

sugar beet, corn, and vegetable, legume group 06, the general population, including infants and children, will have a very low possibility of exposure. Occupational exposure will be limited to employees in commercial facilities handling the seed treatment product. Commercial seed treating equipment minimizes occupational exposure. Wearing protective equipment will also minimize occupational exposure. Non-dietary exposure would not be expected to pose a quantifiable risk.

#### E. Cumulative Exposure

The product strain belongs to the bacterial genus of *Bacillus*. *Bacillus pumilus* GB34 may have a similar mode of action in mammals as *Bacillus subtilis* that has been shown to be non-toxic and non-pathogenic in mammalian species. A similar mode of action of *Bacillus pumilus* GB34 and *Bacillus subtilis* would not be expected to result in an increased adverse effect since both were shown to be non-toxic and non-pathogenic in intravenous toxicity and pathogenicity studies.

#### F. Safety Determination

1. *U.S. population.* Based on the low treating rate of seed treatment use, little evidence of toxicity or pathogenicity and limited exposure potential, Gustafson LLC believes there is a reasonable certainty of no harm to the U.S. population in general from aggregate exposure to *Bacillus pumilus* GB34 residue from all anticipated dietary and non-dietary exposures.

2. *Infants and children.* Based on the lack of toxicity and low exposure there is a reasonable certainty that no harm to infants, children or adults will result from aggregate exposure to *Bacillus pumilus* GB34.

#### G. Effects on the Immune and Endocrine Systems

Gustafson LLC had no information to suggest that *Bacillus pumilus* GB34 will have any effect on the immune and endocrine systems.

#### H. Existing Tolerances

There is an existing exemption from tolerance for *Bacillus pumilus* GB34 when used as a seed treatment in or on soybeans and soybeans after harvest 40 CFR 180.1224.

#### I. International Tolerances

Gustafson LLC is not aware of any international tolerances, exemptions from tolerance or maximum residue levels for *Bacillus pumilus* GB34.

[FR Doc. 04-4629 Filed 3-1-04; 8:45 am]

BILLING CODE 6560-50-S

## ENVIRONMENTAL PROTECTION AGENCY

[OPP-2004-0009; FRL-7344-5]

### Experimental Use Permit; Receipt of Application

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** This notice announces receipt of an application 524-EUP-96 from Monsanto Company requesting to extend and amend an experimental use permit (EUP) for ZMIR39 x MON810 combined insecticidal trait stacked corn hybrids along with ZMIR39 and MON810 corn hybrids; *Bacillus thuringiensis* Cry3Bb1 protein and the genetic material necessary for its production (vector ZMIR39) in corn (ZMIR39) and *Bacillus thuringiensis* Cry1Ab delta-endotoxin and the genetic material necessary for its production (vector PV-ZMCT01) in corn (MON810). The Agency has determined that the application may be of regional and national significance. Therefore, in accordance with 40 CFR 172.11(a), the Agency is soliciting comments on this application.

**DATES:** Comments, identified by docket ID number OPP-2004-0009, must be received on or before April 2, 2004.

**ADDRESSES:** Comments may be submitted electronically, by mail, or through hand delivery/courier. Follow the detailed instructions as provided in Unit I. of the **SUPPLEMENTARY INFORMATION**.

**FOR FURTHER INFORMATION CONTACT:** Mike Mendelsohn, Biopesticides and Pollution Prevention Division (7511C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (703) 308-8715; e-mail address: [mendelsohn.mike@epa.gov](mailto:mendelsohn.mike@epa.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. General Information

###### A. Does this Action Apply to Me?

This action is directed to the public in general. This action may, however, be of interest to those persons who are or may be required to conduct testing of chemical substances under the Federal Food, Drug, and Cosmetic Act (FFDCA) or the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action

to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

#### B. How Can I Get Copies of this Document and Other Related Information?

1. *Docket.* EPA has established an official public docket for this action under docket identification (ID) number OPP-2004-0009. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. This docket facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The docket telephone number is (703) 305-5805.

2. *Electronic access.* You may access this **Federal Register** document electronically through the EPA Internet under the "**Federal Register**" listings at <http://www.epa.gov/fedrgstr/>.

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at <http://www.epa.gov/edocket/> to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Once in the system, select "search," then key in the appropriate docket ID number.

Certain types of information will not be placed in the EPA Dockets. Information claimed as CBI and other information whose disclosure is restricted by statute, which is not included in the official public docket, will not be available for public viewing in EPA's electronic public docket. EPA's policy is that copyrighted material will not be placed in EPA's electronic public docket but will be available only in printed, paper form in the official public docket. To the extent feasible, publicly available docket materials will be made available in EPA's electronic public docket. When a document is selected from the index list in EPA Dockets, the system will identify whether the document is available for viewing in EPA's electronic public docket. Although not all docket materials may

be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in Unit I.B.1. EPA intends to work towards providing electronic access to all of the publicly available docket materials through EPA's electronic public docket.

