

(d) Seed for planting must be treated by one of the following methods:

(1) With 6.8 fl. oz. of Carboxin thiram (10 percent + 10 percent, 0.91 + 0.91 lb. ai./gal.) flowable liquid and 3 fluid ounces of pentachloronitrobenzene (2.23 lb. ai./gal.) per 100 pounds of seed;

(2) With 4.0 fluid ounces of Carboxin thiram (1.67 + 1.67 lb. ai./gal.) flowable liquid and 3 fluid ounces of pentachloronitrobenzene (2.23 lb. ai./gal.) per 100 pounds of seed;

(3) With 4.0 fluid ounces of Carboxin thiram (1.67 + 1.67 lb. ai./gal.) flowable liquid per 100 pounds of seed;

(4) With 6.8 fl. oz. of Carboxin thiram (10 percent + 10 percent, 0.91 + 0.91 lb. ai./gal.) flowable liquid per 100 pounds of seed; or

(5) With 3 fluid ounces of pentachloronitrobenzene (2.23 lb. ai./gal.) per 100 pounds of seed.

(e) Seed used for germplasm or for research purposes must be treated with a 1.5 percent aqueous solution of sodium hypochlorite (=30 percent household bleach) containing 2 ml. of Tween 20™ per liter agitated for 10 minutes at room temperature followed by a 15-minute rinse with clean, running water and then by drying, and either:

(1) With 6.8 fl. oz. of Carboxin thiram (10 percent + 10 percent, 0.91 + 0.91 lb. ai./gal.) flowable liquid and 3 fluid ounces of pentachloronitrobenzene (2.23 lb. ai./gal.) per 100 pounds of seed; or

(2) With 4.0 fluid ounces of Carboxin thiram (1.67 + 1.67 lb. ai./gal.) flowable liquid and 3 fluid ounces of pentachloronitrobenzene (2.23 lb. ai./gal.) per 100 pounds of seed.

[61 FR 52207, Oct. 4, 1996, as amended at 62 FR 64265, Dec. 5, 1997; 63 FR 50751, Sept. 23, 1998; 64 FR 23754, May 4, 1999]

§ 301.89-14 Compensation for the 1995-1996 crop season.

The following individuals are eligible to receive compensation from the United States Department of Agriculture (USDA) for the 1995-1996 crop season to mitigate losses or expenses incurred because of the Karnal bunt regulations 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. Compensation payments will be issued by the Farm Service Agency (FSA). To claim compensation, the grower must complete and submit to a local FSA county office whichever of the following three forms are applicable, as determined by FSA: FSA Form 574, FSA Form 578, and FCI Form 73. The forms will be furnished by FSA. Claims for compensation must be received by FSA on or before May 31, 1997. The Administrator may extend this deadline, upon request in specific cases, when unusual and unforeseen circumstances occur which prevent or hinder a claimant from requesting compensation on or before May 31, 1997.

(b) *Growers and handlers who sell non-propagative wheat.* Growers and handlers in a State where the Secretary has declared an extraordinary emergency, and who sell nonpropagative wheat grown in the regulated area or in an area for which an Emergency Action Notification (PPQ Form 523) has been issued in accordance with § 301.89-3(d), are eligible to be compensated for the loss in value of their wheat due to the Karnal bunt regulations, as follows:

(1) *Growers who sell nonpropagative wheat.* Growers are eligible to be compensated for nonpropagative 1995-1996 crop season wheat and for nonpropagative wheat inventories in their possession that were unsold as of March 1, 1996, as described in paragraphs (b)(1)(i), (b)(1)(ii), and (b)(1)(iii) of this section. However, compensation will not exceed \$2.50 per bushel under any circumstances.

(i) If the wheat was grown under contract and a price was determined in the contract before March 1, 1996, compensation will equal the contracted price minus the higher of either the salvage value, as described in paragraph (b)(3) of this section, or the actual price received by the grower.

