

# Notices

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This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

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## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

[Docket No. 01–025–1]

#### Monsanto Co.; Availability of Petition and Environmental Assessment for Determination of Nonregulated Status for Cotton Genetically Engineered for Insect Resistance

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

**ACTION:** Notice.

**SUMMARY:** We are advising the public that the Animal and Plant Health Inspection Service has received a petition from Monsanto Company seeking a determination of nonregulated status for cotton designated as Event 15985, which has been genetically engineered for insect resistance. The petition has been submitted in accordance with our regulations concerning the introduction of certain genetically engineered organisms and products. In accordance with those regulations, we are soliciting public comments on whether this cotton event presents a plant pest risk. We are also making available for public comment an environmental assessment for the proposed determination of nonregulated status.

**DATES:** We will consider all comments we receive that are postmarked, delivered, or e-mailed by May 17, 2002.

**ADDRESSES:** You may submit comments by postal mail/commercial delivery or by e-mail. If you use postal mail/commercial delivery, please send four copies of your comments (an original and three copies) to Docket No. 01–025–1, Regulatory Analysis and Development, PPD, APHIS, Suite 3C71, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comments refer to Docket No. 01–025–1. If you use e-mail, address your

comment to [regulations@aphis.usda.gov](mailto:regulations@aphis.usda.gov). Your comment must be contained in the body of your message; do not send attached files. Please include your name and address in your message and “Docket No. 01–025–1” on the subject line.

You may read the petition, the environmental assessment, and any comments we receive on this notice of availability in our reading room. The reading room is located in room 1141, 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 that someone is available to help you, please call (202) 690–2817 before coming.

APHIS documents published in the **Federal Register**, and related information, including the names of organizations and individuals who have commented on APHIS dockets, are available on the Internet at <http://www.aphis.gov/ppd/rad/webrepor.html>.

**FOR FURTHER INFORMATION CONTACT:** Dr. David Heron, Plant Protection and Quarantine, APHIS, Suite 5B05, 4700 River Road Unit 147, Riverdale, MD 20737–1236; (301) 734–5141. To obtain a copy of the petition or the environmental assessment, contact Ms. Kay Peterson at (301) 734–4885; e-mail: [Kay.Peterson@aphis.usda.gov](mailto:Kay.Peterson@aphis.usda.gov).

**SUPPLEMENTARY INFORMATION:** The regulations in 7 CFR part 340, “Introduction of Organisms and Products Altered or Produced Through Genetic Engineering Which Are Plant Pests or Which There Is Reason to Believe Are Plant Pests,” regulate, among other things, the introduction (importation, interstate movement, or release into the environment) of organisms and products altered or produced through genetic engineering that are plant pests or that there is reason to believe are plant pests. Such genetically engineered organisms and products are considered “regulated articles.”

The regulations in § 340.6(a) provide that any person may submit a petition to the Animal and Plant Health Inspection Service (APHIS) seeking a determination that an article should not be regulated under 7 CFR part 340. Paragraphs (b) and (c) of § 340.6 describe the form that a petition for a determination of nonregulated status

must take and the information that must be included in the petition.

On December 7, 2000, APHIS received a petition (APHIS Petition No. 00–342–01p) from Monsanto Company (Monsanto) of St. Louis, MO, requesting a determination of nonregulated status under 7 CFR part 340 for cotton (*Gossypium hirsutum* L.) designated as Bollgard II CottonEvent 15985 (event 15985), which has been genetically engineered for resistance to certain lepidopteran insect pests. The Monsanto petition states that the subject cotton event should not be regulated by APHIS because it does not present a plant pest risk.

As described in the petition, cotton event 15985 has been genetically engineered to express a Cry2Ab insecticidal protein derived from the common soil bacterium *Bacillus thuringiensis* subsp. *kurstaki* (*Btk*). The petitioner states that the Cry2Ab protein is effective in providing protection from the feeding of lepidopteran insect pests such as tobacco budworm, pink bollworm, and cotton bollworm. The subject cotton event also expresses the  $\beta$ -D-glucuronidase (GUS) protein used as a selectable marker. Expression of the added genes is controlled in part by gene sequences from the plant pathogens cauliflower mosaic virus and *Agrobacterium tumefaciens*. Particle acceleration technology was used to transfer the added genes into the recipient Delta and Pine Land Company variety 50B (DP50B). Cotton cultivar DP50B expresses a *Btk* Cry1Ac insecticidal protein and a NTPII selectable marker protein, and was developed from cotton event 531, which was deregulated by APHIS in 1995 (APHIS No. 94–308–01p).

Cotton event 15985 has been considered a regulated article under the regulations in 7 CFR part 340 because it contains gene sequences from plant pathogens. This cotton event has been field tested since 1998 in the United States under APHIS notifications. In the process of reviewing the notifications for field trials of the subject cotton, APHIS determined that the vectors and other elements were disarmed and that the trials, which were conducted under conditions of reproductive and physical containment or isolation, would not present a risk of plant pest introduction or dissemination.

In section 403 of the Plant Protection Act (7 U.S.C. 7701–7772), plant pest is defined as any living stage of any of the following that can directly or indirectly injure, cause damage to, or cause disease in any plant or plant product: A protozoan, a nonhuman animal, a parasitic plant, a bacterium, a fungus, a virus or viroid, an infectious agent or other pathogen, or any article similar to or allied with any of the foregoing. APHIS views this definition very broadly. The definition covers direct or indirect injury, disease, or damage not just to agricultural crops, but also to plants in general, for example, native species, as well as to organisms that may be beneficial to plants, for example, honeybees, rhizobia, etc.

