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## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

#### 7 CFR Part 301

[Docket No. 96-016-35]

RIN 0579-AA83

#### Karnal Bunt; Compensation for the 1997-1998 Crop Season

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

**SUMMARY:** We are amending the Karnal bunt regulations to provide compensation for certain growers, handlers, seed companies, owners of grain storage facilities, flour millers, and participants in the National Karnal Bunt Survey who incur losses and expenses because of Karnal bunt in the 1997-1998 crop season. The payment of compensation is necessary in order to reduce the economic impact of the Karnal bunt regulations on affected wheat growers and other individuals, and to help obtain cooperation from affected individuals in efforts to contain and reduce the prevalence of Karnal bunt.

**EFFECTIVE DATE:** June 25, 1999.

**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; or e-mail: michael.b.stefan@usda.gov.

#### 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 smut fungus *Tilletia*

*indica* (Mitra) Mundkur and is spread by spores, primarily through the movement of infected seed. In the absence of measures taken by the Animal and Plant Health Inspection Service (APHIS), U.S. Department of Agriculture (USDA), to prevent its spread, the establishment of Karnal bunt in the United States could have significant consequences with regard to the export of wheat to international markets. The regulations regarding Karnal bunt are in 7 CFR 301.89-1 through 301.89-16 (referred to below as the regulations). Among other things, the regulations define areas regulated for Karnal bunt and restrict the movement of certain regulated articles, including wheat seed and grain, from the regulated areas.

On December 17, 1998, we published a proposed rule in the **Federal Register** (63 FR 69563-69569, Docket No. 96-016-31), to amend the regulations to provide compensation for certain growers, handlers, seed companies, owners of grain storage facilities, flour millers, and participants in the National Karnal Bunt Survey who incurred losses and expenses because of Karnal bunt in the 1997-1998 crop season. The compensation we proposed was the same as we provided in the 1996-1997 crop season.

For areas under the first crop season of regulation in 1997-1998, we proposed that growers, handlers, and seed companies would be eligible for a maximum of \$1.80 per bushel of positive-testing wheat. For areas that were regulated in previous crop seasons, we proposed that growers, handlers, and seed companies would be eligible for \$.60 per bushel of positive-testing wheat. For owners of grain storage facilities, we proposed to compensate for up to 50 percent of the direct cost of decontamination of a grain storage facility, but compensation would not exceed \$20,000 per facility. For flour millers, we proposed to compensate for the treatment of millfeed at the rate of \$35.00 per short ton of millfeed if APHIS required the millfeed to be treated. For National Karnal Bunt Survey participants, we proposed to compensate for positive-testing wheat at a maximum of \$1.80 per bushel, and for up to 50 percent of the direct cost of decontamination of grain storage facilities, but not exceeding \$20,000 per facility.

We solicited comments concerning our proposal for 60 days ending February 16, 1999. We received seven comments by that date. They were from wheat industry associations, wheat producers and handlers, State departments of agriculture, and a food manufacturer. All of the commenters recommended additions or revisions to the proposed compensation. The comments are discussed below by topic.

In the proposed rule, we said that all regulated areas in the 1997-1998 crop season were previously regulated areas, and would, therefore, be eligible for the \$.60 per bushel compensation rate. Two commenters said that (1) the "certification area" established by APHIS in August 1998 is a "first regulated crop season" area and positive wheat from that area should get at least \$1.80 per bushel compensation, and (2) the maximum \$1.80 per bushel will not cover their losses, and we should offer the same maximum of \$2.50 per bushel that we offered in the 1995-1996 crop season (the first year we regulated for Karnal bunt).

We are not making any changes to the proposed rule based on these comments. However, we agree with the commenters that wheat from the certification area that tested positive for Karnal bunt should be eligible for up to \$1.80 per bushel compensation under the provisions for first regulated crop season areas. The certification area was established by APHIS as an emergency measure in August 1998 when random sampling of fields in Arizona showed there was a concentration of positive fields in a specific area. APHIS drew a boundary around the positive fields and called it a "certification area." All of the certification area was within the regulated area in Arizona. Most of the fields within the certification area were classified as restricted areas for seed; the remaining fields were classified as surveillance areas. Under the regulations, wheat grain may move from restricted areas for seed without testing. Wheat grain from surveillance areas must be tested before movement from the area. When the certification area was established in August 1998, APHIS required all wheat grain that had not already moved out of the certification area to be tested for bunted kernels before movement from the area.

