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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. 96–016–29]

RIN 0579–AA83

Karnal Bunt; Compensation for the 1996–1997 Crop Season

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending the Karnal bunt regulations by adding compensation provisions 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 1996–1997 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 Karnal bunt eradication efforts. The amendments are necessary to make compensation appropriate for circumstances in the 1996–1997 crop season.

EFFECTIVE DATE: June 10, 1998.

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: mstefan@aphis.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 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 set forth in 7 CFR 301.89–1 through 301.89–14. 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 May 6, 1997, we published a document in the **Federal Register** (62 FR 24745–24753, Docket No. 96–016–17, effective April 30, 1997) making final an interim rule that amended the regulations to provide compensation for certain growers and handlers of wheat grain, owners of grain storage facilities, and flour millers in order to mitigate losses and expenses incurred in the 1995–1996 crop season because of actions taken by the Secretary to prevent the spread of Karnal bunt. The final rule also added compensation provisions for handlers of wheat grain that was tested and found negative for Karnal bunt, handlers and growers with wheat inventories from past crop seasons, and participants in the National Karnal Bunt Survey whose wheat grain tested positive for Karnal bunt in the 1995–1996 crop season. On January 9, 1998 (63 FR 1321–1331, Docket No. 96–016–25), we published a final rule providing compensation for growers and seed companies for the loss in value of wheat seed and straw in the 1995–1996 crop season. The compensation regulations in both these final rules are set forth at 7 CFR 301.89–14.

On July 11, 1997, we published in the **Federal Register** (62 FR 37159–37166, Docket No. 96–016–15) a proposal to amend the regulations to add a compensation program for wheat harvested in 1997. The proposed provisions for 1996–1997 crop season wheat provided compensation for certain growers and handlers of wheat grain and seed, 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 1996–1997 crop season.

We solicited comments concerning our proposal for 60 days ending September 9, 1997. We received nine comments by that date. They were from wheat growers and wheat industry associations. All the commenters recommended additions or revisions to the compensation provisions. They are discussed below.

Six of the nine commenters requested compensation for growers whose fields are located in the areas listed as surveillance areas under the Karnal bunt regulations. Specifically, several of the commenters stated that they ''wished to register the strongest opposition to this proposed rule for its failure to provide compensation to those growers whose fields are located in the Arizona surveillance area.'' It is unclear to us what the concerns are. Under the Karnal bunt regulations, regulated areas are divided into restricted areas and surveillance areas. The proposed rule provided compensation for growers and handlers with positive testing wheat grown in regulated areas. The proposal made no distinction between whether or not the regulated area was a restricted area or a surveillance area. Any wheat grown in a regulated area, including a surveillance area, that is tested by the Animal and Plant Health Inspection Service (APHIS) and found positive for Karnal bunt in the 1996–1997 crop season will be eligible for compensation under this rule.

Under the regulations, designation of an area as a surveillance area has an impact only on the movement of wheat grain from that area; wheat seed is subject to the same restrictions whether it is grown in a surveillance area or in any other part of the regulated area. Therefore, because the commenters are specifically concerned about compensation to growers with fields in surveillance areas, we can conjecture that they are concerned about loss in value of wheat grain. Wheat grain from a surveillance area that tests negative for Karnal bunt may be moved under certificate to any destination without restriction. We do not expect growers with negative-testing wheat grain to experience a loss in value of the grain due to our regulations. For this reason, this final rule does not offer compensation to growers for wheat

grain that tests negative for Karnal bunt. Wheat grain from a surveillance area that tests positive for Karnal bunt may be moved only under a limited permit and will be subject to measures intended to mitigate the risk of the grain spreading Karnal bunt. Due to our restrictions, most positive-testing grain will be sold for use as animal feed. This final rule offers compensation to growers for the loss in value of positive-testing grain. We have made no changes to the rule based on these comments.

Two comments specified that compensation should be paid to growers with fields in surveillance areas who chose not to plant wheat in the 1996–1997 crop season in order to avoid losses due to Karnal bunt. According to the comments, alternative crops to wheat (for example, barley) are of lower value than wheat; therefore, the comments claim that the choice to plant alternative crops resulted in losses in annual income for these farmers. The commenters said that, since it is APHIS' desire to encourage growers in regulated areas to stop growing wheat, APHIS should consider growers who voluntarily planted alternative crops as contributing to the Karnal bunt eradication effort, and should compensate them accordingly.