(ii) If the wheat was grown under contract and a price was determined in the contract on or after March 1, 1996, and on or before August 1, 1996, compensation will equal the higher of either the contract price or the estimated market price for the relevant

class of wheat (meaning type of wheat, such as durum or hard red winter) minus the higher of either the salvage value, as described in paragraph (b)(3) of this section, or the actual price received by the grower. 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.

(iii) If the wheat was not grown under contract or a price was determined in the contract after August 1, 1996, 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 higher of either the salvage value, as described in paragraph (b)(3) of this section, or the actual price received by the grower. 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 for nonpropagative 1995-1996 crop season wheat and for nonpropagative wheat inventories in their possession that were unsold as of March 1, 1996, only under the circumstances described in paragraphs (b)(2)(i), (b)(2)(ii), and (b)(2)(iii) of this section. Compensation for the circumstances in paragraphs (b)(2)(i) and (b)(2)(ii) 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. Compensation for the circumstance in paragraph (b)(2)(iii) 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 higher of either the salvage value, as described in paragraph (b)(3) of this section, or the actual price received by the handler. The estimated market price will be cal-

culated 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 regulated area that was tested by APHIS and found positive for Karnal bunt;

(ii) Handlers who purchase contracted or noncontracted wheat grown for nonpropagative purposes in the regulated 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; or

(iii) Except as explained in this paragraph, handlers who honor contracts by paying the grower or another handler full contract price on nonpropagative wheat grown in the regulated area that was tested by APHIS and found negative for Karnal bunt if a price was determined in the contract before March 1, 1996. Handlers who had contracted to sell the wheat at a price determined in the contract before March 1, 1996, and who received the full contract price, are not eligible for compensation.

(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 hundred-weight 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 regulated 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 regulated 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.* Compensation payments will be issued by the Farm Service Agency (FSA). Claims for compensation must be received by FSA on or before May 31, 1997. The Administrator may extend this deadline, upon request in specific cases, when unusual and unforeseen circumstances occur which prevent or hinder a claimant from requesting compensation on or before May 31, 1997. To claim compensation, a grower or handler must complete and submit to the local FSA county office the following documents:

(i) *Both growers and handlers.* A grower or handler must submit whichever of the following three forms are applicable, as determined by FSA: FSA Form 574, FSA Form 578, and FCI Form 73. A grower or a handler must also submit a copy of the receipt for the final sale of the wheat, showing the intended use for which the wheat was sold, and a copy of the Karnal bunt certificate issued by APHIS that shows the Karnal bunt test results.

(ii) *Growers.* In addition to the documents required in paragraph (b)(4)(i), growers 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, total bushels sold, and the total amount paid to the grower by the handler.

(iii) *Handlers.* In addition to the documents required in paragraph (b)(4)(i), handlers must submit a copy of the contract the handler had with the grower for the wheat, if the wheat was under contract; a copy of the receipt for the purchase of the wheat from the grower or handler, showing the total bushels purchased and the amount the handler paid for the wheat; and a copy of the receipt for the final sale of the wheat, showing the intended use for which the wheat was sold. Handlers who had contracted to sell the wheat at a price determined in the contract before March 1, 1996, must submit a copy of the contract for the sale of the wheat.

(c) *Nonpropagative wheat that is not sold.* If a grower or handler of non-propagative wheat grown in the regulated area in a State where the Secretary has declared an extraordinary emergency 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 or other site that has been approved by APHIS. Compensation claims will be issued by the Farm Service Agency (FSA). To claim compensation, the grower or handler must complete and submit to the local FSA county office whichever of the following three forms are applicable, as determined by FSA: FSA Form 574, FSA Form 578, and FCI Form 73. In addition, the grower or handler must submit verification of how much wheat was buried, in the form of a receipt from the sanitary landfill or verification signed by an APHIS inspector. Claims for compensation must be received by FSA on or before May 31, 1997. The Administrator may extend this deadline, upon request in specific cases, when unusual and unforeseen circumstances occur which prevent or hinder a claimant from requesting compensation on or before May 31, 1997.

