

*Docket Numbers:* ER09-1027-000.

*Applicants:* New York Independent System Operator, Inc.

*Description:* New York Independent Systems Operator, Inc. submits for acceptance Seventh Revised Sheet 3 *et al.* to its FERC Electric Tariff, Original Volume 1.

*Filed Date:* 04/22/2009.

*Accession Number:* 20090423-0032.

*Comment Date:* 5 p.m. Eastern Time on Wednesday, May 13, 2009.

Any person desiring to intervene or to protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. It is not necessary to separately intervene again in a subocket related to a compliance filing if you have previously intervened in the same docket. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at <http://www.ferc.gov>. To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protest.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St. NE., Washington, DC 20426.

The filings in the above proceedings are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov) or call

(866) 208-3676 (toll free). For TTY, call (202) 502-8659.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. E9-9891 Filed 4-29-09; 8:45 am]

**BILLING CODE 6717-01-P**

## ENVIRONMENTAL PROTECTION AGENCY

[FRL-8899-1]

### American Recovery and Reinvestment Act of 2009 (Recovery Act) Addendum to Supplemental Funding for Brownfields Revolving Loan Fund (RLF) Grantees

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

**ACTION:** Notice.

**SUMMARY:** EPA published a notice on April 10, 2009 regarding plans to make available approximately \$40 million in Recovery Act funding to supplement Revolving Loan Fund capitalization grants previously awarded competitively under section 104(k)(3) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA). The purpose of this notice is to notify eligible RLF grantees that Supplemental Funding for Brownfields RLF grantees provided under the April 10, 2009 notice will be subject to the Buy American provisions for activities defined as infrastructure by the Agency.

**DATES:** This action is effective April 30, 2009.

**FOR FURTHER INFORMATION CONTACT:** Debi Morey, U.S. EPA, Office of Solid Waste and Emergency Response, Office of Brownfields and Land Revitalization, (202) 566-2735 or the appropriate Brownfields Regional Contact.

#### SUPPLEMENTARY INFORMATION:

##### Background

On February 17, 2009, President Barack Obama signed the American Recovery and Reinvestment Act of 2009 (Pub. L. No. 111-05) (Recovery Act). EPA received \$100 million in Recovery Act appropriations for the CERCLA 104(k) Brownfields Program of which 25% must be used at brownfields sites contaminated with petroleum. The Agency has allocated approximately \$40 million of Recovery Act funds for supplemental funding of current RLF grantees as authorized by CERCLA 104(k)(4).

Title XVI, section 1605 of the Recovery Act, ("Buy American") prohibits the use of Recovery Act funds

for projects involving "the construction, alteration, maintenance or repair of a public building or public work unless all of the iron, steel, and manufactured goods used in the project are produced in the United States" unless certain specified exceptions apply. OMB has issued regulations at Subpart B of 2 CFR Part 276 implementing the Recovery Act Buy American provision. It is possible that a limited amount of RLF supplemental funding will be used directly by non-federal governmental entity borrowers or subgrantees for projects that have a principal purpose of installing concrete or asphalt (or similar material) caps to remediate contamination on brownfields on a public building or public work, as defined at 2 CFR 176.140(a), or constructing alternative drinking water systems as part of the remedy at a brownfields site. These caps constitute an engineering control to enclose and protect contamination from migration and the risk of exposure. Construction of alternate drinking water systems by a non-federal governmental entity with RLF supplemental funding would be a public work under 2 CFR 176.140(a). EPA considers loans and subgrants that have a principal purpose of carrying out of these types of activities to be infrastructure investments for the purposes of the certification and reporting requirements of Title XV, sections 1511 and 1512 of the Recovery Act and implementing regulations at 2 CFR 176.50. If an RLF grantee is requesting supplemental funding for a project which requires a Buy American Act determination (i.e., a cap that will be directly incorporated into a public building or public work) and the grantee intends to use other than American steel, iron or manufactured goods, the grantee must request an advance determination or provide the necessary information in their request for RLF supplemental funding.

Please note that in accordance with 2 CFR 176.140(a), remediation activities conducted with RLF supplemental funds by private sector developers, non-profit organizations (except multi-State, regional or interstate entities which have governmental functions) or other non-governmental borrowers or subgrantees, and tribes are not public buildings or public works for the purposes of the Buy American provision of the Recovery Act as implemented at Subpart B of 2 CFR Part 176. EPA does not consider remediation activities conducted with RLF supplemental funds by private sector developers, non-profit organizations (except multi-State, regional or interstate entities which

have governmental functions) or other non-governmental borrowers or subgrantees to be infrastructure investments for the purposes of the certification and reporting requirements.

#### **Required Use of American Iron, Steel, and Manufactured Goods—Section 1605 of the American Recovery and Reinvestment Act of 2009**

(a) *Definitions.* “Manufactured good,” “public building and public work,” and “steel,” as used in this notice, are defined in the 2 CFR 176.140.