Wheat grain growers and handlers from the portion of the certification area

that was outside the surveillance areas did not expect restrictions on the movement of their wheat grain at the time they made their planting and contract decisions. It is consistent with the intent of the compensation regulations to consider the certification area outside of the surveillance areas to be under the first regulated crop season for 1997–1998. Therefore, growers, handlers, and seed companies who sold positive-testing wheat from the certification area outside of the surveillance areas will be eligible for up to \$1.80 per bushel compensation. Positive-testing wheat grain from the surveillance areas within the certification area would be eligible for \$.60 per bushel. This decision does not require any change to the proposed regulations.

One commenter said that \$.60 per bushel is inadequate to compensate for losses from positive-testing breeder or foundation seed. Breeder and foundation seed are stages in the seed production process that come before the final stage of certified seed (certified seed is the seed sold for planting). The commenter said that seed companies lost future royalties from not being able to use positive-testing breeder or foundation seed as stock for producing large quantities of certified seed. The commenter also said that the contract price for foundation seed is normally \$27.00 per bushel. The commenter asked us to offer higher compensation for breeder and foundation seed to cover these losses.

We are not making any changes to the proposed rule based on this comment. We have not compensated in the past for losses in future royalties or for other losses at the early stages of seed production. The loss in value of certified, market-ready seed is the most quantifiable and direct loss associated with actions taken by APHIS to prevent the spread of Karnal bunt. Many losses connected with seed in other stages of production are less quantifiable and may have been otherwise imposed by market forces, such as market demand and prices over the long term.

One commenter said that we should offer the same \$1.80 per bushel compensation for all positive wheat, and not offer less (\$.60 per bushel) for wheat from previously regulated areas. We are not making any changes based on this comment. We continue to believe it is appropriate to provide a lower level of compensation to growers, handlers, and seed companies from previously regulated areas. Growers, handlers, and seed companies in areas under the first regulated crop season would not have known that their area

was to become regulated at the time they made their planting and many of their contracting decisions, and would not have been prepared for the loss in value of their wheat due to Karnal bunt. Growers, handlers, and seed companies in previously regulated areas knew they were in an area regulated for Karnal bunt at the time they made planting and contracting decisions for the 1997–1998 crop season. Understanding the restrictions, and realizing they were planting in a higher risk area, they could have chosen to alter their planting and contracting decisions to avoid losses from positive wheat. We believe the proposed compensation amounts are appropriate for the circumstances in each area.

Several commenters requested compensation for losses not addressed in the proposed rule, such as demurrage charges, the cost of cleaning contaminated railcars, and losses due to transportation delays caused by the Karnal bunt regulations. We are not making any changes to the proposed rule in response to these comments. We have not offered compensation for these costs and losses in past crop seasons. However, we have made a decision to provide some compensation for railcar cleaning and demurrage costs that were incurred in the 1995–1996 crop season due to the presence of Karnal bunt spores found in wheat in railcars. We are not offering compensation for railcar cleaning and demurrage costs for other crop seasons. Unlike handlers in later crop seasons, handlers in the 1995–1996 crop season would not have been prepared for potential costs associated with shipping wheat from the newly quarantined area. At the time of the 1995–1996 wheat harvest in Arizona, California, and New Mexico, the extent of Karnal bunt infestation was not completely known. In addition, even though samples were taken at the field level for testing, the testing did not reveal all the positive wheat in the affected area. The result was that significant quantities of positive wheat were commingled with negative wheat in railcars, and, when samples were taken from railcars for testing, high numbers of railcars with positive wheat were found. In subsequent crop seasons, the areas at higher risk for Karnal bunt were known, and handlers were able to take precautions to not commingle wheat from higher risk areas with wheat from other areas or to not move wheat from higher risk areas out of the regulated area.