(d) *Growers and seed companies that sold wheat seed.* Growers of and seed companies with certified wheat seed or wheat grown with the intent of producing certified wheat seed are eligible for compensation for the loss in value of their seed, in accordance with this section, if the seed was grown in a State where the Secretary has declared an extraordinary emergency, and if the seed was grown in an area of that State that was regulated for Karnal bunt or under Emergency Action Notification (PPQ Form 523) for Karnal bunt during the 1995-1996 crop season.

(1) *Growers who sold wheat seed under contract.* Growers who sold 1995-1996 crop season certified wheat seed or 1995-1996 crop season wheat grown with the intent of producing certified wheat seed are eligible to receive compensation as described in paragraphs (d)(1)(i) and (d)(1)(ii) of this section if they sold the wheat under contract to a seed company. However, compensation will

not exceed \$2.80 per bushel under any circumstances.

(i) If the wheat was grown under contract and a price was determined in the contract on or before March 1, 1996, and the contract price was not honored by the seed company, the compensation rate will equal the contract price (CP), including the seed premium if specified in the contract, minus the higher of either the salvage value (SV), as described in paragraph (d)(6) of this section, plus the actual seed premium received by the grower (SP)(actual), or the actual price received by the grower (AP), including any seed premium specified on the receipt for the final sale of the wheat. If the actual seed premium received by the grower is not specified on the receipt for the final sale of the wheat, the seed premium will be set at \$.30 for the compensation calculation. In each case, the amount of the actual price or the salvage value of the wheat seed will include the value of any proceeds accrued through insurance claims, judgments, or from any other source. The equation for this compensation is: Compensation rate = CP—higher of [SV + (SP(actual) or \$.30) or [AP].

(ii) If the wheat was grown under contract and a price was determined in the contract after March 1, 1996, the compensation rate will equal the estimated market price for grain (EMP) plus the seed premium if specified in the contract (SP)(contract) minus the higher of either the salvage value (SV), as described in paragraph (d)(6) of this section, plus the actual seed premium received by the grower (SP)(actual), or the actual price received by the grower (AP), including any seed premium specified on the receipt for the final sale of the wheat. If a seed premium is not specified in the contract or on the receipt for the final sale of the wheat, the seed premium that is added to the estimated market price (EMP) and the seed premium that is added to the salvage value (SV) will be set at \$.30. In each case, the amount of the actual price or the salvage value of the wheat seed will include the value of any proceeds accrued through insurance claims, judgments, or from any other source. The equation for this compensation is: Compensation rate =

[EMP + (SP(contract) or \$.30)]—higher of [SV + (SP(actual) or \$.30)] or [AP]. 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) *Growers who sold wheat seed for nonpropagative purposes.* Growers with 1995-1996 crop season certified wheat seed or 1995-1996 crop season wheat grown with the intent of producing certified wheat seed are eligible to receive compensation in accordance with paragraphs (d)(2)(i) and (d)(2)(ii) of this section if they sold the wheat for nonpropagative purposes. However, compensation will not exceed \$2.80 per bushel under any circumstances.

(i) If the grower has not claimed compensation under paragraph (b) of this section, the compensation rate will equal the estimated market price for grain (EMP) minus the actual price received by the grower (AP), plus the seed premium specified in the contract the grower had with a seed company (SP). If a seed premium is not specified in the contract, SP will equal \$.30. In each case, the amount of the actual price of the wheat seed will include the value of any proceeds accrued through insurance claims, judgments, or from any other source. The equation for this compensation is: Compensation rate = (EMP - AP) + (SP or \$.30). Growers who claim compensation under this paragraph may not claim compensation under paragraph (b) of this section.

(ii) If the grower has claimed compensation under paragraph (b) of this section, the compensation rate will equal the premium specified in the contract the grower had with a seed company. If no seed premium is specified in the contract, compensation will equal \$.30 per bushel.

