

# Notices

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.

## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

[Docket No. 04-112-2]

#### Monsanto Company; Availability of Determination of Nonregulated Status for Corn Genetically Engineered To Express High Lysine Levels

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

**ACTION:** Notice.

**SUMMARY:** We are advising the public of our determination that the Monsanto Company corn designated as transformation event LY038, which has been genetically engineered to express a lysine-insensitive dihydrolipiccolinate synthase (cDHDPS) enzyme to allow for the accumulation of higher levels of lysine in the germ of the seed, is no longer considered a regulated article under our regulations governing the introduction of certain genetically engineered organisms. Our determination is based on our evaluation of data submitted by the Monsanto Company in their petition for a determination of nonregulated status, our analysis of other scientific data, and comments received from the public in response to a previous notice announcing the availability of the petition for nonregulated status and an environmental assessment. This notice also announces the availability of our written determination and our finding of no significant impact.

**DATES:** Effective Date: January 23, 2006.

**ADDRESSES:** You may read the petition, the environmental assessment, the determination, the finding of no significant impact, and the comments that we received on Docket No. 04-112-1 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.

You may also view the comments we received on Docket No. 04-112-1 on the Internet. Go to <http://www.regulations.gov>, click on the "Advanced Search" tab and select "Docket Search." In the Docket ID field, enter APHIS-2005-0075 then click on "Submit."

**FOR FURTHER INFORMATION CONTACT:** Dr. Levis Handley, Biotechnology Regulatory Services, APHIS, 4700 River Road Unit 147, Riverdale, MD 20737-1236; (301) 734-5721. To obtain copies of the determination, the petition, the environmental assessment (EA), or the finding of no significant impact (FONSI), contact Ms. Ingrid Berlanger at (301) 734-4885; e-mail: [ingrid.e.berlanger@aphis.usda.gov](mailto:ingrid.e.berlanger@aphis.usda.gov). The petition and the EA, including the FONSI and determination, are also available on the Internet at: [http://www.aphis.usda.gov/brs/aphisdocs/04\\_22901p.pdf](http://www.aphis.usda.gov/brs/aphisdocs/04_22901p.pdf), [http://www.aphis.usda.gov/brs/aphisdocs/04\\_22901p\\_p.ea.pdf](http://www.aphis.usda.gov/brs/aphisdocs/04_22901p_p.ea.pdf), and [http://www.aphis.usda.gov/brs/aphisdocs2/04\\_22901p\\_com.pdf](http://www.aphis.usda.gov/brs/aphisdocs2/04_22901p_com.pdf).

#### SUPPLEMENTARY INFORMATION:

##### Background

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

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Friday, February 3, 2006

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

On August 16, 2004, APHIS received a petition (APHIS Petition Number 04-229-01p) from Monsanto Company (Monsanto) of St. Louis, MO, on behalf of Renessen LLC of Deerfield, IL, requesting a determination of nonregulated status under 7 CFR part 340 for corn (*Zea mays* L.) designated as transformation event LY038 which has been genetically engineered to produce higher levels of lysine in the seed than is typically found in corn. The Monsanto petition states that the subject corn should not be regulated by APHIS because it does not present a plant pest risk.

As described in the petition, the LY038 corn has been genetically modified to express the *cordapA* gene from *Corynebacterium glutamicum*. This gene encodes for lysine-insensitive dihydrolipiccolinate synthase (cDHDPS) enzyme. The expression of *cordapA* is under the control of the maize *Glb1* promoter, which directs cDHDPS expression predominately in the germ of the seed, resulting in accumulation of lysine in the grain. Corn-soybean meal based diets formulated for poultry and swine are characteristically deficient in lysine and require the addition of supplemental lysine for optimal animal growth and production. Development of LY038 corn may provide an alternative to direct addition of supplemental lysine to poultry and swine diets.

In a notice published in the **Federal Register** on September 27, 2005 (70 FR 56411-56443, Docket No. 04-112-1), APHIS announced the availability of the Monsanto petition and an environmental assessment (EA). APHIS solicited comments on whether the subject corn would present a plant pest risk and on the EA. APHIS received 14 comments by the close of the 60-day comment period, which ended on November 28, 2005. Seven of the comments supported a determination of nonregulated status for LY038 corn and seven were opposed. None of the comments addressed specific plant pest issues. APHIS' response to these comments can be found in an attachment to the finding of no significant impact (FONSI).

##### Determination

Based on APHIS' analysis of field, greenhouse, and laboratory data submitted by Monsanto, references

provided in the petition, other relevant information as described in the EA, and comments provided by the public, APHIS has determined that LY038 will not pose a plant pest risk for the following reasons: (1) It exhibits no plant pathogenic properties (although it was originally engineered with regulatory sequences derived from plant pathogens, these plants are neither infected nor can incite disease); (2) it exhibits no characteristics that would cause it to be more weedy than the non-transgenic parent corn line or other cultivated corn; (3) gene introgression from LY038 into wild relatives in the United States and its territories is extremely unlikely and is not likely to increase the weediness potential of any resulting progeny nor adversely affect genetic diversity of related plants any more than would introgression from traditional corn hybrids; (4) disease and insect susceptibility is similar to non-transgenic corn; (5) it exhibits no potential to have a significant adverse impact on organisms beneficial to agriculture; (6) compared to current agricultural practices, cultivation of line LY038 and its progeny should not reduce the ability to control insects or weeds in corn or other crops. In addition to our finding of no plant pest risk, there will be no effect on threatened or endangered species resulting from a determination on nonregulated status for LY038 and its progeny.

