

(i) Computer diskettes,  
(ii) Computer tapes, or  
(iii) Telecommunications, with all long distance telephone line charges paid by the receiver of data.

(2) When an additional copy of the classification memorandum is issued by any method listed in paragraph (a)(1) of this section, there will be a charge of five cents per bale. If provided as an additional method of data transfer, the minimum fee for each tape or diskette issued shall be \$10.00.

(b) Owners of cotton, other than producers, may receive classification data showing the official quality determination of each sample by means of telecommunications from a central database to be maintained by the Division. The fee for this service shall be five cents per bale, with all long distance telephone line charges paid by the receiver of data. The minimum charge assessed for services obtained from the central database be \$5.00 per monthly billing period.

(c) Upon request of an owner of cotton for which classification memoranda have been issued under the subpart, a new memorandum shall be issued for the business convenience of such owner without the reclassification of the cotton. Such rewritten memorandum shall bear the date of its issuance and the date or inclusive dates of the original classification. The fee for a new memorandum shall be 15 cents per bale or a minimum of \$5.00 per sheet.

#### **§ 28.911 Review classification.**

(a) A producer may request one review classification for each bale of eligible cotton. The fee for review classification is \$2.20 per bale.

(b) Samples for review classification must be drawn by gins or warehouses licensed pursuant to §§ 28.20 through 28.22, or by employees of the United States Department of Agriculture. Each sample for review classification shall be taken, handled, and submitted according to § 28.908 and to supplemental instructions issued by the Director or an authorized representative of the Director. Costs incident to sampling, tagging, identification, containers, and shipment for samples for review classification shall be assumed by the producer. After classification, the samples shall become the property of the Government unless the producer requests the return of the samples. The proceeds from the sale of samples that become Government property shall be used to defray the costs of providing the services under this subpart. Producers who request return of their samples after classing will pay a fee of 50 cents per sample in

addition to the fee established above in this section.

#### **Limitations of Services**

##### **§ 28.917 Limitations of Services.**

The Director, or an authorized representative, may suspend, terminate, or withhold cotton classing and market news services to any producer upon any failure of the producer to comply with the act or these regulations. Failure to remit fees for classification services shall result in loss of service.

Dated: June 2, 2009.

**David R. Shipman,**

*Acting Administrator.*

[FR Doc. E9-13148 Filed 6-2-09; 4:15 pm]

**BILLING CODE P**

## **DEPARTMENT OF AGRICULTURE**

### **Animal and Plant Health Inspection Service**

#### **7 CFR Part 301**

**[Docket No. APHIS-2009-0036]**

#### **Karnal Bunt; Regulated Areas**

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

**ACTION:** Interim rule and request for comments.

**SUMMARY:** We are amending the Karnal bunt regulations to remove certain areas or fields in Riverside County, CA, from the list of regulated areas based on our determination that those areas or fields meet our criteria for release from regulation of Karnal bunt, a fungal disease of wheat. This action is needed to relieve restrictions on certain areas or fields that are no longer necessary.

**DATES:** This interim rule is effective June 4, 2009. We will consider all comments that we receive on or before August 3, 2009.

**ADDRESSES:** You may submit comments by either of the following methods:

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov/fdmspublic/component/main?main=DocketDetail&d=APHIS-2009-0036> to submit or view comments and to view supporting and related materials available electronically.

- *Postal Mail/Commercial Delivery:* Please send two copies of your comment to Docket No. APHIS-2009-0036, Regulatory Analysis and Development, PPD, APHIS, Station 3A-03.8, 4700 River Road Unit 118, Riverdale, MD 20737-1238. Please state that your comment refers to Docket No. APHIS-2009-0036.

*Reading Room:* You may read any comments that we receive on this docket in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue, SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690-2817 before coming.

*Other Information:* Additional information about APHIS and its programs is available on the Internet at <http://www.aphis.usda.gov>.

**FOR FURTHER INFORMATION CONTACT:** Ms. Lynn Evans-Goldner, Karnal Bunt Program Manager, Plant Pathogen and Weed Programs, EDP, PPQ, APHIS, 4700 River Road, Unit 26, Riverdale, MD 20737-1236; (301) 734-7228.