(3) *Seed companies that sold wheat seed for nonpropagative purposes and that have not claimed compensation.* Seed companies with 1995-1996 crop season certified wheat seed or 1995-1996 crop season wheat grown with the intent of producing certified wheat seed, and seed companies with certified wheat seed inventories in their possession

that were unsold as of March 1, 1996, are eligible to receive compensation as described in paragraphs (d)(3)(i) and (d)(3)(ii) of this section if the wheat seed was sold for nonpropagative purposes and if the seed company has not claimed compensation under paragraph (b) of this section. Seed companies that claim compensation under paragraph (d)(3)(i) or (d)(3)(ii) of this section may not claim compensation under paragraph (b) of this section.

(i) If the wheat was grown in the 1995-1996 crop season, was under contract, and the seed company honored the contract by paying the grower the full contract price, including the seed premium if a seed premium is specified in the contract, the compensation rate will equal the estimated market price for grain (EMP) plus the seed margin (SM) minus the higher of either the actual price received by the seed company (AP) or the salvage value (SV), as described in paragraph (d)(6) of this section. The equation for this compensation is: Compensation rate = EMP + SM - higher of AP or SV. The seed margin is \$4.50 per bushel for private variety seed and \$2.40 per bushel for public variety seed. In each case, the amount of the actual price or the salvage value of the wheat seed will include the value of any proceeds accrued through insurance claims, judgments, or from any other source. However, compensation will not exceed \$7.00 per bushel for private variety seed and \$4.90 per bushel for public variety seed under any circumstances.

(ii) If a seed company had wheat inventories from past crop seasons that were unsold as of March 1, 1996, the compensation rate will equal the estimated market price for grain (EMP) plus the seed margin (SM) minus the higher of either the actual price received by the seed company (AP) or the salvage value (SV), as described in paragraph (d)(6) of this section. The equation for this compensation is: Compensation rate = EMP + SM - higher of AP or SV. The seed margin is \$4.50 per bushel for private variety seed and \$2.40 per bushel for public variety seed. In each case, the amount of the actual price or the salvage value of the wheat seed will include the value of any proceeds accrued through insur-

ance claims, judgments, or from any other source. However, compensation will not exceed \$7.00 per bushel for private variety seed and \$4.90 per bushel for public variety seed under any circumstances.

(4) *Seed companies that sold wheat seed for nonpropagative purposes and that have claimed compensation.* Seed companies with 1995-1996 crop season certified wheat seed or 1995-1996 crop season wheat grown with the intent of producing certified wheat seed, and seed companies with certified wheat seed inventories in their possession that were unsold as of March 1, 1996, are eligible to receive compensation as described in this paragraph if the wheat seed was sold for nonpropagative purposes and if the seed company has claimed compensation under paragraph (b) of this section. In addition, for claims on 1995-1996 crop season wheat, the wheat must have been grown under contract and the seed company must have honored the contract by paying the grower the full contract price, including the seed premium if a seed premium is specified in the contract. The compensation rate will equal the seed margin. The seed margin is \$4.50 per bushel for private variety seed and \$2.40 per bushel for public variety seed.

(5) *Seed companies that sold wheat seed for propagative purposes.* Seed companies with 1995-1996 crop season certified wheat seed or 1995-1996 crop season wheat grown with the intent of producing certified wheat seed, and seed companies with certified wheat seed inventories in their possession that were unsold as of March 1, 1996, are eligible to receive compensation as described in this paragraph if the wheat seed was sold for propagative purposes. In addition, for claims on 1995-1996 crop season wheat, the wheat must have been grown under contract and the seed company must have honored the contract by paying the grower the full contract price, including the seed premium if a seed premium is specified in the contract. The compensation rate will equal the estimated market price for grain (EMP) plus the seed margin (SM) minus the higher of either the actual price received by the seed company (AP) or the salvage value (SV), as described in paragraph (d)(6) of this

section. In each case, the amount of the actual price or the salvage value of the wheat seed will include the value of any proceeds accrued through insurance claims, judgments, or from any other source. The equation for this compensation is: Compensation rate = $EMP + SM - \text{higher of AP or SV}$. The seed margin is \$4.50 per bushel for private variety seed and \$2.40 per bushel for public variety seed. However, compensation will not exceed \$7.00 per bushel for private variety seed and \$4.90 per bushel for public variety seed under any circumstances.