During the 1995–1996 crop season, wheat in 22 railcars in California and 416 railcars in Arizona tested positive for Karnal bunt and the railcars were

required to be cleaned, at an estimated cost of \$50 per car. The time taken to remove the positive wheat from and clean the railcars often resulted in several days of demurrage charges, at a cost of about \$50 per car per day (demurrage is charged by a railcar company to compensate for delays, such as if a handler fails to load or unload freight within the time allowed). We estimate that the total cost of railcar cleaning and demurrage in the 1995–1996 crop season was \$750,000. APHIS will contact all eligible claimants with information on how to submit claims.

The following comments did not address compensation and, therefore, are not within the scope of the proposed rule. Nevertheless, they are addressed below.

Two commenters said that Karnal bunt is not a dangerous plant pest, and asked that we work with trading partners to advocate international deregulation of Karnal bunt. We agree with the commenters that Karnal bunt is a minor crop pest in that it produces little direct economic loss to agricultural production. Research and information from USDA's Agricultural Research Service and international scientists support this view. However, international trading partners continue to consider Karnal bunt a quarantine issue, jeopardizing exports of U.S. wheat. Therefore, we continue to regulate the movement of wheat from areas affected by Karnal bunt to protect our export markets, although we are relieving restrictions on growers, handlers, and seed companies as appropriate.

We have taken steps to address international views on appropriate levels of protection against minor crop pests like Karnal bunt. In cooperation with the North American Plant Protection Organization (NAPPO), APHIS hosted an international symposium in 1997 to assess the importance of bunt and smut diseases of wheat for quarantine purposes. Following this symposium, at the request of NAPPO, the International Plant Protection Convention Secretariat convened a science panel in June 1998 to evaluate the issue of categorizing regulated pests that have minor biological impacts, like Karnal bunt, for the purpose of determining the appropriate strength of protective measures for these types of pests. The science panel concluded that it was unnecessary and inappropriate to create a specific category for pests that have minor biological impact and that countries should rely on the current pest risk analysis process (under the World Trade Organization "Agreement

on the Application of Sanitary and Phytosanitary Measures") as the basis for determining the strength of protective measures. We are continuing to work with our international trading partners to minimize the impact of Karnal bunt on wheat trade.

One commenter asked that we deregulate the Bard-Winterhaven area in California. One commenter asked that we address the issue of Mexico not accepting wheat from parts of California outside the regulated areas. We recently published a final rule that removes the Bard-Winterhaven area in Imperial County, CA, from the regulations (see Docket No. 96-016-36, 64 FR 23749-23754, published in the **Federal Register** on May 4, 1999). In regard to wheat exports to Mexico, we are working with the Government of Mexico to establish mutually recognized criteria for considering areas as free of Karnal bunt.

Therefore, for the reasons given in the proposed rule and in this document, we are adopting the proposed rule as a final rule, without change.

#### **Effective Date**

This is a substantive rule that provides compensation to persons who experienced economic losses in the 1997-1998 crop season because of the Karnal bunt regulations and emergency actions. Immediate action is necessary to compensate for these losses. Therefore, pursuant to the provisions of 5 U.S.C. 553, the Administrator of the Animal and Plant Health Inspection Service finds good cause for making this rule effective upon publication in the **Federal Register**.

#### **Executive Order 12866 and Regulatory Flexibility Act**

This rule has been reviewed under Executive Order 12866. The rule has been determined to be significant for the purposes of Executive Order 12866 and, therefore, has been reviewed by the Office of Management and Budget.

This final rule establishes compensation provisions for certain growers, handlers, seed companies, owners of grain storage facilities, flour millers, and participants in the National Karnal Bunt Survey to mitigate losses and expenses incurred in the 1997-1998 crop season because of the Karnal bunt regulations and emergency actions.