#### **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 fungus *Tilletia indica* (Mitra) Mundkur and is spread primarily through the planting of infected seed followed by very specific environmental conditions matched during specific stages of wheat growth. Some countries in the international wheat market regulate Karnal bunt as a fungal disease requiring quarantine; therefore, without measures taken by the Animal and Plant Health Inspection Service (APHIS), United States Department of Agriculture, to prevent its spread, the presence of Karnal bunt in the United States could have significant consequences with regard to the export of wheat to international markets.

Upon detection of Karnal bunt in Arizona in March of 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 quarantine continues in effect, although it has since been modified, both in terms of its physical boundaries and in terms of its restrictions on the production and movement of regulated articles from regulated areas. The regulations regarding Karnal bunt are set forth in 7 CFR 301.89-1 through 301.89-16 (referred to below as the regulations). Articles regulated for Karnal bunt are listed in § 301.89-2. Conditions for determining whether an area is regulated for Karnal bunt are set forth in § 301.89-3.

Under the regulations in § 301.89–3(f), a field known to have been infected with Karnal bunt, as well as any noninfected acreage surrounding the field, will be released from regulation if:

- The field has been permanently removed from crop production; or
- The field is tilled at least once per year for a total of 5 years (the years need not be consecutive). After tilling, the field may be planted with a crop or left fallow. If the field is planted with a host crop, the harvested grain must test negative, through the absence of bunted kernels, for Karnal bunt.

The regulations in § 301.89–3(g) describe the boundaries of the regulated areas in Arizona, California, and Texas. In this interim rule, we are amending § 301.89–3(g) by removing certain areas or fields in Riverside County, CA, from the list of regulated areas, based on our determination that these fields or areas are eligible for release from regulation under the criteria in § 301.89–3(f). In accordance with § 301.89–3(f)(2), the eligible areas have been tilled at least once per year for a total of 5 years. After tilling, the fields were either planted with a crop or left fallow. For the fields that were planted with a host crop, the crop tested negative, through the absence of bunted kernels, for Karnal bunt. We are therefore adjusting the quarantined boundaries based on surveys that indicate the areas no longer meet the requirements for regulated areas.

The area in Riverside County, CA, that will be removed from the list of regulated areas includes 286 fields and 8,226 acres. In California, 35,271 acres in Riverside County will remain regulated for Karnal bunt. The quarantine boundaries will remain the same in Texas and Arizona.

#### Immediate Action

Immediate action is warranted to relieve restrictions that are no longer

necessary on certain areas or fields in Riverside County, CA, regulated for Karnal bunt. Under these circumstances, the Administrator has determined that prior notice and opportunity for public comment are contrary to the public interest and that there is good cause under 5 U.S.C. 553 for making this action effective less than 30 days after publication in the **Federal Register**.

We will consider comments we receive during the comment period for this interim rule (see **DATES** above). After the comment period closes, we will publish another document in the **Federal Register**. The document will include a discussion of any comments we receive and any amendments we are making to the rule.

#### Executive Order 12866 and Regulatory Flexibility Act

This rule has been reviewed under Executive Order 12866. For this action, the Office of Management and Budget has waived its review under Executive Order 12866.

This rule amends the Karnal bunt regulations by removing certain areas in California from quarantine based on surveys that indicate these areas have met the criteria in § 301.89–3(f) for being released from regulation. With this change, 286 fields representing 8,226 acres in Riverside County, CA, will be removed from quarantine.

Any wheat, durum wheat, or triticale grown in regulated fields cannot be moved into or through a non-regulated area without first being tested for bunted kernels. In addition, any wheat, durum wheat, or triticale grown in those fields cannot be used as seed within or outside a regulated area unless it is tested and found free of bunted kernels and spores. The regulations require that all conveyances, mechanized harvesting equipment, seed conditioning equipment, grain elevators, and structures used for storing and handling

wheat, durum wheat, or triticale be cleaned by removing all soil and plant debris. If disinfection is required by an inspector in addition to cleaning, the articles must be disinfected by one of the methods specified in § 301.89–12. Releasing the 286 fields from Karnal bunt regulations will relieve the owners and other related businesses of these movement restrictions for regulated articles. Access to domestic and international markets for affected producers may also be improved.

Wheat producers will not be the only entities to benefit from this rule. Many independent operators of harvesting equipment and other service providers operating in the affected areas will benefit from the release of the fields from quarantine. Also, the reduction in regulated acreage will reduce the need for associated regulatory activities, such as surveying and testing.

