

(d) and (e) as paragraphs (c) and (d), respectively, and paragraphs (i) through (k) as paragraphs (e) through (g), respectively.

Regulated Areas

In § 301.89–3, paragraphs (a) through (e) provide criteria for the designation of States or areas of States as regulated areas for Karnal bunt, and paragraph (f) describes the boundaries of regulated areas. Current paragraph (e)(3) indicates that a field or area will be classified as a regulated area if it contains at least one field that was found during survey to contain spores consistent with Karnal bunt and has been determined to be associated with grain at a handling facility containing a bunted kernel. We would remove the reference to spores so that the paragraph would be consistent with the other provisions in paragraph (e), which classify fields or areas as regulated areas based on the presence of bunted kernels. Grain would be tested for spores as well as bunted kernels only if intended for use as seed.

We are also proposing to add a new paragraph to § 301.89–3 that would provide conditions under which a field known to have been infected with Karnal bunt, as well as any non-infected acreage surrounding the field, could be released from regulation. Under these proposed conditions, such a field would be eligible for release from regulation if it is no longer being used for crop production or if it has been subjected to any one of the following management practices each year for 5 consecutive years (the practice used may vary from year to year): (1) Planted with a cultivated non-host crop, (2) tilled once annually, or (3) planted with a host crop that tests negative, through the absence of bunted kernels, for Karnal bunt. These criteria are consistent with emerging technical information about Karnal bunt. We would add these proposed conditions to § 301.89–3 as paragraph (f), while the current paragraph (f), which describes the boundaries of the currently regulated areas, would be redesignated as paragraph (g). A reference in paragraph (d) to the current paragraph (f) would be amended to reflect this redesignation.

Planting

We would amend the planting restrictions contained in § 301.89–4. Under paragraph (a) of that section, all wheat seed, durum wheat seed, and triticale seed originating within a regulated area must be tested and found free from bunted wheat kernels and spores before it may be planted within a regulated area. Current paragraph (b) prohibits the planting of wheat, durum

wheat, and triticale outside a regulated area if they originated inside a regulated area. We are proposing to amend § 301.89–4 by removing current paragraph (b) and by allowing wheat, durum wheat, or triticale that originates in a regulated area and that has been tested and found free of bunted kernels and spores to be used as seed in fields outside the regulated area. We believe that wheat, durum wheat, or triticale that has been tested and found free of bunted kernels and spores would not pose a risk of disease transmission, so there would be no need to prohibit its planting outside a regulated area. (As indicated, planting inside a regulated area is currently, and would continue to be, allowed.)

Movement of Regulated Articles From Regulated Areas

Section 301.89–5 provides conditions under which regulated articles may be moved from regulated areas. Paragraph (a)(4) of that section provides that straw/stalks/seed heads for decorative purposes that have been processed or manufactured prior to movement and are intended for use indoors can be moved from a regulated area without a certificate or limited permit. Because, as noted earlier, we are proposing to amend § 301.89–2(d) to exclude these articles from the list of regulated articles, we are proposing to remove § 301.89–5(a)(4).

Issuance of a Certificate or Limited Permit

Section 301.89–6 provides criteria for the issuance of certificates or limited permits for the movement of regulated articles outside regulated areas. Current paragraph (b) states that to be eligible for movement under a certificate, grain from a field within a regulated area must be tested prior to its movement from the field or before it is commingled with other grains and found free from bunted kernels. If bunted kernels are found, the grain will be eligible for movement only under a limited permit issued in accordance with paragraph (c). Paragraph (b) goes on to provide that no wheat, durum wheat, or triticale moved out of a regulated area under a certificate may be used for planting outside the regulated area.

We are proposing to amend § 301.89–6(b) to add references to hay cut after reaching the dough stage in the first and second sentences, in keeping with our proposal to add such hay to the list of regulated articles in § 301.89–2. The second sentence of proposed paragraph (b) would indicate that if bunted kernels are found in grain or hay that comes from a field within a regulated area, the

grain or hay could only be moved out of the regulated area under a limited permit issued in accordance with paragraph (c) of § 301.89–6, and the field of production will be considered positive for Karnal bunt. As noted earlier, the presence of bunted kernels indicates infestation. We would also remove the provision in paragraph (b) prohibiting the planting of regulated articles outside regulated areas because, as discussed earlier, our proposed § 301.89–4 would allow such planting under certain conditions.

We are also proposing to amend paragraph (c) of § 301.89–6. That paragraph currently describes the criteria for issuing limited permits for the movement of regulated articles within or outside regulated areas. Under our proposal, we would no longer require limited permits for movement of regulated articles within regulated areas. This restriction, while appropriate for an eradication program, generally is not needed for a control program like the current Karnal bunt program when a commodity is moving only within a regulated area.

Cleaning, Disinfection, and Disposal

We would revise § 301.89–12 to add or amend provisions relating to the cleaning and, when necessary, disinfection of certain regulated articles for which treatments are prescribed in § 301.89–13 and to provide for the disposal of certain seed. Current § 301.89–12 states that mechanized harvesting equipment that has been used to harvest host crops that test positive for Karnal bunt and seed conditioning equipment that has been used in the production of any host crops must be cleaned and disinfected in accordance with § 301.89–13(a) prior to movement from a regulated area. Our revised § 301.89–12 would be considerably broader in scope.

Proposed paragraph (a) states that mechanized harvesting equipment that has been used to harvest host crops that test positive for Karnal bunt based on the presence of bunted kernels must be cleaned and, if disinfection is determined to be necessary by an inspector, disinfected in accordance with § 301.89–13 prior to movement from a regulated area. Because cleaning alone may suffice to remove bunted kernels from such equipment, we would no longer require disinfection in all cases, but inspectors would retain the authority to require disinfection when necessary. Proposed paragraph (a) also accords with our proposed new definition of *infestation* (*infected*) in § 301.89–1 by indicating that the