Therefore, APHIS has concluded that the subject corn and any progeny derived from hybrid crosses with other non-transformed corn varieties will be no more of a plant pest than corn varieties in traditional breeding programs that are not subject to regulation under 7 CFR part 340. The effect of this determination is that Monsanto LY038 corn is no longer considered a regulated article under APHIS' regulations in 7 CFR part 340. The requirements pertaining to regulated articles under those regulations no longer apply to the subject corn or its progeny. However, importation of LY038 corn and seeds capable of propagation are still subject to the restrictions found in APHIS' foreign quarantine notices in 7 CFR part 319 and imported seed regulations in 7 CFR part 361.

#### National Environmental Policy Act

An EA was prepared to examine any potential environmental impacts and plant pest risk associated with the determination of nonregulated status for the Monsanto LY038 corn. 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).

Based on that EA, APHIS has reached a FONSI with regard to the determination that Monsanto LY038 corn and lines developed from it are no longer regulated articles under its regulations in 7 CFR part 340. Copies of the EA and FONSI are available from the individual listed under **FOR FURTHER INFORMATION CONTACT**.

**Authority:** 7 U.S.C. 7701–7772 and 7781–7786; 31 U.S.C. 9701; 7 CFR 2.22, 2.80, and 371.3.

Done in Washington, DC, this 30th day of January 2006.

**Kevin Shea,**

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

[FR Doc. E6–1481 Filed 2–2–06; 8:45 am]

**BILLING CODE 3410–34–P**

## DEPARTMENT OF AGRICULTURE

### Forest Service

#### Lake Tahoe Basin Federal Advisory Committee

**AGENCY:** Office of the Secretary, USDA.

**ACTION:** Notice of intent to renew the Lake Tahoe Basin Federal Advisory Committee charter and request for nominations.

**SUMMARY:** The Secretary of Agriculture is considering the renewal of the charter of the Lake Tahoe Basin Federal Advisory Committee, chartered under the Federal Advisory Committee Act, to provide advice to the Secretary of Agriculture on implementing the terms of the Federal Interagency Partnership on the Lake Tahoe Region. Nominations of persons to serve on the LTFAC are invited.

**DATES:** Nominations for membership on the Committee must be received in writing by March 24, 2006.

**ADDRESSES:** Send nominations and applications (Form AD–755) with telephone numbers and e-mail addresses for membership on the Committee to: FACA Nomination, Lake Tahoe Basin Management Unit, 35 College Drive, South Lake Tahoe, California 96150.

**FOR FURTHER INFORMATION CONTACT:** Terri Marceron, Forest Supervisor, or Mark Struble, Acting Legislative &

Public Affairs Officer, Lake Tahoe Basin Management Unit, telephone (530) 543–2758.

**SUPPLEMENTARY INFORMATION:** Pursuant to the Federal Advisory Committee Act (5 U.S.C. App.), notice is hereby given that the Secretary of Agriculture is considering the renewal of the charter of the Lake Tahoe Basin Federal Advisory Committee. The purpose of the Committee is to provide advice to the Secretary of Agriculture and to the Federal Interagency Partnership (Partnership) on how the Partnership can best fulfill its duties pursuant to Executive Order 13057, issued July 26, 1997; how to facilitate the integration and coordination of appropriate Federal programs and funds to help achieve the goals of the Lake Tahoe Regional Environmental Improvement Program; and other matters raised by the Secretary.

The Secretary of Agriculture established the Lake Tahoe Basin Federal Advisory Committee (Committee) on July 13, 1998; renewed the Committee's charter on June 19, 2000; amended the charter on April 17, 2001, to provide advice to the Partnership; and renewed the charter on June 13, 2002 and June 3, 2004. The current charter for the Lake Tahoe Basin Federal Advisory Committee will expire June 7, 2006, and is currently being considered for renewal by the Secretary of Agriculture.

The Secretary has previously determined that the work of the Committee is in the public interest and relevant to the duties of the Department of Agriculture.

Representatives will be selected from the following sectors: (1) Gaming, (2) environmental, (3) national environmental, (4) ski resorts, (5) North Shore economic/recreation, (6) South Shore economic/recreation, (7) resort associations, (8) education, (9) property rights advocates, (10) member-at-large, (11) member-at-large, (12) science and research, (13) California local government, (14) Washoe Tribe, (15) State of California, (16) State of Nevada, (17) Tahoe Regional Planning Agency, (18) labor, (19) transportation and (20) Nevada local government.

Nominations to the Committee should describe and document the proposed member's qualifications for membership on the Lake Tahoe Basin Federal Advisory Committee. The Committee Chair will be approved by the Designated Federal Official. Vacancies on the Committee will be filled in the manner in which the original appointment was made.

Members of the Committee serve without pay, but may be reimbursed for