We are not making any changes to the proposed rule based on these comments. At the time growers were making planting decisions for the 1996–1997 crop season, the Karnal bunt regulations did not prohibit growers with fields in surveillance areas from planting wheat, unless the field had been planted with known contaminated seed in 1995. Growers who chose to plant alternative crops in order to avoid losses related to Karnal bunt did so as a business decision, and not as a result of any restrictions placed on them by the regulations. Currently, and at the time planting decisions were being made for the 1996–1997 crop season, wheat grain from surveillance areas that tests negative for Karnal bunt may be moved under a certificate to any destination without restriction. Therefore, when making planting decisions, growers should not have expected to experience losses due to Karnal bunt unless their wheat tested positive. If their wheat tested positive, this final rule offers them compensation for the loss in value.

Three comments requested compensation for losses such as demurrage charges on railcars, the cost of cleaning and sanitizing railcars prior to loading, losses due to delays in transportation caused by the Karnal bunt regulations, extra storage costs due to shipping delays, and labor costs for cleaning and disinfecting combines. We are not making any changes to the proposal for 1996–1997 crop season compensation in response to these comments. Compensation has not been offered for these costs and losses in the 1995–1996 crop season. In determining what specific losses to compensate, a top priority was compensation for wheat and other articles the Agency ordered destroyed or prohibited movement. For this reason, the focus of compensation for Karnal bunt related losses is the loss in value of wheat seed and grain. We recognize that the compensation we have offered may not fully account for every loss experienced by growers and handlers resulting from Karnal bunt. However, we believe the compensation provisions in this final rule will significantly mitigate losses due to the actions taken by USDA to control Karnal bunt.

One comment requested compensation for decontaminating storage facilities and conveyances found with wheat testing positive for Karnal bunt. Both the proposed rule and this final rule provide for compensation for this purpose. Section 301.89–16(a) provides that, in States where the Secretary has declared an extraordinary emergency, owners who have decontaminated their grain storage facilities pursuant to an Emergency Action Notification (EAN) (PPQ Form 523) issued by an inspector are eligible to be compensated, on a one time only basis for each facility for each covered crop year wheat, for up to 50 percent of the direct cost of decontamination. However, compensation will not exceed $20,000 per grain storage facility. Grain storage facility is defined in § 301.89–1 of the regulations to mean ''That part of a grain handling operation or unit of a grain handling operation, consisting of structures, conveyances, and equipment that receive, unload, and store grain, and that is able to operate as an independent unit from other units of the grain handling operation. A grain handling operation may be one grain storage facility or may be comprised of many grain storage facilities on a single premises.''

Two comments said that growers and handlers should not have to provide copies of Karnal bunt certificates in order to claim compensation, and also asked that we remove the requirement that growers and handlers provide copies of Emergency Action Notifications (EANs) for wheat grown in an area that was not regulated for Karnal bunt but for which an EAN had been issued. The commenters' reason was that Karnal bunt certificates and EANs were issued by USDA, and should not have to be provided back to USDA to claim compensation.

We are making no changes to the proposed rule based on these comments. We understand that filing claims for compensation does require claimants to provide a number of documents, and collecting these documents may seem cumbersome. Claims submitted under this final rule for 1996–1997 crop season wheat seed and grain will be processed by the Farm Service Agency (FSA). APHIS will process claims for decontamination of grain storage facilities and treatment of millfeed. While FSA and APHIS are both a part of USDA, they do not share offices, computer systems, or recordkeeping systems. This would make it difficult and time-consuming for APHIS and FSA to exchange copies of the required documents for each claimant. In addition, in most cases, claimants were provided with copies of EANs and Karnal bunt certificates. If they were not, copies may be obtained by the claimant from APHIS for submission to FSA. Claimants should not have difficulty in collecting EANs or Karnal bunt certificates. At this time, the most efficient way for FSA and APHIS to process compensation claims is for the claimant to provide the documents to FSA and APHIS.

We have been made aware, however, that some owners of grain storage facilities ordered decontaminated due to Karnal bunt were not issued EANs. A number of owners of grain storage facilities found to have positive grain in the 1996–1997 crop season were issued letters from APHIS declaring their grain to be positive for Karnal bunt and ordering the grain storage facilities to be decontaminated. To accommodate this, owners of grain storage facilities may claim compensation under this final rule if their facility was decontaminated pursuant to an EAN issued by APHIS or pursuant to a letter issued by APHIS ordering the facility to be decontaminated. We will require that, to claim compensation, claimants provide APHIS with either a copy of the EAN or a copy of the letter from APHIS ordering decontamination of the facility. These changes appear in § 301.89–16 (a) and (c).

Two commenters were concerned about the proposed compensation for heat treating millfeed. The proposed compensation is the same as what was offered for heat treating millfeed in the 1995–1996 crop season. The commenters said that they believe heat treating millfeed is not necessary, and were under the impression that APHIS was eliminating this requirement.