In accordance with Executive Order 12866, this analysis examines the economic costs and benefits of providing such compensation. The wheat industry within the regulated area is largely composed of businesses that can be considered "small"

according to guidelines established by the Small Business Administration. Therefore, this analysis also fulfills the requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), which require agencies to consider the economic effects of rules on small entities.

Upon detection of Karnal bunt in Arizona in March 1996, Federal quarantine and emergency actions were imposed to prevent the interstate spread of the disease to other wheat producing areas in the United States. The unexpected discovery of Karnal bunt and subsequent Federal emergency actions disrupted the production and marketing flows of wheat in the quarantined areas. We estimate that the impact of Karnal bunt and subsequent Federal actions on the wheat industry totaled \$44 million in the 1995-1996 crop season.

In order to alleviate some of the economic hardships and to ensure full and effective compliance with the regulatory program, we offered compensation in the 1995-1996 and 1996-1997 crop seasons to mitigate certain losses to growers, handlers, seed companies, and other affected persons in the areas regulated for Karnal bunt. The payment of compensation is in recognition of the fact that, while benefits from regulation accrue to a large portion of the wheat industry outside the regulated areas, the regulatory burden falls predominately on a small segment of the affected wheat industry within the regulated areas. The compensation in this final rule for the 1997-1998 crop season is the same as the compensation offered in the 1996-1997 crop season.

Under this final rule, growers, handlers, and seed companies will be eligible for compensation for losses in the 1997-1998 crop season due to wheat grain or seed that tested positive for Karnal bunt. Only positive-testing wheat will be eligible for compensation because of the lack of restrictions on the movement of negative-testing wheat. As in the 1996-1997 crop season, we are offering different levels of compensation depending on whether the wheat was grown in an area under the first regulated crop season or in a previously regulated area. An area in the first regulated crop season is an area that became regulated for Karnal bunt after the 1997-1998 crop was planted. A previously regulated area is an area that became regulated for Karnal bunt before the 1997-1998 crop was planted.

For growers, handlers, and seed companies in previously regulated

areas, compensation for positive grain or seed will be \$.60 per bushel. Growers, handlers, and seed companies in areas under the first regulated crop season will be eligible for compensation at a rate not to exceed \$1.80 per bushel. These compensation rates apply to both wheat grain and seed. The difference in compensation rates reflects the fact that affected entities in areas under the first regulated crop season would not have known that their area was to become regulated for Karnal bunt at the time that they made planting and contracting decisions, and would not have been prepared for the loss in value of their wheat due to Karnal bunt. Growers and handlers in previously regulated areas knew they were in an area regulated for Karnal bunt at the time that they made planting and contracting decisions for the 1997-1998 crop season. Given the restrictions, growers and handlers could have chosen to alter planting or contract decisions to avoid experiencing potential losses due to Karnal bunt.

We have completed testing of 1997-1998 harvest wheat from the surveillance areas in Arizona, California, New Mexico, and Texas. The amount of positive wheat from the surveillance areas is shown in the table below. The table also shows levels of positive wheat from an area called the certification area. The certification area was established by APHIS as an emergency measure in August of 1998 when random sampling of fields in Arizona showed there was a concentration of positive fields in a specific area. As discussed in the response to comments in this final rule, growers, handlers, and seed companies with positive wheat from the certification area (not including surveillance areas within the certification area) will be eligible for first regulated crop season compensation (maximum of \$1.80 per bushel). We have not completed testing of wheat from the certification area outside of the surveillance areas. Therefore, the amounts shown in the table below are estimated based on the rate of infection we have found to date from the certification area. It should be noted that, in the proposed rule, we estimated that compensation for wheat grain and seed in the 1997-1998 crop season would total \$87,000. The estimated total compensation in the table below is significantly higher due to a higher than expected infection rate and the higher rate of compensation for growers, handlers, and seed companies in the certification area.