For public commenters, it is important to note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing in EPA's electronic public docket as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information whose disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in EPA's electronic public docket. The entire printed comment, including the copyrighted material, will be available in the public docket.

Public comments submitted on computer disks that are mailed or delivered to the docket will be transferred to EPA's electronic public docket. Public comments that are mailed or delivered to the docket will be scanned and placed in EPA's electronic public docket. Where practical, physical objects will be photographed, and the photograph will be placed in EPA's electronic public docket along with a brief description written by the docket staff.

### C. How and To Whom Do I Submit Comments?

You may submit comments electronically, by mail, or through hand delivery/courier. To ensure proper receipt by EPA, identify the appropriate docket ID number in the subject line on the first page of your comment. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked "late." EPA is not required to consider these late comments. If you wish to submit CBI or information that is otherwise protected by statute, please follow the instructions in Unit I.D. Do not use EPA Dockets or e-mail to submit CBI or information protected by statute.

1. *Electronically.* If you submit an electronic comment as prescribed in this unit, EPA recommends that you include your name, mailing address, and an e-mail address or other contact information in the body of your comment. Also include this contact information on the outside of any disk or CD ROM you submit, and in any

cover letter accompanying the disk or CD ROM. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. EPA's policy is that EPA will not edit your comment, and any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

i. *EPA Dockets.* Your use of EPA's electronic public docket to submit comments to EPA electronically is EPA's preferred method for receiving comments. Go directly to EPA Dockets at <http://www.epa.gov/edocket/>, and follow the online instructions for submitting comments. Once in the system, select "search," and then key in docket ID number OPP-2004-0009. The system is an "anonymous access" system, which means EPA will not know your identity, e-mail address, or other contact information unless you provide it in the body of your comment.

ii. *E-mail.* Comments may be sent by e-mail to [opp-docket@epa.gov](mailto:opp-docket@epa.gov), Attention: Docket ID Number OPP-2004-0009. In contrast to EPA's electronic public docket, EPA's e-mail system is not an "anonymous access" system. If you send an e-mail comment directly to the docket without going through EPA's electronic public docket, EPA's e-mail system automatically captures your e-mail address. E-mail addresses that are automatically captured by EPA's e-mail system are included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket.

iii. *Disk or CD ROM.* You may submit comments on a disk or CD ROM that you mail to the mailing address identified in Unit I.C.2. These electronic submissions will be accepted in WordPerfect or ASCII file format. Avoid the use of special characters and any form of encryption.

2. *By mail.* Send your comments to: Public Information and Records Integrity Branch (PIRIB) (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001, Attention: Docket ID Number OPP-2004-0009.

3. *By hand delivery or courier.* Deliver your comments to: Public Information

and Records Integrity Branch (PIRIB), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, Attention: Docket ID Number OPP-2004-0009. Such deliveries are only accepted during the docket's normal hours of operation as identified in Unit I.B.1.

### D. How Should I Submit CBI to the Agency?

Do not submit information that you consider to be CBI electronically through EPA's electronic public docket or by e-mail. You may claim information that you submit to EPA as CBI by marking any part or all of that information as CBI (if you submit CBI on disk or CD ROM, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket and EPA's electronic public docket. If you submit the copy that does not contain CBI on disk or CD ROM, mark the outside of the disk or CD ROM clearly that it does not contain CBI. Information not marked as CBI will be included in the public docket and EPA's electronic public docket without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

### E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.
2. Describe any assumptions that you used.
3. Provide copies of any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.
5. Provide specific examples to illustrate your concerns.
6. Offer alternative ways to improve the notice.
7. Make sure to submit your comments by the deadline in this document.
8. To ensure proper receipt by EPA, be sure to identify the docket ID number

assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

## II. Background

In the **Federal Register** of January 7, 2004 (69 FR 917) (FRL-7325-6), EPA announced the issuance of EUP 524-EUP-96 to Monsanto Company, 800 N. Lindberg Blvd., St. Louis, MO 63167. Monsanto has requested to extend this EUP to February 28, 2005 and to amend it by allowing an additional 2,530 acres to be planted. Plantings are still to include the plant-incorporated protectants ZMIR39 x MON810 combined insecticidal trait stacked corn hybrids along with ZMIR39 and MON810 corn hybrids; *Bacillus thuringiensis* Cry3Bb1 protein and the genetic material necessary for its production (vector ZMIR39) in corn (ZMIR39) and *Bacillus thuringiensis* Cry1Ab delta-endotoxin and the genetic material necessary for its production (vector PV-ZMCT01) in corn (MON810) for breeding and observation nursery, inbred seed increase production, line per se and hybrid yield, insect efficacy, product characterization and performance/ labeling, insect resistance management, non-target organism and benefit, seed treatment, swine growth and feed efficiency, dairy cattle feed efficiency, beef cattle growth and feed efficiency, and cattle grazing feed efficiency trials. The program is proposed for the States of Alabama, California, Colorado, Hawaii, Illinois, Indiana, Iowa, Kansas, Kentucky, Maryland, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Mexico, New York, North Carolina, Ohio, Pennsylvania, Puerto Rico, South Dakota, Tennessee, Texas, Virginia, and Wisconsin.