(6) *Salvage value.* Salvage values will be determined 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 hundred-weight 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 regulated areas 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 regulated areas 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.

(7) *To claim compensation.* Compensation payments for claims made under paragraph (d) of this section will be issued by the Farm Service Agency (FSA). Claims for compensation must be received by FSA on or before April 22, 1998. The Administrator may extend this deadline, upon request in specific cases, when unusual and unforeseen circumstances occur which prevent or hinder a claimant from requesting compensation on or before that date. To claim compensation, a grower or seed company must submit to the local FSA county office all of the following that apply:

(i) The grower or seed company must submit a Karnal Bunt Compensation Claim form, provided by FSA;

(ii) The grower or seed company must submit a copy of the receipt for the final sale of the wheat, showing the intended use for which the wheat was sold, total bushels sold, and the total price received by the grower or seed company;

(iii) The grower or seed company must submit verification as to the actual (not estimated) weight of the wheat for which compensation is being claimed (such as a copy of a facility weigh ticket, or other verification);

(iv) The grower or seed company must submit documentation showing that the wheat is either certified seed or was grown with the intention of producing certified seed (this documentation may include one or more of the following types of documents: an application to the State seed certification agency for field inspection; a bulk sale certificate; certification tags or labels issued by the State seed certification agency; or a document issued by the State seed certification agency verifying that the wheat is certified seed);

(v) For claims on 1995-1996 crop season wheat, the grower or seed company must submit a copy of the contract under which the wheat was grown. Seed companies claiming compensation on seed inventories that were in their possession as of March 1, 1996, do not have to submit a copy of the contract under which the wheat was grown;

(vi) A seed company that is claiming compensation for seed inventories must certify to FSA that the wheat seed was in the seed company's possession as of March 1, 1996;

(vii) The grower or seed company must submit a copy of the Karnal bunt certificate issued by APHIS that shows the Karnal bunt test results; *provided that*, if a grower or seed company moved its wheat only within the regulated area, and therefore, does not have a corresponding Karnal bunt certificate for the wheat for which compensation is being claimed, a limited permit stating that the wheat was positive for Karnal bunt will be accepted in lieu of a Karnal bunt certificate. Any wheat

that was moved only within the regulated area and that was not moved under a limited permit will be considered negative for Karnal bunt;

(viii) If the wheat was grown in an area that is not a regulated area, but for which an Emergency Action Notification (PPQ Form 523) (EAN) for Karnal bunt has been issued, the grower or seed company must submit a copy of the EAN.

(e) *Other compensation for seed companies.* Seed companies are also eligible to receive compensation under the following circumstance: If a seed company has 1995-1996 crop season certified wheat seed, or 1995-1996 crop season wheat grown with the intent of producing certified wheat seed, that cannot be sold for use as grain or animal feed because it was previously cleaned, treated, and bagged, the compensation rate will equal \$9.40 per bushel for private variety seed and \$7.30 per bushel for public variety seed. Compensation will only be paid if the seed company has destroyed the wheat by burying it in a sanitary landfill or other site that has been approved by APHIS. The compensation will be issued by the Farm Service Agency (FSA). Claims for compensation must be received by FSA on or before April 22, 1998. The Administrator may extend this deadline, upon request in specific cases, when unusual and unforeseen circumstances occur which prevent or hinder a claimant from requesting compensation on or before that date. To claim compensation, a seed company must submit to the local FSA county office all of the following that apply:

(1) The seed company must submit a Karnal Bunt Compensation Claim form, provided by FSA;

(2) The seed company must submit verification of how much wheat was buried, in the form of a receipt from the sanitary landfill or verification signed by an APHIS inspector;

