

For: AZ, CA, and NM State and County Offices

1997-1998 Crop Wheat Karnal Bunt Compensation for Affected Southwest Producers

Approved by: Deputy Administrator, Farm Programs



1 Overview

A

Background

Final regulations, published by APHIS in the June 25, 1999, FR, provide for compensation to eligible wheat producers, handlers, and seed companies who experienced a loss in value in the 1998 crop.

Producers, handlers, and seed companies in areas under the first and previously regulated crop season are eligible for compensation for Karnal bunt positive-tested:

- 1998 crop wheat, which includes wheat grain, certified wheat seed, and wheat grown with the intention of producing certified wheat seed
- wheat inventories in their possession that were unsold at the time the area became regulated or under Emergency Action Notification (EAN).

Note: 1998 crop wheat that tested negative for Karnal bunt is **not** eligible for compensation.

B

Purpose

This notice provides procedure for issuing 1998 crop Karnal bunt compensation payments to **eligible** wheat:

- producers
- handlers
- seed companies.

<p>Disposal Date</p> <p>December 1, 2000</p>	<p>Distribution</p> <p>AZ, CA, and NM State Offices; State Office relay to applicable County Offices</p>
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2 Definitions

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Handler

A handler, for Karnal bunt payment purposes, is the first entity to obtain wheat from producers for resale to other handlers or end users.

B

Wheat Grown Under Contract

Wheat grown under contract is wheat grown, under any written contract, or sales agreement in which a producer and handler agree to the terms and conditions of a sale.

Note: The sales price may be established at a future date.

C

Wheat Seed Grown Under Contract

Wheat seed grown under contract is wheat seed grown under any written contract in which a producer and seed company agree to the terms and conditions for producing certified wheat seed for sale to the seed company.

Note: The contract price may be established at a future date.

D

Contract Price

The contract price is the net price after adjustments for any premiums or discounts stated on the contract.

Note: The net contract price must be used when determining eligibility for compensation.

E

Actual Price Received

The actual price received is the net price after adjustments for any premiums or discounts stated on the sales receipt.

Notes: The actual price received should reflect any premiums or discounts for quality contained in the written contract.

Any deductions for wheat check-off, sampling fees, or other fees for services rendered should be added to the actual price received by the producer, handler, or seed company.

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3 Compensation for Producers

A

Determining Eligibility

For producers to be eligible for compensation for the loss in value of their wheat, both of the following must apply:

- the wheat must have been grown:
 - in a State where the Secretary of Agriculture has declared an extraordinary emergency
 - in an area of that State that was regulated for Karnal bunt or under EAN **after** the 1998 wheat crop was planted
 - in an area that remained regulated or under EAN at the time the wheat was sold
 - the wheat was tested by APHIS and **either** of the following apply:
 - found **positive** for Karnal bunt **before** sale
 - found **positive** for Karnal bunt **after** sale **and** the price received by the producer was contingent on the test results.
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B

Wheat Under Contract and Priced Before EAN or Formal Letter Is Issued

Producers of wheat in an area under the **first** or **previously** regulated crop season who sold their wheat are eligible for compensation if **all** of the following apply:

- wheat is eligible according to subparagraph A
- wheat was grown under contract
- a price was determined in the contract **before** the date APHIS issued applicable EAN or formal letter

Compensation, **not** to exceed \$1.80 per bushel, will equal the contract price minus the actual price received by the producer.

For growers, handlers, and seed companies in a **previously** regulated area, compensation for positive grain and seed will be \$.60 per bushel.

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3 Compensation for Producers (Continued)

C

Wheat Not Under Contract or Priced After EAN or Formal Letter Is Issued

Producers of wheat in an area under the **first** or **previously** regulated crop season who sold their wheat are eligible for compensation if:

- wheat is eligible according to subparagraph A
- **either** of the following apply:
 - wheat was **not** grown under contract
 - a price was determined in the contract **after** date APHIS issued applicable EAN or formal letter.

Compensation, **not** to exceed \$1.80 per bushel, will equal the estimated market price (EMP) for the relevant class of wheat minus the actual price received by the producer.

For growers, handlers, and seed companies in a **previously** regulated area, compensation for positive grain and seed will be \$.60 per bushel.

4 Compensation for Handlers and Seed Companies

A

Determining Eligibility

For **handlers and seed companies** to be eligible for compensation for the loss in value of their wheat, all of the following must apply:

- the wheat was grown in a State where the Secretary of Agriculture has declared an extraordinary emergency
 - the wheat was grown in an area of that State that was regulated for Karnal bunt or under EAN **after** the 1998 wheat crop was planted
 - the wheat was grown in an area that remained regulated or under EAN at the time the wheat was sold
 - the wheat was **not** tested by APHIS **before** purchase by the handler or seed company
 - the wheat 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 was **not** contingent on the test results.
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4 Compensation for Handlers and Seed Companies (Continued)

B

Handler and Seed Company Compensation

Handlers and seed companies who sell wheat grown in an area under the **first** and **previously** regulated crop season are eligible to receive compensation if the wheat is eligible according to subparagraph A.

Compensation, **not** to exceed \$1.80 per bushel, will equal EMP for the relevant class of wheat minus the actual price received by the handler or seed company.

For growers, handlers, and seed companies in **previously** regulated area, compensation for positive grain and seed will be \$.60 per bushel.