## COMPENSATION FOR POSITIVE-TESTING WHEAT IN THE 1997–1998 CROP SEASON

	Total bushels of wheat har- vested	Positive wheat, bushels	Maximum compensation per bushel	Estimated total compensation
Arizona, surveillance area .....	1,577,858	284,042	\$.60	\$170,425
Arizona, certification area <sup>1</sup> .....	3,328,234	977,482 (estimated)	1.80	1,759,468
California .....	1,910,792	10,302	.60	6,181
New Mexico .....	318,000	0	.60	0
Texas .....	784,200	0	.60	0
Totals .....	7,919,084	1,271,826	.....	1,936,074

<sup>1</sup> We estimate that the field infection rate in the Arizona certification area in 1998 was 6.45 percent. The amount of positive bushels in the Arizona certification area shown in this table does not reflect the field infection rate in this area. This is due to the fact that positive wheat was commingled with negative wheat in grain storage facilities in the certification area before it was known that the wheat was positive, resulting in a higher infection rate per bushel.

This final rule also provides compensation for the decontamination of grain storage facilities found with positive wheat, the treatment of millfeed, and participants in the National Karnal Bunt Survey whose wheat or grain storage facility is found to be positive for Karnal bunt.

Compensation for decontamination of grain storage facilities will be on a one-time-only basis for up to 50 percent of the cost of decontamination, not to exceed \$20,000 per facility. In the 1997–1998 crop season, only one grain storage facility was required to be decontaminated.

Compensation for the cost of heat treating millfeed that APHIS requires to be treated is at the rate of \$35.00 per short ton of millfeed. Under current regulations, APHIS requires heat treatment of millfeed made from wheat that tested positive for Karnal bunt. In the 1997–1998 crop season, no positive wheat was used for milling; therefore, no heat treatment of millfeed was required.

No new areas were regulated in the 1997–1998 crop season as a result of the National Karnal Bunt Survey. Therefore, no one will be eligible for compensation for National Karnal Bunt Survey participants under this final rule. (As discussed previously, although no new areas were regulated in the 1997–1998 crop season as a result of the National Karnal Bunt Survey, producers within the certification area in Arizona will be eligible for first regulated crop season compensation. The additional restrictions imposed in the certification area in the 1997–1998 crop season were not as a result of testing done for the National Karnal Bunt Survey.)

There are approximately 18,000 acres within the areas regulated for Karnal bunt where planting of wheat was prohibited in the 1997–1998 crop season. This rule does not contain provisions for compensating growers in

areas where wheat planting is prohibited, since many of these growers rotate wheat with other crops that are not prohibited from being planted. These growers generate revenue from these other crops, effectively minimizing the impact of the prohibition on planting wheat.

Growers and handlers of wheat grain and seed, and wheat seed companies, are the entities most affected by this rule. We estimate that there are a total of 712 wheat growers in the regulated areas: 378 in Arizona, 48 in California, 200 in New Mexico, and 86 in Texas. There are 149 growers in surveillance areas, and 563 growers in regulated areas lying beyond surveillance areas.<sup>1</sup> Most of these entities have total sales of less than \$0.5 million, the Small Business Administration's threshold for classifying wheat producers as small entities. Accordingly, the economic effects of this rule will largely be on small entities.

We expect this rule will have a positive economic effect on all affected entities, large and small. Compensation for the loss in value of wheat that tests positive for Karnal bunt serves to encourage compliance with testing requirements within the regulated area, thereby aiding in the preservation of an important wheat growing region in the United States. It also serves to encourage participation in the National Karnal Bunt Survey.

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.

<sup>1</sup> The 149 growers in surveillance areas are distributed as follows: 54 in Arizona, 27 in California, 68 in Texas, and none in New Mexico. The 563 growers in regulated areas lying beyond surveillance areas are distributed as follows: 324 in Arizona, 21 in California, 200 in New Mexico, and 18 in Texas.

### Executive Order 12372

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

### Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are inconsistent with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

### Paperwork Reduction Act

In accordance with 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 final rule have been approved by the Office of Management and Budget (OMB). The assigned OMB control number is 0579–0140.