(3) The seed company must submit documentation showing that the wheat is either certified seed or was grown with the intention of producing certified seed (this documentation may include one or more of the following types of documents: an application to the State seed certification agency for field inspection; a bulk sale certificate;

certification tags or labels issued by the State seed certification agency; or a document issued by the State seed certification agency verifying that the wheat is certified seed);

(4) For claims on 1995-1996 crop season wheat that was buried, the seed company must submit a copy of the contract under which the wheat was grown. Seed companies claiming compensation on buried seed inventories that were in their possession as of March 1, 1996, do not have to submit a copy of the contract under which the wheat was grown;

(5) A seed company that is claiming compensation for seed inventories that were buried must certify to FSA that the wheat seed was in the seed company's possession as of March 1, 1996;

(6) If the wheat was grown in an area that is not a regulated area, but for which an Emergency Action Notification (PPQ Form 523)(EAN) for Karnal bunt has been issued, the seed company must submit a copy of the EAN.

(f) *Decontamination of grain storage facilities.* Owners of grain storage facilities that are in States where the Secretary has declared an extraordinary emergency, and who have decontaminated their grain storage facilities 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 each facility and each covered crop year wheat, for up to 50 percent of the cost of decontamination. However, compensation will not exceed \$20,000 per grain storage facility (as defined in §301.89-1). General clean-up, repair, and refurbishment costs are excluded from compensation. Compensation payments will be issued by APHIS. 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. 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 the cost to the owner and that decontamination has been completed. Claims for compensation must be received by APHIS on or before May 31, 1997. The Administrator may extend this deadline, upon request in specific cases, when unusual and unforeseen circumstances occur which prevent or hinder a claimant from requesting compensation on or before May 31, 1997.

(g) *Flour millers.* Flour millers who, in accordance with a compliance agreement with APHIS, heat-treat millfeed made from wheat produced in regulated areas that require such treatment 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 regulated area received by the miller by 25 percent (the average percent of millfeed derived from a short ton of grain). Compensation payments will be issued by APHIS. To claim compensation, the miller must submit to an inspector verification as to the actual (not estimated) weight of the wheat (such as a copy of the limited permit under which the wheat was moved to the mill or a copy of the bill of lading for the wheat, if the actual weight appears on those documents, or other verification). Flour millers must also submit verification that the millfeed was heat treated (such as 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; or a copy of PPQ Form 700 (which includes certification of processing) signed by the inspector who monitors the mill). Claims for compensation must be received by APHIS on or before May 31, 1997. The Administrator may extend this deadline, upon request in specific cases, when unusual and unforeseen circumstances occur which prevent or hinder a claimant from requesting compensation on or before May 31, 1997.

(h) *National Karnal Bunt Survey participants.* If a grain storage facility par-

ticipating in the National Karnal Bunt Survey tests positive for Karnal bunt spores, the facility will be regulated and may be ordered decontaminated pursuant to an Emergency Action Notification (PPQ Form 523) issued by an inspector. If a Declaration of Extraordinary Emergency has been declared for the State in which the grain storage facility is located, the owner of the grain storage facility will be eligible for compensation as follows:

(1) *Loss in value of positive wheat.* The owner of the grain storage facility will be compensated for the loss in value of positive wheat. Compensation will equal the estimated market price for the relevant class of wheat 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 October 1 and November 30, 1996, with adjustments for transportation and other handling costs. However, compensation will not exceed \$2.50 per bushel under any circumstances. Compensation payments for loss in value of wheat will be issued by the Farm Service Agency (FSA). To claim compensation, the owner of the facility must submit to the local FSA office a copy of the Emergency Action Notification under which the facility is or was quarantined and verification as to the actual (not estimated) weight of the wheat (such as a copy of the limited permit under which the wheat was moved to a mill or a copy of the bill of lading for the wheat, if the actual weight appears on those documents, or other verification). Claims for compensation must be received by FSA on or before May 31, 1997. The Administrator may extend this deadline, upon request in specific cases, when unusual and unforeseen circumstances occur which prevent or hinder a claimant from requesting compensation on or before May 31, 1997.