In the preamble to the proposed rule, we stated that APHIS was considering proposing to eliminate the requirement to heat treat millfeed. We also stated that, if this requirement is eliminated by a future rulemaking, compensation will not be paid for millfeed that is heat treated after the effective date of such a rule. To date, the requirement for heat treating millfeed has not been eliminated from the regulations. On January 28, 1998 (63 FR 4198–4204, Docket No. 96–016–22), we published in the **Federal Register** a proposed rule to, among other things, amend the requirements for treating millfeed, so that only millfeed resulting from the milling of wheat, durum wheat, or triticale that tested positive for Karnal bunt would require heat treatment. However, this proposed rule would have no effect on millfeed from grain milled in the 1996–1997 crop season. Any millfeed that has been treated in the 1996–1997 crop season in accordance with a compliance agreement with APHIS will be eligible for the compensation offered in this final rule.

One commenter said that since the proposal would compensate only for wheat that tests positive for Karnal bunt, the industry needs assurance that there will not be any restrictions on the movement of wheat that tests negative. In the 1996–1997 crop season, no host material was allowed to be planted in fields in restricted areas for regulated articles other than seed. As a result of an interim rule effective on April 25, 1997, and published in the **Federal Register** on May 1, 1997 (62 FR 23620–23628, Docket No. 96–016–19), wheat grain that is from a surveillance area and that tests negative on one test conducted at the means of conveyance may move under certificate to any destination without further safeguarding or sanitation requirements. Restricted areas for seed encompass and extend beyond surveillance areas. Grain from fields that are in restricted areas for seed outside a surveillance area may move without testing and without restriction for any purpose but seed. Seed grown in a restricted area for seed that tests negative for Karnal bunt may be planted within the regulated area only. These regulations remain in effect.

One commenter asked that we be more flexible in dealing with individual claims for compensation that do not fit the regulations precisely. Specifically, the commenter requested that we consider compensation for a grower who plowed down a field outside of the regulated area, and for test plots that were plowed down in California. The plow downs to which the commenter refers occurred in the 1995–1996 crop season, and are therefore outside the scope of this final rule. Additional compensation claims for 1996–1997 crop season losses that do not fit the provisions of this final rule will be considered by USDA.

One commenter requested that compensation be extended to wheat growers and handlers in Alabama. APHIS conducted a National Karnal Bunt Survey in the 1996–1997 crop season to demonstrate to our trading partners that areas producing wheat for export are free of the disease. During the survey, grain in a number of storage facilities located in the States of Alabama, Florida, Georgia, and Tennessee was found to be contaminated with spores which we believed to be teliospores of the smut fungus *Tilletia indica* (Mitra) Mundkur. The presence of teliospores of this smut fungus can result in an outbreak of Karnal bunt. Based on these findings, USDA considered declaring an extraordinary emergency for Karnal bunt in the States of Alabama, Florida, Georgia, and Tennessee.

USDA did not, however, declare an extraordinary emergency in these States. In May of 1997, APHIS announced that regulation of an area for Karnal bunt would be based only on the presence of bunted wheat kernels. APHIS based this decision on the fact that a substantial portion of ryegrass seed produced in the United States contains teliospores produced by an as yet unnamed smut that are indistinguishable from Karnal bunt teliospores. Ryegrass is one of the most common weeds occurring in wheat fields, and is frequently planted with wheat in forage and pasture mixes. For this reason, APHIS determined that at the present time, it is not possible to determine whether a teliospore is indicative of ryegrass smut or Karnal bunt without the presence of bunted wheat kernels. Because no bunted kernels were found in wheat storage facilities located in the States of Alabama, Florida, Georgia, and Tennessee, USDA determined that a declaration of extraordinary emergency in these States was not warranted.

The commenter said that, despite the absence of regulatory restrictions, farmers in Alabama experienced losses due to planting decisions made in the 1996–1997 crop season as a result of the threat of a quarantine. The commenter also said that the Secretary should have the authority to compensate regardless of whether or not a declaration of extraordinary emergency is declared.

As we have explained in other rules on Karnal bunt compensation, the Federal Plant Pest Act (7 U.S.C. 150aa–150jj) authorizes the Secretary of Agriculture to take emergency action in States where the Secretary has declared an extraordinary emergency. The Federal Plant Pest Act also authorizes the Secretary to compensate growers and other persons in those States for economic losses incurred by them as a result of those emergency actions. (See specifically 7 U.S.C. 150dd.) Congress has not authorized the Secretary to pay compensation in States for which an extraordinary emergency has not been declared. The determination that Karnal bunt does not exist in the States of Alabama, Florida, Georgia, and Tennessee saved wheat producers in those States from Federal regulation that would have required testing of all wheat grown in regulated areas, and substantial restrictions on the movement and potential uses of their wheat crop. Some wheat producers may have experienced a loss in income in the 1996–1997 crop season due to planting decisions made as a result of uncertainty as to the State's Karnal bunt status. However, because an extraordinary emergency was not declared in these States, we are unable to offer compensation for any losses that may have been experienced.