5 Compensation Requests

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Requesting Compensation

To request compensation, the wheat producer, handler, and seed company shall:

- make the request in the County Office for the regulated area
 - make the request on or before October 25, 1999
 - complete PPQ-926
 - provide the Federal tax identification number for IRS reporting purposes
 - provide the documentation according to this paragraph.
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B

Documentation Required

Producers, handlers, and seed companies shall provide the following documentation to the County Office to support their request for compensation available according to this notice:

- copy of EAN or formal letter issued by APHIS
 - **for producers**, copy of contract under which the wheat was grown, if wheat was under contract
 - Karnal bunt certificate issued by APHIS showing **positive** test results
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5 Compensation Requests (Continued)

B
Documentation
Required
(Continued)

- copy of receipt for **sale** of wheat showing total:
 - bushels sold
 - price received by the producer, handler, or seed company for sale of the wheat
- verification as to actual, not estimated, weight of the wheat, such as a copy of a facility weigh ticket, or other verification
- **handlers and seed companies** must also submit documentation that the price paid to the producer was **not** contingent on test results

Note: This information may be on a receipt for purchase of the wheat or a copy of the contract the handler or seed company had with the producer.

- for **seed claim requests**, additional documentation showing that the wheat is **either** of the following:
 - certified seed including Breeder, Foundation, or Registered seed
 - was grown with the intention of producing certified seed

Note: This documentation may include **1 or more** of the following:

- document issued by the State seed certification agency verifying that the **wheat is certified seed**
- bulk sale certificate
- certification tags or labels issued by the State seed certification agency
- application to the State seed certification agency for field inspection that shows the **seed is eligible for certification**

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5 Compensation Requests (Continued)

B

Documentation Required (Continued)

- for requests that include **inventory quantities**, certify that the:
 - inventory quantity tested **positive** for Karnal bunt
 - wheat was in the claimant's possession **before** issue date of EAN or formal letter issued by APHIS, as applicable.
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6 County Office Action

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Accepting Requests

County Offices shall:

- accept requests for compensation through October 25, 1999, from eligible producers, handlers, and seed companies
- assist producers, handlers, and seed companies in completing PPQ-926
- review the following documents for required information, as applicable, according to paragraph 5:
 - Karnal bunt certificate for **positive** test results
 - copy of applicable contract for sale
 - copy of receipt for sale
 - documentation to support the seed is certified or eligible for certification
 - verification of weight or quantity
- retain documents applicable to Karnal bunt compensation for 5 years from date of compensation.

Reminders: Some contracts do not clearly indicate the final producer, handler, or seed company payment calculations. It is the producer's, handler's, or seed company's responsibility to provide sufficient contract and sales documentation.

If a contract or final sales document is not clear, especially concerning discounts applied, ask for an explanation and additional documentation, as applicable.

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6 County Office Action (Continued)

B

Issues Not Addressed

For requests received involving issues not addressed in this notice, County Offices shall:

- continue to accept requests from producers, handlers, and seed companies
- obtain as much detailed information from producers, handlers, and seed companies as possible to support their claim
- submit these claims to PSD through the State Office.

The submitted claim request files will be reviewed by PSD and an APHIS representative. Upon completion of the review of the files and any additional documentation that may be requested, determinations will be made and remanded to the County Office for payment or additional action as necessary.

C

Requests Received After October 25, 1999

For compensation requests received after October 25, 1999, County Offices shall advise the producer, handler, or seed company that the request may only be extended in specific cases when unusual and unforeseen circumstances occurred that prevented the producer, handler, or seed company from making the request by October 25, 1999.

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6 County Office Action (Continued)

D

Determining Amount of Compensation

County Offices shall:

- complete PPQ-927 to determine the amount of compensation available for each request, based on the information provided by the wheat producer, handler, or seed company, as applicable
 - for **wheat grain** requests, use \$3.55 as EMP for hard red winter (HRW), as determined by APHIS
 - for **wheat seed** requests, contact PSD through the State Office.
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E

Monthly Summary

County Offices accepting compensation requests according to this notice shall:

- prepare and maintain a manual list indicating the following information:
 - producer, handler, or seed company name
 - Federal tax identification number for IRS reporting purposes
 - number of bushels per request
 - amount of payment provided to the producer, handler, or seed company
 - State and county from which compensation is provided.
- provide to the State Office before November 16, 1999, the above applicable information.

The State Office shall:

- compile the information submitted by County Offices
 - FAX to PSD at 202-690-3307 before December 7, 1999.
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6 County Office Action (Continued)

F

Authorization of Funds

Authorization of funds for 1998 wheat crop Karnal bunt compensation payments will be issued to the State Office from PSD on FSA-357 under separate cover. As funds are depleted in the State, the State Office shall request additional funds from PSD.

The State Office shall maintain a separate ledger for funds authorized according to this notice. This shall be a separate ledger from funds authorized under previous compensation procedures.

County Offices shall receive authorization of funds from the State Office.

Note: Compensation payments shall **not** be issued until authorization of funds has been received.

G

Processing Karnal Bunt Compensation Payments

County Offices shall process authorized Karnal bunt compensation payments:

- by EFT according to 1-FI
- using program code "98KBCOMP" for producer and handler requests

Note: County Offices shall **not** offset Karnal bunt compensation payments.

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6 Additional Provisions

A

APHIS Program Payments

APHIS program payments are **not**:

- subject to prompt payment regulations

Note: State and County Offices shall not pay prompt payment interest on Karnal bunt compensation payments.

- subject to finality rule regulations
 - assignable.
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B

APHIS Forms

PSD shall issue a supply of PPQ-926's and PPQ-927's to the State Office for distribution to the applicable County Offices.

The State Office shall request an additional supply of forms from PSD, as needed.

C

Obsolete Notice

Notice LP-1697 is obsolete.