## III. What Action is the Agency Taking?

Following the review of the Monsanto application and any comments and data received in response to this notice, EPA will decide whether to issue or deny the EUP request for this EUP program, and if issued, the conditions under which it is to be conducted. Any issuance of an EUP will be announced in the **Federal Register**.

## IV. What is the Agency's Authority for Taking this Action?

The Agency's authority for taking this action is under FIFRA section 5.

## List of Subjects

Environmental protection,  
Experimental use permits.

Dated: February 19, 2004.

**Janet L. Andersen,**

*Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.*

[FR Doc. E4-454 Filed 3-2-04; 8:45 am]

**BILLING CODE 6560-50-S**

## ENVIRONMENTAL PROTECTION AGENCY

[FRL-7631-1]

### Proposed CERCLA Administrative Cost Recovery Settlement; Union Pacific Railroad Company, Northwest Oil Drain Superfund Site, Salt Lake City, UT

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Administrative Order On Consent; request for public comment.

**SUMMARY:** In accordance with the requirements of Section 122(i) of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (CERCLA), 42 U.S.C. 9622(i), notice is hereby given of a proposed Administrative Order On Consent (AOC) for recovery of certain past response costs concerning the Northwest Oil Drain (NWOD) Superfund Site in Salt Lake City, Utah, with the Union Pacific Railroad Company (UPRR), Respondent. The settlement requires UPRR to pay \$100,000.00 to the Hazardous Substance Superfund for partial payment of past response costs incurred by EPA. The settlement includes a covenant not to sue the Respondent pursuant to Sections 106 and 107 (a) of CERCLA, 42 U.S.C. 9606 and 9607(a), Sections 309(b) and 311 of the Clean Water Act, 42 U.S.C. 1319 and 1321, and Section 1002 (a) and (b)(1) of the Oil Pollution Act of 1990, 33 U.S.C. 2702(a) and (b)(1), for the Site, for the Matters Addressed in the AOC. The AOC also provides that Respondent is entitled to contribution protection for Matters Addressed, as provided by Section 113(j) of CERCLA, 42 U.S.C. 9613(j).

The NWOD is located in northern Salt Lake County and in Davis County, northwest of downtown Salt Lake City, Utah. The NWOD was constructed in the 1920's and was used to convey stormwater and industrial and municipal discharges into the Great Salt Lake. Presently, the NWOD is composed of a series of former and existing unlined canals including a flowing and open section and a non-flowing section. The sludge/sediment in the NWOD contains elevated concentrations of organic contaminants and metals.

For thirty (30) days following the date of publication of this notice, the Agency will receive written comments relating to the settlement. The Agency will consider all comments received and may modify or withdraw its consent to the settlement if comments received disclose facts or considerations which indicate that the settlement is inappropriate, improper, or inadequate. The Agency's response to any comments received will be available for public inspection at the Day-Riverside Branch Library, 1575 West 1000 North, Salt Lake City, Utah, and at the Superfund Records Center, EPA Region 8, 999 18th Street, Suite 300, Denver, Colorado.

**DATES:** Comments must be submitted on or before April 2, 2004.

**ADDRESSES:** The proposed settlement is available for public inspection at the Superfund Records Center, EPA Region 8, 999 18th Street, Suite 300, Denver, CO 80202-2466, (303) 312-6473, and at the Day-Riverside Branch Library, Salt Lake City, Utah. Comments should be addressed to James M. Stearns, (8ENF-L), Enforcement Attorney, U.S. Environmental Protection Agency, Region 8, 999 18th Street, Suite 300, Denver, CO 80202-2466, and should reference the Administrative Order on Consent, Respondent UPRR, Northwest Oil Drain Superfund Site, Salt Lake City, Utah.

#### FOR FURTHER INFORMATION CONTACT:

James M. Stearns, (8ENF-L), Enforcement Attorney, U.S. Environmental Protection Agency, Region 8, 999 18th Street, Suite 300, Denver, CO 80202-2466, (303) 312-6912.

**SUPPLEMENTARY INFORMATION:** An earlier AOC, EPA Docket No. CERCLA-08-2003-0014, was entered into by Respondents Salt Lake City Corporation, Salt Lake County, BP Products North America Inc., and Chevron U.S.A. Inc. ("NWOD PRP Group"), to perform response activities to remove contaminated sludge/sediment in the NWOD and to pay certain past response costs. The proposed settlement with UPRR includes a covenant-not-to-sue with respect to Future Response Costs and the work to be performed at the Site. The covenant-not-to-sue will only take effect upon certification by UPRR that it has performed or paid for the performance of its proportionate share of the work to be performed by the NWOD PRP Group.