We received one comment concerning the difference in compensation rates offered to growers and handlers in areas under the first regulated crop season and growers and handlers in areas under the second regulated crop season. We proposed different levels of compensation for growers and handlers of positive wheat, depending on which of the following two sets of circumstances applies: (1) The wheat is from an area that became regulated for Karnal bunt after the 1996–1997 crop was planted, or for which an EAN was issued after the 1996–1997 crop was planted; or (2) the wheat is from an area that became regulated for Karnal bunt before the 1996–1997 crop was planted, or for which an EAN was issued before the 1996–1997 crop was planted. We proposed to call these ''areas under the first regulated crop season'' and ''areas under the second regulated crop season,'' respectively. In both cases, the area must have remained regulated or under an EAN at the time the wheat was sold in order for wheat grown in that area to be eligible for compensation.

We proposed compensation for positive wheat grown in areas under the second regulated crop season of $.60 per bushel; the proposed compensation for positive wheat grown in areas under the first regulated crop season is set at a maximum of $1.80 per bushel. One commenter said that the proposed $.60 per bushel compensation for positive

wheat grown in areas under the second regulated crop season is inadequate, and that growers and handlers in those areas should be eligible for the same maximum $1.80 compensation as growers and handlers of wheat grown in an area under the first regulated crop season.

As we explained in the preamble to the proposed rule, growers and handlers 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 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 and handlers in areas under the second regulated crop season knew they were in an area regulated for Karnal bunt at the time they made planting and contracting decisions for the 1996–1997 crop season. Understanding the restrictions, growers and handlers could have chosen to alter their planting or contract decisions. For these reasons, we believe that the proposed compensation amounts are appropriate for the circumstances in each area.

One commenter was concerned that the proposed rule does not include a provision for review or appeal of APHIS' compensation decisions. We are making no changes to the proposed rule based on this comment. The amount of compensation to be offered to individuals affected by actions taken to control Karnal bunt are at the discretion of the Secretary. The compensation amounts offered in this final rule, therefore, reflect the decisions of the Secretary, and are final. Provisions for review or appeal of compensation decisions may be more appropriate, for example, in cases where compensation is based on appraisal of a claimant's property. In such cases, there may be provisions for review or appeal of the appraisal amount accepted by APHIS. Under the Karnal bunt compensation program, compensation amounts are based on regulations that apply equally to all claimants, with no individual appraisal of the relative value of a claimant's wheat. Therefore, it is not necessary to include provisions for review or appeal of APHIS' compensation decisions.

One commenter requested complete deregulation of all wheat producing areas that were not found to have bunted kernels under the sampling program in the past 2 years. The commenter also requested changes in the regulations regarding testing and treatment of seed in areas where bunted kernels have been found. These comments are outside the scope of this rulemaking on 1996–1997 crop season compensation. However, we will consider these comments as we continue to evaluate the Karnal bunt regulations concerning regulated areas and testing and treatment of seed.

Miscellaneous

On January 9, 1998, we published a final rule in the **Federal Register** (63 FR 1321–1331, Docket No. 96–016–25, effective on December 23, 1997) to provide compensation to growers and seed companies for the loss in value of wheat seed in the 1995–1996 crop season. In the July 11 proposed rule on which this final rule is based, we proposed to provide compensation to growers and handlers for the loss in value of wheat seed and grain in the 1996–1997 crop season. Even though compensation provisions for 1996–1997 crop season seed were included in the July 11 proposal, we mistakenly failed to include seed companies as being eligible for compensation as we did in the January 9 final rule for 1995–1996 crop season seed. Seed companies are also referred to as handlers with regard to seed. However, in order to be consistent with the final rule for 1995–1996 crop season seed published on January 9, we have added the term ''seed companies'' throughout this final rule to make it clear that seed companies are eligible for compensation for the loss in value of 1996–1997 crop season wheat seed.

Also, under the January 9 final rule for the 1995–1996 crop season, only certified seed or seed grown with the intention of producing certified seed is eligible for compensation. The requirement that wheat seed be certified or grown with the intention of producing certified seed was not in the proposed rule on 1995–1996 wheat seed compensation, but was added in the January 9 final rule in response to commenters' concerns that this is the most reliable way to establish a grower or seed company's intent to produce wheat as a seed crop. Further, requiring that wheat seed be certified or grown with the intention of producing certified wheat seed ensures that the compensation is limited, as was our intent, to market-ready seed, and will not be paid for seed in other stages of development. For this reason, this final rule requires that 1996–1997 crop season wheat seed must be certified or grown with the intent of producing certified seed in order to be eligible for compensation.