### List of Subjects in 7 CFR Part 301

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

Accordingly, we are amending 7 CFR part 301 as follows:

### PART 301—DOMESTIC QUARANTINE NOTICES

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

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

2. Section 301.89–15 is amended by revising the section heading, the introductory text to the section, the

introductory text to paragraph (a), all of paragraph (b), the introductory text to paragraph (c), and the last sentence of paragraph (c)(2), to read as follows:

**§ 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.

\* \* \* \* \*

(b) *Growers, handlers, and seed companies in previously regulated areas.* Growers, handlers, and seed companies are eligible to receive compensation for the loss in value of their wheat in accordance with paragraphs (b)(1) and (b)(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 before the crop was planted, or for which an Emergency Action Notification (PPQ Form 523) was issued before 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 previously regulated areas are eligible for compensation only for 1996–1997 or 1997–1998 crop season wheat. 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 a previously regulated area 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 at the rate of \$.60 per bushel of positive testing wheat.

(2) *Handlers and seed companies.* Handlers and seed companies who sell wheat grown in a previously regulated area are eligible to receive compensation only if the wheat was not tested by APHIS prior to purchase by the handler, but was tested by APHIS and found positive for Karnal bunt after purchase by the handler or seed company, as long as the price to be paid by the handler or seed company is not contingent on the test results. Compensation will be at the rate of \$.60 per bushel of positive testing wheat.

(c) *To claim compensation.* Compensation payments to growers, handlers, and seed companies under paragraphs (a) and (b) of this section will be issued by the Farm Service Agency (FSA). Claims for compensation for the 1996–1997 crop season must be received by FSA on or before October 8, 1998. Claims for compensation for the 1997–1998 crop season must be received by FSA on or before October 25, 1999. The Administrator may extend the deadline, upon request in specific cases, when unusual and unforeseen circumstances occur which prevent or hinder a claimant from requesting compensation on or before these dates. To claim compensation, a grower, handler, or seed company must complete and submit to the local FSA county office the following documents:

\* \* \* \* \*

(2) *Growers.* \* \* \* Growers compensated under paragraph (b)(1) of this section (previously regulated areas) whose wheat was not tested prior to sale must submit documentation showing that the price paid to the grower was contingent on test results (such as a copy of the receipt for the final sale of the wheat or a copy of the contract the grower has for the wheat, if this information appears on those documents).

\* \* \* \* \*

**§ 301.89–16 [Amended]**

3. Section 301.89–16 is amended as follows:

a. In the heading, by removing the words “1996–1997 crop season” and adding the words “1996–1997 and 1997–1998 crop seasons” in their place.

b. In the introductory text, by removing the words “1996–1997 crop season” and adding the words “1996–1997 and 1997–1998 crop seasons” in their place.

c. In paragraphs (a), (b), (c)(1), and (c)(2), by removing the last two sentences in each paragraph and by adding three sentences in their place to read as follows: “Claims for compensation for the 1996–1997 crop season must be received by APHIS on or before October 8, 1998. Claims for compensation for the 1997–1998 crop season must be received by APHIS on or before October 25, 1999. The Administrator may extend these deadlines upon written request in specific cases, when unusual and unforeseen circumstances occur which prevent or hinder a claimant from requesting compensation on or before these dates.”

Done in Washington, DC, this 18th day of June 1999.

**Craig A. Reed,**

*Administrator, Animal and Plant Health Inspection Service.*

[FR Doc. 99–16167 Filed 6–24–99; 8:45 am]

BILLING CODE 3410–34–P

**DEPARTMENT OF AGRICULTURE**

**Agricultural Marketing Service**

**7 CFR Part 947**

[Docket No. FV99–947–1 IFR]

**Irish Potatoes Grown in Modoc and Siskiyou Counties, California, and in all Counties in Oregon, Except Malheur County; Temporary Suspension of Handling Regulations and Establishment of Reporting Requirements**

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Interim final rule with request for comments.

**SUMMARY:** This rule suspends, for the 1999–2000 season only, the minimum grade, size, quality, maturity, pack, inspection, and other related requirements currently prescribed under the Oregon-California potato marketing order. The marketing order regulates the handling of Irish potatoes grown in Modoc and Siskiyou Counties, California, and in all Counties in