Although this rule will benefit wheat producers and other entities in the affected areas, overall effects are expected to be relatively small. There were about 81,033 farm operations, including wheat farms, in California in 2007.<sup>1</sup> According to the 2007 Census of Agriculture, of these 81,033 farms, a total of 1,191 farms harvested wheat for grain in California (table 1). In 2007, California produced about 1.5 percent of wheat grown for grain in the United States.<sup>2</sup> Statewide, a total of 640,000 all-purpose acres were planted with wheat in 2007, with about 345,000 acres harvested for grain and about 295,000 acres harvested for forage.<sup>3</sup> In comparison, the 2007 Census of Agriculture reported only 17 wheat farms located in Riverside County representing about 1.4 percent of farms producing wheat in California. These 17 farms produced only slightly over 1 percent of California's wheat.<sup>4</sup>

TABLE 1—COUNTY, STATE, AND NATIONAL PRODUCTION DATA FOR WHEAT HARVESTED FOR GRAIN, 2007

	Farms harvesting wheat for grain	Wheat acres harvested for grain	Total wheat production (bushels)	Total value of wheat production (dollars)
Riverside County .....	17	6,759	337,839	1,720,000
Statewide .....	1,191	345,000	30,224,394	155,566,000
United States .....	160,810	20,432,969	1,993,648,378	10,623,640,000

Source: USDA–NASS, 2007 Census of Agriculture. Washington, DC: National Agricultural Statistics Service.

<sup>1</sup> USDA–NASS, *Quick Stats: U.S. & All States Data-Farm Numbers, California Data: Farm Numbers by Economic Sales Classes*. Washington, DC: National Agricultural Statistics Service.

<sup>2</sup> USDA–NASS, 2007 Census of Agriculture, Volume 1, Chapter 1: U.S. National Level Data, Table 3. Washington, DC: National Agricultural Statistics Service.

<sup>3</sup> Wheat is planted for forage, grain, or a combination of the two.

<sup>4</sup> USDA–NASS, 2007 Census of Agriculture, California County Data, Table 26. Washington, DC: National Agricultural Statistics Service.

The average yield per harvested acre for California in 2007 was 85.4 bushels, while the average yield per harvested acre for Riverside County was 50 bushels.<sup>5</sup> The average price for wheat in 2007 was \$5.90 per bushel. For 2007, the total value of production for wheat in California was over \$155.6 million, compared to a total value of production for wheat in Riverside County of \$1.72 million. The U.S. Small Business Administration's (SBA) small-entity standard for wheat farming is \$750,000 or less in annual receipts.<sup>6</sup> Based on the 2007 Census of Agriculture, average annual sales per wheat farm in Riverside County was about \$102,000, well below the SBA standard. Riverside County is primarily a producer of nursery products, specialty fruits and vegetables, and dates.<sup>7</sup>

In sum, wheat production in the portion of Riverside County that will no longer be under quarantine for Karnal bunt comprises a small fraction of California's total wheat production; only four wheat producers will be released from the movement restrictions for regulated articles. Any benefits experienced by these producers and other affected entities will not impact U.S. wheat production or the price for wheat.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will 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 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.

<sup>5</sup> USDA-NASS, *California State Agriculture Overview—2007*. Washington, DC: National Agricultural Statistics Service.

<sup>6</sup> Table of Size Standards based on NAICS 2002 [Wheat farming; NAICS code 111140]. Washington, DC: U.S. Small Business Administration, effective October 1, 2007.

<sup>7</sup> California Department of Food and Agriculture, *California Agricultural Resource Directory 2008–2009*, County Statistical Data. p. 39.

#### Paperwork Reduction Act

This interim rule contains no 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 are amending 7 CFR part 301 as follows:

#### PART 301—DOMESTIC QUARANTINE NOTICES

■ 1. The authority citation for part 301 continues to read as follows:

**Authority:** 7 U.S.C. 7701–7772 and 7781–7786; 7 CFR 2.22, 2.80, and 371.3.

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

■ 2. In § 301–89.3, paragraph (g) is amended under the heading “California” by revising the entry for Riverside County to read as follows:

#### § 301.89–3 Regulated areas.

\* \* \* \* \*

(g) \* \* \*

#### California

*Riverside County.* That portion of Riverside County known as the Palo Verde Valley (in part) bounded by a line drawn as follows: Beginning at Defrain Boulevard and West Hobsonway; then, east on West Hobsonway to South Lovekin Boulevard; then, south on South Lovekin Boulevard to West Rice Street; then, east on West Rice Street to South Commercial Street; then, northeast along an imaginary line to its intersection with Midway Place and West Rice Street; then, east on West Rice Street to South Spring Street; then, south on South Spring Street to Dekema Street; then, east on Dekema Street to South Broadway; then, south on South Broadway to Interstate 10; then, east on Interstate 10 to South Intake Boulevard; then, south on South Intake Boulevard to 14th Avenue; then, east along an imaginary line to its intersection with the D–10 Canal Levee at 33.603649 latitude and –114.562167 longitude; then, south along the D–10 Canal Levee to Seeley Avenue; then, east on Seeley Avenue to the F Canal; then, south along the F Canal to its intersection with 33.568563 latitude and –114.551014 longitude; then, west along an imaginary line to its intersection with 33.568531 latitude and –114.552651

longitude; then, south along an imaginary line to 20th Avenue at 33.560219 latitude and –114.552415 longitude; then, east on 20th Avenue to the D–10–11 Canal; then, southwest along the D–10–11 Canal to its intersection with 33.557494 latitude and –114.552419 longitude; then, south along an imaginary line to its intersection with the F Canal at 33.545550 latitude and –114.551826 longitude; then, east along the F Canal to its intersection with 33.545762 latitude and –114.544763 longitude; then, south along an imaginary line to its intersection with the boundary of Riverside County at 33.540900 latitude and –114.544620 longitude; then, southwest along the boundary of Riverside County to its intersection with 33.455829 latitude and –114.623143 longitude; then, west along an imaginary line to its intersection with 33.455783 latitude and –114.669038 longitude; then, north along an imaginary line to its intersection with the South End Drain at 33.456190 latitude and –114.669076 longitude; then, north along the South End Drain to 34th Avenue; then west on 34th Avenue to its intersection with 33.463226 latitude and –114.682378 longitude; then, north along an imaginary line to its intersection with the C–18–1 Canal at 33.470432 latitude and –114.682384 latitude; then, west along the C–18–1 Canal to its intersection with 33.470427 latitude and –114.691076 longitude; then, north along an imaginary line to its intersection with an unnamed canal at 33.474836 latitude and –114.691197 longitude; then, southwest along the unnamed canal to the shoreline of Palo Verde Lagoon; then, northeast along the shoreline of Palo Verde Lagoon to its intersection with Rannells Drain; then, north along Rannells Drain to its intersection with 33.499639 latitude and –114.691526 longitude; then, north along an imaginary line to its intersection with the C–03 Canal; then, north along the C–03 Canal to its intersection with 33.522835 latitude and –114.687051 longitude; then, north along an imaginary line to its intersection with 24th Avenue at 33.530245 latitude and –114.687198 longitude; then, east on 24th Avenue to the C–03 Canal; then, north along the C–03 Canal to its intersection with 33.540956 latitude and –114.682964 longitude; then, west along an imaginary line to its intersection with an unnamed canal at 33.540901 latitude and –114.692066 longitude; then, north along the unnamed canal to 22nd Avenue; then,

east on 22nd Avenue to Keim Boulevard; then, north on Keim Boulevard to an unnamed canal at 33.564619 latitude and -114.691983 longitude; then, northeast along the unnamed canal to its intersection with the C-03 Canal; then, north along the C-03 Canal to its intersection with 33.573626 latitude and -114.683341 longitude; then, north along an imaginary line to its intersection with Rannells Drain at 33.580861 latitude and -114.683545 longitude; then, east along Rannells Drain to its intersection with an unnamed drain at 33.581179 latitude and -114.678880 longitude; then, north along the unnamed drain to its intersection with Seeley Avenue; then, east on Seeley Avenue to Stephenson Boulevard; then, north on Stephenson Boulevard to an unnamed drain at 33.595529 latitude and -114.674943 longitude; then, east along the unnamed drain to its intersection with 33.595448 latitude and -114.666369 longitude; then, east along an imaginary line to its intersection with 15th Avenue and the West Side Drain; then, northeast along the West Side Drain to West 14th Avenue; then, east on West 14th Avenue to Arrowhead Boulevard; then, north on Arrowhead Boulevard to Interstate 10; then, east on Interstate 10 to Defrain Boulevard; then, north on Defrain Boulevard to the point of beginning.

\* \* \* \* \*

Done in Washington, DC, this 29th day of May 2009.

**Kevin Shea,**

*Acting Administrator, Animal and Plant Health Inspection Service.*

[FR Doc. E9-13051 Filed 6-3-09; 8:45 am]

BILLING CODE 3410-34-P

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 23

[Docket No. CE297; Special Conditions No. 23-237-SC]

#### **Special Conditions: Spectrum Aeronautical, LLC Model S-40; Full Authority Digital Engine Control (FADEC) System**

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final special conditions; request for comments.

**SUMMARY:** These special conditions are issued for the Spectrum Aeronautical, LLC Model S-40 airplane. This airplane will have a novel or unusual design

feature(s) associated with the use of an electronic engine control system instead of a traditional mechanical control system. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

**DATES:** The effective date of these special conditions is May 26, 2009.

We must receive your comments by July 20, 2009.

**ADDRESSES:** Mail two copies of your comments to: Federal Aviation Administration, Regional Counsel, ACE-7, Attention: Rules Docket CE297, 901 Locust, Room 506, Kansas City, Missouri 64106. You may deliver two copies to the Rules Docket at the above address. You must mark your comments Docket No. CE297. You may inspect comments in the Rules Docket weekdays, except Federal holidays, between 7:30 a.m. and 4 p.m.

**FOR FURTHER INFORMATION CONTACT:** Peter L. Rouse, Federal Aviation Administration, Aircraft Certification Service, Small Airplane Directorate, ACE-111, 901 Locust, Room 301, Kansas City, Missouri 64106; 816-329-4135, fax 816-329-4090.

**SUPPLEMENTARY INFORMATION:** The FAA has determined that notice and opportunity for prior public comment hereon are impracticable because these procedures would significantly delay issuance of the design approval and thus delivery of the affected aircraft. In addition, the substance of these special conditions has been subject to the public comment process in several prior instances with no substantive comments received. The FAA, therefore, finds that good cause exists for making these special conditions effective upon issuance.

#### **Comments Invited**

We invite interested persons to take part in this rulemaking by sending written comments, data, or views. The most helpful comments reference a specific portion of the special conditions, explain the reason for any recommended change, and include supporting data. We ask that you send us two copies of written comments.

We will file in the docket all comments we receive, as well as a report summarizing each substantive public contact with FAA personnel about these special conditions. You may inspect the docket before and after the comment closing date. If you wish to

review the docket in person, go to the address in the **ADDRESSES** section of this preamble between 7:30 a.m. and 4 p.m. Monday through Friday, except Federal holidays.

We will consider all comments we receive by the closing date for comments. We will consider comments filed late if it is possible to do so without incurring expense or delay. We may change these special conditions based on the comments we receive.

If you want us to let you know we received your comments on these special conditions, send us a pre-addressed, stamped postcard on which the docket number appears. We will stamp the date on the postcard and mail it back to you.

#### **Background**

On November 21, 2007, Spectrum Aeronautical, LLC applied for a type certificate for their new Model S-40. The Spectrum Model S-40 is a 2 + 9 seat (pilots + passengers) conventionally configured low wing normal category jet airplane with a T-tail and tricycle landing gear. This fiber-wound, all composite aircraft will be certified for day, night, VFR, IFR, and flight into known icing operations with a planned maximum operating altitude of 45,000 feet. The company seeks approval for single pilot operations and will show compliance with Reduced Vertical Separation Minimums (RVSM) requirements.

The Spectrum Model S-40 airplane is equipped with two GE Honda Aero HF120 turbofan engines, each using an electronic engine control system (FADEC) instead of a traditional mechanical control system. Even though the engine control system will be certificated as part of the engine, the installation of an engine with an electronic control system requires evaluation due to critical environmental effects and possible effects on or by other airplane systems. For example, indirect effects of lightning, radio interference with other airplane electronic systems, shared engine and airplane data and power sources.

The regulatory requirements in 14 CFR part 23 for evaluating the installation of complex systems, including electronic systems and critical environmental effects, are contained in § 23.1309. However, when § 23.1309 was developed, the use of electronic control systems for engines was not envisioned. Therefore, the § 23.1309 requirements were not applicable to systems certificated as part of the engine (reference § 23.1309(f)(1)). Although the parts of the system that are not certificated with the engine could be