Further, we have added a requirement in this final rule that growers and seed companies claiming compensation for seed must submit documentation that provides evidence that the wheat being considered for compensation is classified as certified seed or is considered certifiable as certified seed by a State seed certification agency. Seed certification agencies usually require that applicants for seed certification keep records of the amount of certifiable seed harvested. This documentation may include one or more of the following types of documents: An application to the State seed certification agency for field inspection (to show that seed is eligible for certification); 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. Growers who do not have copies of such documentation can obtain it from the seed company or from their State's seed certification agency.

We proposed to require that, in order to claim compensation, claimants submit a number of documents. Among them, we proposed that claimants would have to submit verification as to the actual (not estimated) weight of the wheat for which compensation is being claimed, such as a copy of the limited permit under which the wheat is being moved, or other verification. We have been made aware that a limited permit often gives an estimated weight of the wheat, not the actual weight. A facility weigh ticket does give the actual weight of the wheat, and is a document to which all claimants would have access. Therefore, this final rule states that claimants 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. This change was made in § 301.89–15(c)(1) for growers, handlers, and seed companies and in § 301.89–16(b) and (c)(1) for flour millers and National Karnal Bunt Survey participants.

The proposed rule also provided compensation for flour millers who, in accordance with a compliance agreement with APHIS, heat treat millfeed ''made from wheat produced in areas that require such treatment.'' As discussed previously in this document, a proposed rule was recently published that would amend the requirements for heat treating millfeed, so that the area in which the wheat was grown would no longer be the determining factor for requiring heat treatment. To accommodate this potential change, and any other changes that may occur with regard to millfeed requirements, this final rule states that flour millers are eligible for compensation if they heat

treat millfeed ''that is required by APHIS to be heat treated.'' This statement will exclude from compensation eligibility any millfeed that is heat treated at the request of any entity other than APHIS.

Finally, the proposed rule stated that claims for compensation must be received by APHIS or FSA on or before March 31, 1998. We do not believe that this will provide enough time for claimants to submit their claims. Therefore, this final rule requires that claims for compensation must be received by APHIS or FSA on or before 120 days after the date the final rule is published in the **Federal Register**.

Therefore, based on the rationale set forth in the proposed rule and in this document, we are adopting the provisions of the proposal as a final rule with the changes discussed in this document.

Effective Date

Pursuant to the administrative procedure provisions in 5 U.S.C. 553, we find good cause for making this rule effective less than 30 days after publication in the **Federal Register**. This rule provides compensation to persons who experienced economic losses in the 1996–1997 crop season because of the Karnal bunt quarantine and emergency actions. Immediate action is necessary to compensate for these losses. Therefore, the Administrator of the Animal and Plant Health Inspection Service has determined that this rule should be 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 economically 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 1996–1997 crop season because of the Karnal bunt quarantine and emergency actions.

In accordance with Executive Order 12866, this analysis examines the economic impact of providing such compensation. The wheat industry within the regulated area is largely composed of businesses that can be considered as ''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 impact of rule changes 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. It was estimated 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 quarantine program, compensation to mitigate certain losses has been offered 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. For the 1995–1996 wheat crop, $39 million in compensation funding was made available to USDA through budget apportionment.

As additional information from sampling and testing became available in subsequent months following the outbreak, the Agency was able to ease the quarantine in order to minimize the disruption to affected entities. An interim rule effective on April 25, 1997, and published in the **Federal Register** on May 1, 1997 (62 FR 23620–23628, Docket No. 96–016–19), substantially reduced the size of the area regulated for Karnal bunt and eased restrictions on the movement of grain and other regulated articles from those areas that remain under regulation. The interim rule also revised the categories of regulated areas into restricted areas for seed, restricted areas for regulated articles other than seed, and surveillance areas. No host material was grown in the 1996–1997 crop season in restricted areas for regulated articles other than seed. Wheat grain that is from a surveillance area and that tests negative for Karnal bunt may move under certificate to any destination without restriction. Wheat seed that is from a restricted area for seed and that tests negative for Karnal bunt may be planted only within a regulated area.

