

be arranged on a level commensurate with the subject and scope of the exemption. Since the proposed exemption was derived from, and is consistent with, the approach taken in the earlier, proposed Program Comment, the Council believes that the public participation requirement has been met through the extensive comment period already provided for that Program Comment. The Council only received a limited number of comments on the draft Program Comment. Those comments were shared, and discussed, with the Commission staff. As requested, that comment period was extended until December 9, 2001. Nevertheless, such extension only yielded one additional comment, for an overall total of 9 public comments. Likewise, although the Council made a special effort to notify SHPOs about the proposed Program Comment, comments from only three States, Arizona, Iowa, and Wyoming, were received. One of those comments was that the State had "no comment" on the proposal. Moreover, through this notice the Council is submitting the draft exemption for one last round of public comment.

Neither the Council nor the Commission have engaged in the particularized consultation with Indian tribes and Native Hawaiian organizations, pursuant to 36 CFR 800.14(c)(4), since such consultation does not seem to be warranted. As stated above, the proposed exemption would not apply on tribal lands. The Council also believes that the proposed exemption will have no consequences for historic properties of religious and cultural significance, regardless of location, to any Indian tribe or Native Hawaiian organizations since it is limited to effects on only historic natural gas pipelines.

## V. Text of the Exemption

The full text of the proposed program comment is reproduced below.

### Section 106 Exemption Regarding Effects to Historic Natural Gas Pipelines

#### I. Exemption Regarding Effects to Historic Natural Gas Pipelines

Except as noted on Section II, all Federal agencies are exempt from the Section 106 requirement of taking into account the effects of their undertakings on historic natural gas pipelines.

#### II. Abandonment of Historic Natural Gas Pipelines

Abandonment of a historic natural gas pipelines, in part or in whole, will qualify for the exemption under Section I, provided that the Federal agency or its

applicant has documented the historic natural gas pipeline by:

(a) Completing a determination of eligibility for the pipeline as a whole, which identifies contributing and non-contributing components of the pipeline, using standard information required on a National Register nomination form. The documentation must be prepared by an individual meeting the Secretary of the Interior's *Professional Qualification Standards* (48 FR 44738-9). The documentation must include the following components:

(i) A brief history of construction of the line with a bibliography recording the primary and secondary sources that were used;

(ii) Documentation through as-built drawings, historical photographs or, 35 mm photographs, as appropriate, of representative examples of significant features associated with the line;

(iii) A map of the historic property set at an appropriate scale; and

(iv) An annotated bibliography of other primary and secondary sources identified during research; and

(b) Placing the documentation in an appropriate repository, accessible to the general public, in each State crossed by the pipeline, and filing the documentation with the relevant State Historic Preservation Officer(s).

When the abandonment involved only a section of the historic natural gas pipeline, Federal agencies or application handling subsequent abandonment of other sections of the historic natural gas pipeline will not have to repeat the documentation requirements set forth above.

#### III. Existing Agreements

This exemption is not intended to amend, invalidate or otherwise modify Section 106 Programmatic Agreements (PAs) in existence at the time this exemption goes into effect. Parties to such PAs may amend them according to their terms.

#### IV. Tribal Lands

This exemption does not apply to those portions of undertakings that take place on tribal lands.

#### V. Definitions

(a) *Section 106* means section 106 of the National Historic Preservation Act, 16 U.S.C. 470f, and its implementing regulations, found under 36 CFR part 800.

(b) *Undertaking* means a project, activity, or program funded in whole or in part under the direct or indirect jurisdiction of a Federal agency, including those carried out by or on behalf of a Federal agency; those carried

out with Federal financial assistance; those requiring a Federal permit, license or approval; and those subject to State or local regulation administered pursuant to a delegation or approval by a Federal agency.

(c) *Historic natural gas pipelines means* means natural gas pipelines, and their appurtenant facilities, that are listed, or eligible for listing, on the National Register of Historic Places.

(d) *Tribal lands* means all lands within the exterior boundaries of any Indian reservation and all dependent Indian communities.

**Authority:** 16 U.S.C. 470v; 36 CFR 800.14(c).

Dated: February 25, 2002.

**John M. Fowler,**  
Executive Director.

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**BILLING CODE 4310-10-M**

## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

[Docket No. 01-101-1]

#### **Aventis CropScience; Availability of Environmental Assessment for Extension of Determination of Nonregulated Status for Canola Genetically Engineered for Glufosinate Herbicide Tolerance**

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

**ACTION:** Notice.

**SUMMARY:** We are advising the public that an environmental assessment has been prepared for a proposed decision to extend to one additional canola event our determination that a canola event developed by Aventis CropScience, which has been genetically engineered for tolerance to the herbicide glufosinate, is no longer considered a regulated article under our regulations governing the introduction of certain genetically engineered organisms. We are making this environmental assessment available to the public for review and comment.

