

determination of host-crop infestation is based on the presence of bunted kernels.

Seed conditioning equipment would be provided for separately in proposed paragraph (b), which states that seed conditioning equipment that was used in the conditioning of seed containing spores of *Tilletia indica* must be cleaned and disinfected in accordance with § 301.89–13 prior to handling seed that has tested negative for spores or to being moved from a regulated area. We would retain the disinfection requirement for seed conditioning equipment because disinfection is thought to be necessary to deactivate spores.

A new paragraph (c) would state that all grain storage facilities, including on-farm storage, used to store seed that has tested bunted kernel or spore positive or grain that has tested bunted-kernel positive must be cleaned and, if disinfection is determined to be necessary by an inspector, disinfected in accordance with § 301.89–13 if the facilities will be used to store grain or seed in the future. As is the case with mechanized harvesting equipment, cleaning alone may sometimes suffice to decontaminate grain storage facilities. The decision to require disinfection as well would be left to the inspector.

A new paragraph (d) would provide exceptions to the cleaning and disinfection requirements for certain conveyances used to move bunted-kernel-positive host crops, including trucks, railroad cars, and other containers, if the conveyances are self-cleaning. In order to be considered self-cleaning, the conveyances would have to have sloping metal sides leading directly to a bottom door or slide chute.

Finally, a new paragraph (e) would state that spore-positive wheat, durum wheat, or triticale seed that has been treated with any chemical that renders it unfit for human or animal consumption would have to be disposed of by means of burial under a minimum of 24 inches of soil in a non-agricultural area that will not be cultivated or in an approved landfill. Spore-positive seed cannot be used for planting, and fungicide or other chemical treatments not approved for use in feed renders the seed unfit for use as feed. Thus, disposal by burial is necessary to prevent the seed from being used for any purpose.

Treatments

Current paragraph (a) of § 301.89–13 describes approved cleaning and disinfection techniques for conveyances, mechanized harvesting equipment, seed conditioning equipment, grain elevators, and structures used for storing and handling wheat, durum wheat, or triticale for

which cleaning and disinfection are required. We would amend the paragraph to coincide with the changes to the cleaning and disinfection requirements that we are proposing in § 301.89–12. The proposed paragraph would treat cleaning and disinfection separately, stating that all conveyances, mechanized harvesting equipment, seed conditioning equipment, grain elevators, and structures used for storing and handling wheat, durum wheat, or triticale required to be cleaned under the regulations must be cleaned by removing all soil and plant debris and that if disinfection is required in addition to cleaning, the articles must be disinfected by one of the methods specified in § 301.89–13, unless a particular treatment is designated by an inspector. This paragraph would become the introductory text of our proposed § 301.89–13.

The disinfection method specified in current paragraph (a)(1) involves wetting all surfaces of the regulated articles to the point of runoff with a solution of 1.5 percent sodium hypochlorite—e.g., with a solution of sodium hypochlorite mixed with water applied at the rate of 1 gallon of household chlorine bleach (5.2 percent sodium hypochlorite) mixed with 2.5 gallons of water—and letting stand for 15 minutes. We would amend this paragraph to indicate that the bleach used must be Ultra Clorox brand regular bleach (6 percent sodium hypochlorite) or CPPC Ultra Bleach 2 (6.15 percent sodium hypochlorite). These are the only two bleach products that are approved for such use by the Environmental Protection Agency.

The minimum temperature for the hot water and detergent treatment, which is specified in current paragraph (a)(3) as 180 °F, would be changed to 170 °F, which has been determined to be the temperature needed to inactivate Karnal bunt. A temperature of 170 °F is also specified for the treatment described in current paragraph (a)(2), which would remain unchanged.

The Federal quarantine exemption permitting the use of methyl bromide for treatment of Karnal bunt has been withdrawn. Therefore, we are proposing to remove current paragraph (a)(4), which specifies fumigation with methyl bromide as a disinfection method for the conveyances, mechanized harvesting equipment, seed conditioning equipment, grain elevators, and structures covered under this section, and paragraph (b), which specifies fumigation with methyl bromide as a treatment for soil.

Current paragraph (c), which specifies a treatment for millfeed that has

resulted from the milling of Karnal bunt-positive wheat, would be removed. Millfeed, like other milling products and byproducts, would no longer be considered a regulated article under this proposed rule.

Finally, we would remove the current paragraph (e), which contains treatment requirements for seed used for germ plasm or research purposes. Because we have eliminated the requirement for fungicide treatment of seed as of May 1, 2002, and are proposing, in § 301.89–4, to allow the movement of bunted kernel- and spore-negative seed from regulated areas, these treatment requirements would no longer apply.

For greater clarity, we would redesignate the bleach treatment in current paragraph (a)(1) as paragraph (a), the steam treatment in current paragraph (a)(2) as paragraph (b), and the hot water and detergent treatment in current paragraph (a)(3) as paragraph (c).

Miscellaneous

Section 301.89–14, which deals with compensation for the 1995–1996 crop season, is outdated and, therefore, would be removed and reserved.

In addition to the changes described above, we propose to make some nonsubstantive editorial changes to the regulations. These changes would include the updating of the addresses given in some footnotes.

The intent of this proposed rule is to improve the clarity, transparency, and effectiveness of our Karnal bunt regulations in order to help to prevent the spread of Karnal bunt within the United States.

Executive Order 12866 and Regulatory Flexibility Act

This proposed rule has been reviewed under Executive Order 12866. The rule has been determined to be not significant for the purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget.

This proposed rule is intended to improve the clarity, transparency, and effectiveness of our Karnal bunt regulations. This proposal is the result of a review of the regulations.

Of the proposed substantive changes to the regulations, four stand out as having the potential to have the most economic impact: (1) Adding provisions for removing fields or areas from the list of regulated areas, (2) modifying seed planting restrictions, (3) removing animal manure from the list of regulated articles, and (4) modifying cleaning and disinfecting requirements for seed conditioning equipment. These four