Under this final rule, growers, handlers, and seed companies will be eligible for compensation for losses in the 1996–1997 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. Different levels of compensation will be offered depending on whether the wheat was grown in an area under the first regulated crop season or under the second regulated crop season. The rule defines an area in the first regulated crop season as an area that became regulated for Karnal bunt after the 1996–1997 crop was planted. An area under the second regulated crop season is an area that became regulated for Karnal bunt before the 1996–1997 crop was planted. At the time that we proposed this compensation in July 1997, there were no areas under the first regulated crop season. Since then, an area in San Saba County, TX, has been added to the list of regulated areas. Growers, handlers, and seed companies in that area will be eligible for first regulated crop season compensation. Growers, handlers, and seed companies in all other regulated areas will be eligible to receive second regulated crop season compensation.

For growers, handlers, and seed companies in the second regulated crop season, compensation for positive grain or seed will be $.60 per bushel. Growers, handlers, and seed companies in 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 differential 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 the second regulated crop season knew they were in an area regulated for Karnal bunt at the time that they made planting and contracting decisions for the 1996–1997 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. Information on the regulated acreage in the 1996–1997 crop season, and the wheat plantings expected within these areas, is presented in Table 1.

TABLE 1.—KARNAL BUNT REGULATED AREAS AND WHEAT PLANTINGS IN REGULATED AREAS

	Arizona	California	New Mexico	Texas (El Paso) [1]	Texas (San Saba) [2]
Acres Restricted for Other than Seed 1996–1997	6,162	3,113	3,990	469	1,050.
Acres in Surveillance Area 1996–1997	135,000	84,000	N/A	N/A	15,000.
Acres Restricted for Seed 1996–1997 [3]	797,000	100,000	58,650	469	20,000.
Acres of Planted Wheat in Regulated Area 1995–1996	181,000	129,883	10,235	705	(*)
Acres of Planted Wheat in Regulated Area 1996–1997	89,000	9,087	3,327	703	20,000.

[1] The Texas-El Paso area is designated as a second regulated crop season area.
[2] The Texas-San Saba area is designated as a first regulated crop season area.
[3] Acreage restricted for seed encompasses both restricted areas for regulated articles other than seed and surveillance areas.
* Not within regulated area in 1995–1996.

APHIS has completed testing of wheat from the regulated areas in the 1996–1997 crop season. In California, for the 1996–1997 crop, 1 railcar of wheat tested positive for spores out of 219 railcars tested. In Arizona, 5 railcars tested positive for spores out of a total of 203 railcars tested. In New Mexico and in Texas (El Paso), no grain or seed was found to be positive for Karnal bunt. The testing of wheat conducted under the National Karnal Bunt Survey in the 1996–1997 crop season found one new area with Karnal bunt, in San Saba County, TX. Positive wheat from this area will be compensated for under the provisions for first regulated crop season areas. Approximately 76,000 bushels of harvested wheat that were in storage in this area were found positive for Karnal bunt. Compensation calculations are provided in Table 2.

TABLE 2.—COMPENSATION FOR POSITIVE TESTING WHEAT IN THE 1996–1997 CROP SEASON

Area	Wheat acreage grown in regulated area [1]	Positive wheat grain (Bu.)	Positive wheat seed (Bu.)	Maximum compensation (per bushel)	Total compensation
California [2]	9,087	3,333	0	$.60	$2,000
Arizona [3]	89,000	16,667	([4])	.60	10,000
Texas-San Saba	20,000	65,641	10,494	1.80	137,044
Totals	118,087	85,691	10,494	.....	149,044

[1] One acre of wheat yields approximately 100 bushels of wheat grain in this region.
[2] In California only one railcar tested positive for Karnal bunt. The bushels of positive wheat is estimated by assuming that each railcar carries a load of 100 tons or 200,000 pounds. At 60 pounds per bushel, one railcar therefore holds 3,333 bushels per car.
[3] In Arizona, 5 railcars tested positive for Karnal bunt.
[4] Only 25 pounds of research seed tested positive in Arizona.

Assuming an average market value of $5 per bushel for wheat in this region, we estimate the total value of wheat produced in the regulated areas to be $59 million in the 1996–1997 crop season. According to the calculations in Table 2, approximately 96,185 bushels of wheat grain and seed, or 0.8 percent of the wheat grown in the regulated areas, tested positive for Karnal bunt in the 1996–1997 crop season. We estimate that the 96,185 bushels would bring about $481,000 in the absence of Karnal bunt regulations. Under the provisions of this final rule, we expect compensation for this wheat grain and seed will total about $150,000.

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. Ten facilities that stored seed testing positive for Karnal bunt in San Saba County, TX, will be eligible for this compensation. Eight of these are small, on-site storage facilities; for purposes of this analysis, we estimate the maximum compensation for which these small facilities will be eligible is about $10,000 per facility. The remaining two facilities are large-capacity storage facilities that, for purposes of this analysis, we estimate will be eligible for the maximum compensation of $20,000 each. Using these estimates, compensation for the decontamination of grain storage facilities under this rule should total a maximum of $120,000.