(2) *Decontamination of grain storage facilities.* The owner of the facility will be compensated on a one time only basis for each grain storage facility and each covered crop year wheat for the direct

costs of decontamination of the facility at the same rate described under paragraph (f) of this section (up to 50 per cent of the direct costs of decontamination, not to exceed \$20,000 per grain storage facility). Compensation payments for decontamination of grain storage facilities will be issued by APHIS, and claims for compensation must be submitted in accordance with the provisions in paragraph (f) of this section. Claims for compensation must be received by APHIS on or before May 31, 1997. The Administrator may extend this deadline, upon request in specific cases, when unusual and unforeseen circumstances occur which prevent or hinder a claimant from requesting compensation on or before May 31, 1997.

(i) *Wheat straw producers.* Producers of wheat straw (either growers who bale their own wheat straw or individuals contracted by growers to remove wheat straw from the growers' fields) made from wheat grown in the regulated areas in the 1995-1996 crop season are eligible to receive compensation on a one-time-only basis at the rate of \$1.00 per 80-pound bale or \$1.25 per hundredweight. Producers are eligible for compensation regardless of whether or not the straw is sold, but the straw must have been produced under contract. Compensation payments will be issued by the Farm Service Agency (FSA). To claim compensation, a wheat straw producer must submit a Karnal Bunt Compensation Claim form, provided by FSA, and a copy of the contract under which the wheat straw was produced to the local FSA county office. Claims for compensation must be received by FSA on or before April 22, 1998. The Administrator may extend this deadline, upon request in specific cases, when unusual and unforeseen circumstances occur which prevent or hinder a claimant from requesting compensation prior to that date.

[62 FR 24751, May 6, 1997, as amended at 63 FR 1329, Jan. 9, 1998]

§ 301.89-15 Compensation for growers, handlers, and seed companies in the 1996-1997 and 1997-1998 crop seasons.

Growers, handlers, and seed companies are eligible to receive compensation from the United States Department

of Agriculture (USDA) for the 1996-1997 and 1997-1998 crop seasons to mitigate losses or expenses incurred because of the Karnal bunt regulations and emergency actions, as follows:

(a) *Growers, handlers, and seed companies in areas under first regulated crop season.* Growers, handlers, and seed companies are eligible to receive compensation for the loss in value of their wheat in accordance with paragraphs (a)(1) and (a)(2) of this section if: the wheat was grown in a State where the Secretary has declared an extraordinary emergency; and, the wheat was grown in an area of that State that became regulated for Karnal bunt after the crop was planted, or for which an Emergency Action Notification (PPQ Form 523) was issued after the crop was planted; and, the wheat was grown in an area that remained regulated or under Emergency Action Notification at the time the wheat was sold. Growers, handlers, and seed companies in areas under the first regulated crop season are eligible for compensation for 1996-1997 crop season wheat or 1997-1998 crop season wheat (as appropriate) and for wheat inventories in their possession that were unsold at the time the area became regulated. The compensation provided in this section is for wheat grain, certified wheat seed, and wheat grown with the intention of producing certified wheat seed.

(1) *Growers.* Growers of wheat in an area under the first regulated crop season, who sell wheat that was tested by APHIS and found positive for Karnal bunt prior to sale, or that was tested by APHIS and found positive for Karnal bunt after sale and the price received by the grower is contingent on the test results, are eligible to receive compensation as described in paragraphs (a)(1)(i) and (a)(1)(ii) of this section. However, compensation for positive-testing wheat will not exceed \$1.80 per bushel under any circumstances.

(i) If the wheat was grown under contract and a price was determined in the contract before the area where the wheat was grown became regulated, compensation will equal the contract price minus the actual price received by the grower.

(ii) If the wheat was not grown under contract or a price was determined in