of the cost of decontamination. However, compensation will not exceed \$20,000 per premise (as defined in § 301.89-1). Compensation is limited to the direct costs of decontaminating facilities. General clean-up, repair, and refurbishment costs are excluded from compensation. To claim compensation, the owner of the grain storage facility must submit to an inspector records demonstrating that decontamination was performed on all structures, conveyances, or materials ordered to be decontaminated by the Emergency Action Notification on the facility premise. The records must include a copy of the Emergency Action Notification, contracts with individuals or companies hired to perform the

decontamination, receipts for equipment and materials purchased to perform the decontamination, time sheets for employees of the grain storage facility who performed activities connected to the decontamination, and any other documentation that helps show decontamination has been completed.

(e) *Flour millers.* Flour millers who, in accordance with a compliance agreement with APHIS, heat-treat millfeed made from wheat produced in the quarantined area are eligible to be compensated at the rate of \$35.00 per short ton of millfeed. The amount of millfeed compensated will be calculated by multiplying the weight of wheat from the quarantined area received by the miller by 25 percent (the average percent of millfeed derived from a short ton of grain). To claim compensation, the miller must submit to an inspector a copy of the limited permit under which the wheat was moved to the mill and a copy of the bill of lading for the wheat (showing the weight of the wheat in short tons). Flour millers must also submit verification that the millfeed was heat treated, in the form of a copy of the limited permit under which the wheat was moved to a treatment facility and a copy of the bill of lading accompanying that movement.

Done in Washington, DC, this 27th day of June 1996.

Terry L. Medley,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 96-16999 Filed 7-3-96; 8:45 am]

BILLING CODE 3410-34-P

## 7 CFR Part 301

[Docket No. 96-016-6]

### Karnal Bunt; Removal of Quarantined 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 removing areas in Arizona, New Mexico, and Texas from the list of areas quarantined because of infestations of Karnal bunt. This action is necessary to relieve restrictions on the areas of Arizona, New Mexico, and Texas that do not produce wheat, durum wheat, or triticale or that do produce wheat but we have been able to determine that they have no association with Karnal bunt contaminated seed. The interstate movement of regulated articles from these areas does not present a risk of spreading Karnal bunt.

**DATES:** Interim rule effective June 27, 1996. Consideration will be given only to comments received on or before September 3, 1996.

**ADDRESSES:** Please send an original and three copies of your comments to Docket No. 96-016-6, 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. 96-016-6. 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. Michael B. Stefan, Operations Officer, Domestic and Emergency Operations, PPQ, APHIS, 4700 River Road, Unit 134, Riverdale, MD 20737-1236, (301) 734-8247; or e-mail: mstefan@aphis.usda.gov.

#### SUPPLEMENTARY INFORMATION:

##### Background

Karnal bunt is a serious fungal disease of wheat (*Triticum aestivum*), durum wheat (*Triticum durum*), and triticale (*Triticum aestivum* X *Seale cereals*), a hybrid of wheat and rye. The disease is caused by the smut fungus *Tilletia indica* (Mitra) Mundkur and is spread by spores. Karnal bunt is a serious disease that affects both yield and grain quality. It adversely affects the color, odor, and palatability of flour and other foodstuffs made from affected grain. Grain containing any amount of bunted kernels is reduced in quality. Karnal bunt does not present a risk to human health.

On March 20, 1996, the Secretary of Agriculture signed a "Declaration of Extraordinary Emergency" authorizing the Secretary to take emergency action under 7 U.S.C. 150dd with regard to Karnal bunt within the States of Arizona, New Mexico, and Texas. The "Declaration of Extraordinary Emergency" was published in the Federal Register on March 25, 1996 (61 FR 12058, Docket No. 96-016-1). On March 26, 1996, the Secretary of Agriculture signed a "Declaration of Emergency" authorizing the transfer and use of funds within the Department for a program to control Karnal bunt wherever it may be found in the United States. The "Declaration of Emergency" was published in the Federal Register on March 29, 1996 (61 FR 14046, Docket No. 96-016-2).