The U.S. Environmental Protection Agency (EPA) is responsible for the regulation of pesticides under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (7 U.S.C. 136 *et seq.*). FIFRA requires that all pesticides, including herbicides, be registered prior to distribution or sale, unless exempt by EPA regulation. In cases in which genetically modified plants allow for a new use of a pesticide or involve a different use pattern for the pesticide, EPA must approve the new or different use. Accordingly, Monsanto has submitted a request to EPA for registration of Cry2Ab as a plant-incorporated protectant.

When the use of the pesticide on the genetically modified plant would result in an increase in the residues in a food or feed crop for which the pesticide is currently registered, or in new residues in a crop for which the pesticide is not currently registered, establishment of a new tolerance or a revision of the existing tolerance would be required. Residue tolerances for pesticides are established by EPA under the Federal Food, Drug, and Cosmetic Act (FFDCA), as amended (21 U.S.C. 301 *et seq.*), and the Food and Drug Administration (FDA) enforces tolerances set by EPA under the FFDCA. In response to the filing of Monsanto's pesticide petition, EPA has established a regulation for an exemption from the requirement of a tolerance for residues of *Btk* Cry2Ab and the genetic material necessary for its production in or on all raw agricultural commodities.

FDA published a statement of policy on foods derived from new plant varieties in the **Federal Register** on May 29, 1992 (57 FR 22984–23005). The FDA statement of policy includes a discussion of FDA's authority for ensuring food safety under the FFDCA, and provides guidance to industry on the scientific considerations associated with the development of foods derived

from new plant varieties, including those plants developed through the techniques of genetic engineering. The petitioner has begun consultation with FDA on the subject cotton event.

To provide the public with documentation of APHIS' review and analysis of the environmental impacts and plant pest risk associated with a proposed determination of nonregulated status for Monsanto's cotton event 15985, an environmental assessment has been prepared. The EA was prepared in accordance with (1) The National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. 4321 *et seq.*), (2) regulations of the Council on Environmental Quality for implementing the procedural provisions of NEPA (40 CFR parts 1500–1508), (3) USDA regulations implementing NEPA (7 CFR part 1b), and (4) APHIS' NEPA Implementing Procedures (7 CFR part 372).

In accordance with § 340.6(d) of the regulations, we are publishing this notice to inform the public that APHIS will accept written comments regarding the petition for determination of nonregulated status from interested persons for a period of 60 days from the date of this notice.

We are also soliciting written comments from interested persons on the environmental assessment prepared to examine any environmental impacts of the proposed determination for the subject cotton event 15985. The petition and the environmental assessment and any comments received are available for public review, and copies of the petition and the environmental assessment may be ordered (see the **FOR FURTHER INFORMATION CONTACT** section of this notice).

After the comment period closes, APHIS will review the data submitted by the petitioner, all written comments received during the comment period, and any other relevant information. After reviewing and evaluating the comments on the petition and the environmental assessment and other data and information, APHIS will furnish a response to the petitioner, either approving the petition in whole or in part, or denying the petition. APHIS will then publish a notice in the **Federal Register** announcing the regulatory status of Monsanto's insect-resistant cotton event 15985 and the availability of APHIS' written decision.

**Authority:** 7 U.S.C. 166, 1622n, 7756, and 7761–7772; 31 U.S.C. 9701; 7 CFR 2.22, 2.80, and 371.3.

Done in Washington, DC, this 12th day of March 2002.

**W. Ron DeHaven,**

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

[FR Doc. 02–6458 Filed 3–15–02; 8:45 am]

**BILLING CODE 3410–34–P**

## DEPARTMENT OF AGRICULTURE

### Forest Service

#### Brown Darby Fuel Reduction Project EIS—Stanislaus National Forest

**AGENCY:** Forest Service, USDA.

**ACTION:** Notice of intent to prepare an environmental impact statement.

**SUMMARY:** The Forest Service will prepare an environmental impact statement (EIS) for a proposal to manage forest resources within and adjacent to the Darby Fire affected area, which burned 14,000 acres in September of 2001 (approximately 10,000 acres burned on lands administrated by the Forest Service). The project area is on the Calaveras Ranger District, Stanislaus National Forest, within Calaveras and Tuolumne Counties, California. The project area is located in the lower watersheds of the North and Middle Forks of the Stanislaus River, east of State Highway 4. It is bounded by private property on the east, west and north, the Middle Fork of the Stanislaus River on the south and the Calaveras Big Trees State park on the northeast.

**DATES:** Comments concerning the scope of the analysis should be received in writing on or before 10 days after publication of this notice in the **Federal Register**. While public participation in this analysis is welcome at any time, comments received within 10 days of the publication of this notice will be especially useful in the preparation of the Draft EIS. The scoping process will include identifying: potential issues, significant issues to be analyzed in depth, alternatives to the proposed action, and potential environmental effects of the proposal and alternatives. The draft EIS is expected to be filed with the Environmental Protection Agency and made available for public review in April 2002.

The comment period on the draft environmental impact statement will be 45 days from the date the Environmental Protection Agency publishes the notice of availability in the **Federal Register**. No date has yet been determined for filing the final EIS.

**ADDRESSES:** Send written comments to Rob Griffith, district Ranger, P.O. Box