**DATES:** We will consider all comments we receive that are postmarked, delivered, or e-mailed by April 1, 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 comment (an original and three copies) to: Docket No. 01-101-1, Regulatory Analysis and Development, PPD, APHIS, Station 3C71, 4700 River

Road Unit 118, Riverdale, MD 20737-1238. Please state that your comment refers to Docket No. 01-101-1. 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. 01-101-1" on the subject line.

You may read the extension request, the environmental assessment, and 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.

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.usda.gov/ppd/rad/webrepor.html>.

**FOR FURTHER INFORMATION CONTACT:** Dr. Hanu Pappu, Plant Protection and Quarantine, APHIS, Suite 5B05, 4700 River Road Unit 147, Riverdale, MD 20737-1236; (301) 734-5299. To obtain a copy of the extension request 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. Further, the regulations in § 340.6(e)(2) provide that a person may request that APHIS extend a determination of nonregulated status to other organisms.

Such a request must include information to establish the similarity of the antecedent organism and the regulated article in question.

### Background

On July 25, 2001, APHIS received a request for an extension of a determination of nonregulated status (APHIS No. 01-206-02p) from Aventis CropScience (Aventis) of Research Triangle Park, NC, for a canola (*Brassica napus* L.) transformation event designated as Topas 19/2 (event Topas 19/2), which has been genetically engineered for tolerance to the herbicide glufosinate. The Aventis request seeks an extension of a determination of nonregulated status issued for glufosinate-tolerant canola transformation event T45, the antecedent organism, in response to APHIS petition number 97-205-01p (see 63 FR 6703-6704, Docket No. 97-091-2, published February 10, 1998). Based on the similarity of canola event Topas 19/2 to the antecedent organism, Aventis requests a determination that glufosinate-tolerant canola event Topas 19/2 does not present a plant pest risk and, therefore, is not a regulated article under APHIS' regulations in 7 CFR part 340.

### Analysis

Like the antecedent organism, canola event Topas 19/2 has been genetically engineered to contain a *pat* gene derived from *Streptomyces viridochromogenes*. The *pat* gene encodes the enzyme phosphinothricin-N-acetyltransferase (PAT), which confers tolerance to the herbicide glufosinate. The subject canola event and the antecedent organism were developed through use of the *Agrobacterium tumefaciens* method, and expression of the added genes in Topas 19/2 and the antecedent organism is controlled in part by gene sequences derived from the plant pathogen cauliflower mosaic virus. In summary, the Aventis extension request states that canola event Topas 19/2 and the antecedent organism contain the same genetic elements with the exception of the antibiotic resistance marker gene *nptIII* in Topas 19/2, which was used as a transformant selection tool during the developmental process. The parental variety used to develop the antecedent organism was the *B. napus* var. AC EXCEL, while the *B. napus* cultivar Topas was used for transforming canola event Topas 19/2.

Canola event Topas 19/2 and the antecedent organism were genetically engineered using the same transformation method and contain the

same enzyme that makes the plants tolerant to the herbicide glufosinate. Accordingly, we have determined that canola event Topas 19/2 is similar to the antecedent organism in APHIS petition number 97-205-01p, and we are proposing that canola event Topas 19/2 should no longer be regulated under the regulations in 7 CFR part 340.

The subject canola event has been considered a regulated article under APHIS' regulations in 7 CFR part 340 because it contains gene sequences derived from plant pathogens. However, canola event Topas 19/2 has been extensively field tested in Canada, and after having received the appropriate Canadian approvals, has been marketed commercially in Canada since 1995 with no reports of adverse effects on human health or the environment.

Should APHIS approve Aventis' request for an extension of a determination of nonregulated status, canola event Topas 19/2 would no longer be considered a regulated article under APHIS' regulations in 7 CFR part 340. Therefore, the requirements pertaining to regulated articles under those regulations would no longer apply to the field testing, importation, or interstate movement of the subject canola event or its progeny.

### National Environmental Policy Act

An environmental assessment (EA) has been prepared to examine any potential environmental impacts associated with the proposed extension of a determination of nonregulated status for the subject canola event. 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). Copies of the Aventis extension request and the EA are available from the individual listed under **FOR FURTHER INFORMATION CONTACT**.

Done in Washington, DC, this 25th day of February 2002.

**W. Ron DeHaven,**

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

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