

### Modifying Cleaning and Disinfecting Requirements for Seed Conditioning Equipment

Under the current regulations, seed conditioning equipment used in the production of any host crop must be cleaned and disinfected (using USDA-approved methods) prior to being moved from the regulated area. (Cleaning means the removal of all soil and plant debris, and disinfecting means the treatment by one of three approved methods, including steam and hot water and detergent.)

Under the proposal, only seed conditioning equipment that was used to condition seed that was tested and found to contain spores or bunted kernels would have to be cleaned and disinfected prior to being moved from a regulated area (or prior to handling spore-negative seed).

As a result of this proposed rule, fewer pieces of portable seed conditioning equipment would have to be cleaned and disinfected. The affected entities would benefit, because a single cleaning and disinfecting is estimated to cost at least \$150. However, the number of entities potentially affected by this aspect of the proposed rule, and the potential impact on each, is unknown.

#### Economic Impact on Small Entities

The Regulatory Flexibility Act requires that agencies consider the economic impact of their rules on small businesses, organizations, and governmental jurisdictions. This proposed rule should have an overall beneficial impact on the entities affected by the regulations, especially wheat producers. However, we do not expect it would have a significant economic impact on a substantial number of entities, large or small.

Parts of three States (Texas, Arizona, and California) are currently regulated for Karnal bunt. In Texas, there are approximately 285,000 agricultural acres and about 550 wheat producers under regulation. The equivalent figures for Arizona and California are, respectively, 465,000 acres (120 producers) and 105,000 acres (18 producers).

Wheat producers that would be affected by this proposal are likely to be small in size, when judged by the U.S. Small Business Administration's (SBA's) standards. This assumption is based on composite data for providers of the same and similar services. In 1997, Arizona had a total of 6,135 farms of all types. Of those farms, 89 percent had annual sales that year of less than \$500,000, well below the SBA's small entity threshold of \$750,000 for wheat

farms. Similarly, the comparable percentages of small entities for Texas (194,301 total farms) and California (74,126 total farms) were 98 percent, and 89 percent, respectively.

For some of the affected entities, especially the smaller ones, the benefits of this proposed rule change could be substantial. However, the number of entities that would experience substantial benefits should be small relative to all entities potentially affected by this proposed rule.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action would not have a significant economic impact on a substantial number of small entities.

#### 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 proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. If this proposed rule is adopted: (1) All State and local laws and regulations that are inconsistent with this rule will be preempted; (2) no retroactive effect will be given to this rule; and (3) administrative proceedings will not be required before parties may file suit in court challenging this rule.

#### Paperwork Reduction Act

This proposed rule contains no new information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

#### List of Subjects in 7 CFR Part 301

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

Accordingly, we propose to amend 7 CFR part 301 as follows:

### PART 301—DOMESTIC QUARANTINE NOTICES

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

**Authority:** 7 U.S.C. 7701–7772; 7 CFR 2.22, 2.80, and 371.3.

Section 301.75–15 also issued under Sec. 204, Title II, Pub. L. 106–113, 113 Stat. 1501A–293; sections 301.75–15 and 301.75–16 also issued under Sec. 203, Title II, Pub. L. 106–224, 114 Stat. 400 (7 U.S.C. 1421 note).

2. Section 301.89–1 would be amended by removing the definitions for *farm tools* and *milling products and byproducts* and by adding, in alphabetical order, definitions for *grain*, *hay*, *host crops*, *plant*, *seed*, and *straw* and revising the definitions for *contaminated seed*, *infestation (infected)*, and *mechanized cultivating equipment* and *mechanized harvesting equipment* to read as follows:

#### § 301.89–1 Definitions.

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*Contaminated seed.* Seed from sources in which the Karnal bunt pathogen (*Tilletia indica* (Mitra) Mundkur) has been determined to exist by the presence of bunted kernels or teliospores.

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*Grain.* Wheat, durum wheat, and triticale used for consumption or processing.

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*Hay.* Host crops cut and dried for feeding to livestock. Hay cut after reaching the dough stage may contain mature kernels of the host crop.

*Host crops.* Plants or plant parts, including grain, seed, or hay, of wheat, durum wheat, and triticale.

*Infestation (infected).* The presence of Karnal bunt, or any identifiable stage of development (*i.e.*, bunted kernels in grain, bunted kernels or teliospores in seed) of the fungus *Tilletia indica* (Mitra) Mundkur, or the existence of circumstances that make it reasonable to believe that Karnal bunt is present.

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*Mechanized cultivating equipment and mechanized harvesting equipment.* Mechanized equipment used for soil tillage, including tillage attachments for farm tractors—*e.g.*, tractors, disks, plows, harrows, planters, and subsoilers; mechanized equipment used for harvesting purposes—*e.g.*, combines, grain buggies, trucks, swathers, and hay balers.

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*Plant.* Any plant (including any plant part) for or capable of propagation, including a tree, a tissue culture, a plantlet culture, pollen, a shrub, a vine, a cutting, a graft, a scion, a bud, a bulb, a root, and a seed.

*Seed.* Wheat, durum wheat, and triticale used for propagation.

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*Straw.* The vegetative material left after the harvest of host crops. Straw is generally used as animal feed, bedding, mulch, or for erosion control.

3. Section 301.89–2 would be revised to read as follows: