



United States
Department of
Agriculture

Animal and
Plant Health
Inspection
Service

4700 River Road
Riverdale, MD
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July 1, 2011

Dr. Richard Shank
Senior Vice President
Regulatory and Government Affairs
The Scotts Miracle-Gro Company
14111 Scottslawn Road
Marysville, OH 43041

Re: Confirmation of Regulatory Status/Kentucky bluegrass (*Poa pratensis L.*)

Dear Dr. Shank:

This letter is in response to your letter of September 13, 2010 requesting APHIS' confirmation on the regulatory status of glyphosate tolerant Kentucky bluegrass (*Poa pratensis L.*) that you have genetically engineered using biolistics and genetic material from other plant species.

Based on the description in your letter, APHIS understands that you have genetically engineered Kentucky bluegrass using the following genetic elements:

- 5-enolpyruvylshikimate-3-phosphate synthase (*epsps*) from *Arabidopsis thaliana* (thale cress);
- A ubiquitin promoter from *Oryza sativa* (rice);
- An actin intron from *Oryza sativa* (rice);
- An alcohol dehydrogenase 3' UTR from *Zea mays* (corn).

The *epsps* gene from thale cress produces that protein which imparts the glyphosate tolerance trait to the plants. The other genetic elements are regulatory and control expression of the *epsps* gene.

APHIS confirms, as stated in your letter, that none of the organisms used in generating this genetically engineered (GE) glyphosate tolerant Kentucky bluegrass are considered to be plant pests (as defined in 7 CFR § 340.1 and § 340.2). APHIS agrees, according to the description provided in your letter, the GE Kentucky bluegrass does not meet the definition of a "regulated article" and is not subject to the regulations in 7 CFR part 340. Kentucky bluegrass itself is not a plant pest, no organisms used as sources of the genetic material used to create the GE Kentucky bluegrass are plant pests, and the method used to genetically engineer the GE Kentucky bluegrass did not involve plant pests.

Because no plant pests, unclassified organisms, or organisms whose classification is unknown were used to genetically engineer this variety of GE Kentucky bluegrass, APHIS has no reason to believe it is a plant pest and therefore does not consider the Kentucky bluegrass described in the letter dated September 13, 2010 to be regulated under 7 CFR part 340 and is not subject to the plant pest provisions of the PPA.

Sincerely,

Michael C. Gregoire
Deputy Administrator



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