No millfeed made from wheat grown in the regulated area has been heat treated in the 1996–1997 crop season, so it will not be necessary to compensate for heat treatment of millfeed. Owners of grain storage facilities found to contain positive-testing wheat during the National Karnal Bunt Survey are all within the newly regulated area in San Saba County, TX. The owners will, therefore, be eligible for first regulated crop season compensation.

The Regulatory Flexibility Act requires that agencies consider the economic impact of rule changes on small businesses, organizations, and governmental jurisdictions. Growers and handlers of wheat grain and seed, and wheat seed companies, are those most affected by this rule change. It is estimated that there are a total of 373 wheat growers in the regulated area: 248 in Arizona, 21 in California, 23 in New Mexico, and 81 in Texas. There are 99 growers in the surveillance area, and 274 growers in regulated areas lying beyond surveillance areas.[1] Most of

[1] The 99 growers in surveillance areas are distributed as follows: 21 in Arizona, 18 in California, 60 in Texas, and none in New Mexico. The 274 growers in regulated areas lying beyond surveillance areas are distributed as follows: 227 in Arizona, 3 in California, 23 in New Mexico, and 21 in Texas.

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 impact of this rule will largely be on small entities. However, grain in the five railcars that tested positive for Karnal bunt in Arizona is owned by one handler who is not considered a small entity under the criteria established by the Small Business Administration.

This final rule is expected to have a positive economic impact 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 program.

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 numbers are 0579–0121 and 0579–0126.

List of Subjects in 7 CFR Part 301

Agricultural commodities, Incorporation by reference, 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. 147a, 150bb, 150dd, 150ee, 150ff, 161, 162, and 164–167; 7 CFR 2.22, 2.80, and 371.2(c).

2. In § 301.89–1, a definition for *Actual price received* is added in alphabetical order to read as follows:

§ 301.89–1 Definitions.

Actual price received. The net price after adjustment for any premiums or discounts stated on the sales receipt.

* * * * *

3. New §§ 301.89–15 and 301.89–16 are added to read as follows:

§ 301.89–15 Compensation for growers, handlers, and seed companies in the 1996–1997 crop season.

Growers, handlers, and seed companies are eligible to receive compensation from the United States Department of Agriculture (USDA) for the 1996–1997 crop season 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 1996–1997 crop was planted, or for which an Emergency Action Notification (PPQ Form 523) was issued after the 1996–1997 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 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 the contract after the area where the wheat was grown became regulated, 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 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) during the harvest months for the area, with adjustments for transportation and other handling costs. Separate estimated market prices will be calculated for certified wheat seed and wheat grown with the intention of producing certified wheat seed, and wheat grain.

(2) *Handlers and seed companies.* Handlers and seed companies who sell wheat grown in an area under the first regulated crop season are eligible to receive compensation only if the wheat was not tested by APHIS prior to purchase by the handler or seed company, 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 is not contingent on the test results. 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 actual price received by the handler or seed company. 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) during the harvest months for the area, with adjustments for transportation and other handling costs. Separate estimated market prices will be calculated for certified wheat seed and wheat grown with the intention of producing certified wheat seed, and wheat grain. However, compensation will not exceed $1.80 per bushel under any circumstances.

(b) *Growers, handlers, and seed companies in areas under second 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 (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 1996–1997 crop was planted, or for which an Emergency Action Notification (PPQ Form 523) was issued before the 1996–1997 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 second regulated crop season are eligible for compensation only for 1996–1997 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 an area under the second 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 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 an area under the second regulated crop season 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). Compensation claims must be received by FSA on or before October 8, 1998. 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 that date. To claim compensation, a grower, handler, or seed company must complete and submit to the local FSA county office the following documents:

(1) *Growers, handlers, and seed companies*. A grower, handler, or seed company must submit a Karnal Bunt Compensation Claim form, provided by FSA. 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) has been issued, the grower, handler, or seed company must submit a copy of the EAN. Growers, handlers, and seed companies must also submit a copy of the Karnal bunt certificate issued by APHIS that shows the Karnal bunt test results, and verification as to the actual (not estimated) weight of the wheat that tested positive (such as a copy of a facility weigh ticket, or other verification). For compensation claims for wheat seed, a 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);

(2) *Growers*. In addition to the documents required in paragraph (c)(1) of this section, growers must submit a copy of the receipt for the final sale of the wheat, showing the total bushels sold and the total price received by the grower. Growers compensated under paragraph (a)(1) of this section (first regulated crop season) must submit a copy of the contract the grower has for the wheat, if the wheat was under contract. Growers compensated under paragraph (b)(1) of this section (second regulated crop season) 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).

(3) *Handlers and seed companies*. In addition to the documents required in paragraph (c)(1) of this section, handlers and seed companies must submit a copy of the receipt for the final sale of the wheat, showing the total bushels sold and the total price received by the handler or seed company. The handler or seed company must also submit documentation showing that the price paid or to be paid to the grower is not contingent on the test results (such as a copy of the receipt for the purchase of the wheat or a copy of the contract the handler or seed company has with the grower, if this information appears on those documents).

§ 301.89–16 Compensation for grain storage facilities, flour millers, and National Survey participants for the 1996–1997 crop season.

Owners of grain storage facilities, flour millers, and participants in the National Karnal Bunt Survey are eligible to receive compensation from the United States Department of Agriculture (USDA) for the 1996–1997 crop season to mitigate losses or expenses incurred because of the Karnal bunt regulations and emergency actions, as follows:

(a) *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 either an Emergency Action Notification (PPQ Form 523) issued by an inspector or a letter issued by an inspector ordering decontamination of the facilities, are eligible to be compensated, on a one time only basis for each facility for each covered crop year wheat, for up to 50 percent of the direct 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 by APHIS to be decontaminated. The records must include a copy of the Emergency Action Notification or the letter from an inspector ordering decontamination, 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 October 8, 1998. The Administrator may extend this deadline, upon written request in specific cases, when unusual and unforeseen circumstances occur which prevent or hinder a claimant from requesting compensation on or before that date.

(b) *Flour millers*. Flour millers who, in accordance with a compliance agreement with APHIS, heat treat millfeed that is required by APHIS to be

heat treated 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 a facility weigh ticket 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 October 8, 1998. The Administrator may extend this deadline, upon written request in specific cases, when unusual and unforeseen circumstances occur which prevent or hinder a claimant from requesting compensation on or before that date.

(c) *National Karnal Bunt Survey participants*. If a grain storage facility participating in the National Karnal Bunt Survey tests positive for Karnal bunt, the facility will be regulated, and may be ordered decontaminated, pursuant to either an Emergency Action Notification (PPQ Form 523) issued by an inspector or a letter issued by an inspector ordering decontamination of the facility. If the Secretary has declared an extraordinary emergency in the State in which the grain storage facility is located, the owner 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 actual price received for the wheat. 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) during the relevant time period for that facility, with adjustments for transportation and other handling costs. However, compensation will not exceed $1.80 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 Karnal Bunt Compensation Claim form, provided by FSA. The owner of the facility must also submit to FSA a copy of the Emergency Action Notification or letter from an inspector under which the facility is or was quarantined; verification as to the actual (not estimated) weight of the wheat (such as a copy of a facility weigh ticket or a copy of the bill of lading for the wheat, if the actual weight appears on those documents, or other verification); and a copy of the receipt for the final sale of the wheat, showing the total bushels sold and the total price received by the owner of the grain storage facility. Claims for compensation must be received by FSA on or before October 8, 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.

(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 for each covered crop year wheat for the direct costs of decontamination of the facility at the same rate described under paragraph (a) 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 (a) of this section. Claims for compensation must be received by APHIS on or before October 8, 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.

Done in Washington, DC, this 4th day of June 1998.

Charles P. Schwalbe,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 98–15405 Filed 6–9–98; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. 98–040–1]

Witchweed; Regulated Areas

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule and request for comments.

SUMMARY: We are amending the list of suppressive areas under the witchweed quarantine and regulations by removing areas from 12 counties in North Carolina and 3 counties in South Carolina. This action is necessary to relieve unnecessary restrictions on the interstate movement of regulated articles from North Carolina and South Carolina.

DATES: Interim rule effective June 4, 1998. Consideration will be given only to comments received on or before August 10, 1998.

ADDRESSES: Please send an original and three copies of your comments to Docket No. 98–040–1, 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. 98–040–1. 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. Ronald P. Milberg, Operations Officer, Operational Support, PPQ, APHIS, 4700 River Road, Unit 134, Riverdale, MD 20737–1236, (301) 734–5255.

SUPPLEMENTARY INFORMATION:

Background

Witchweed (*Striga* spp.), a parasitic plant that feeds off the roots of its host, causes degeneration of corn, sorghum, and other grassy crops. It is found in the United States only in parts of North Carolina and South Carolina.

The witchweed quarantine and regulations, contained in 7 CFR 301.80 through 301.80–10 (referred to below as the regulations), quarantine the States of North Carolina and South Carolina and restrict the interstate movement of certain articles from regulated areas in those States for the purpose of preventing the spread of witchweed.