(b) *Requests for determinations of inapplicability.* A prospective applicant requesting a determination regarding the inapplicability of section 1605 of the Recovery Act should submit the request to the award official in time to allow a determination before submission of applications or proposals. The prospective applicant shall include the information and applicable supporting data required by paragraphs (c) and (d) of the award term and condition at 2 CFR 176.140 in the request. If an applicant has not requested a determination regarding the inapplicability of 1605 of the Recovery Act before submitting its application or proposal, or has not received a response to a previous request, the applicant shall include the information and supporting data in the application or proposal.

##### *(c) Evaluation of project proposals.*

If the Federal government determines that an exception based on unreasonable cost of domestic iron, steel, and/or manufactured goods applies, the Federal Government will evaluate a project requesting exception to the requirements of section 1605 of the Recovery Act by adding to the estimated total cost of the project 25 percent of the project cost, if foreign iron, steel, or manufactured goods are used in the project based on unreasonable cost of comparable manufactured domestic iron, steel, and/or manufactured goods.

##### *(d) Alternate project proposals.*

(1) When a project proposal includes foreign iron, steel, and/or manufactured goods not listed by the Federal Government at paragraph (b)(2) of the award term and condition at 2 CFR 176.140, the applicant also may submit an alternate proposal based on use of equivalent domestic iron, steel, and/or manufactured goods.

(2) If an alternate proposal is submitted, the applicant shall submit a separate cost comparison table prepared in accordance with paragraphs (c) and (d) of the award term and condition at 2 CFR 176.140 for the proposal that is based on the use of any foreign iron, steel, and/or manufactured goods for

which the Federal Government has not yet determined an exception applies.

(3) If the Federal government determines that a particular exception requested in accordance with paragraph (b) of the award term and condition at 2 CFR 176.140 does not apply, the Federal Government will evaluate only those proposals based on use of the equivalent domestic iron, steel, and/or manufactured goods, and the applicant shall be required to furnish such domestic items.

#### **Notice of Required Use of American Iron, Steel, and Manufactured Goods (Covered Under International Agreements)—Section 1605 of the American Recovery and Reinvestment Act of 2009**

(a) *Definitions.* “Designated country iron, steel, and/or manufactured goods,” “foreign iron, steel, and/or manufactured good,” “manufactured good,” “public building and public work,” and “steel,” as used in this provision, are defined in 2 CFR 176.160(a).

(b) *Requests for determinations of inapplicability.* A prospective applicant requesting a determination regarding the inapplicability of section 1605 of the Recovery Act should submit the request to the award official in time to allow a determination before submission of applications or proposals. The prospective applicant shall include the information and applicable supporting data required by paragraphs (c) and (d) of the award term and condition at 2 CFR 176.160 in the request. If an applicant has not requested a determination regarding the inapplicability of 1605 of the Recovery Act before submitting its application or proposal, or has not received a response to a previous request, the applicant shall include the information and supporting data in the application or proposal.

##### *(c) Evaluation of project proposals.*

If the Federal government determines that an exception based on unreasonable cost of domestic iron, steel, and/or manufactured goods applies, the Federal Government will evaluate a project requesting exception to the requirements of section 1605 of the Recovery Act by adding to the estimated total cost of the project 25 percent of the project cost if foreign iron, steel, or manufactured goods are used based on unreasonable cost of comparable domestic iron, steel, or manufactured goods.

##### *(d) Alternate project proposals.*

(1) When a project proposal includes foreign iron, steel, and/or manufactured goods, other than designated country iron, steel, and/or manufactured goods,

that are not listed by the Federal Government in this Buy American notice in the request for applications or proposals, the applicant may submit an alternate proposal based on use of equivalent domestic or designated country iron, steel, and/or manufactured goods.

(2) If an alternate proposal is submitted, the applicant shall submit a separate cost comparison table prepared in accordance with paragraphs (c) and (d) of the award term and condition at 2 CFR 176.160 for the proposal that is based on the use of any foreign iron, steel, and/or manufactured goods for which the Federal Government has not yet determined an exception applies.

(3) If the Federal government determines that a particular exception requested in accordance with paragraph (b) of the award term and condition at 2 CFR 176.160 does not apply, the Federal Government will evaluate only those proposals based on use of the equivalent domestic or designated country iron, steel, and/or manufactured goods, and the applicant shall be required to furnish such domestic or designated country items.

*Statutory and Executive Order Reviews:* Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a “significant regulatory action” and is therefore not subject to OMB review. Because this grant action is not subject to notice and comment requirements under the Administrative Procedures Act or any other statute, it is not subject to the Regulatory Flexibility Act (5 U.S.C. 601 et seq.) or Sections 202 and 205 of the Unfunded Mandates Reform Act of 1999 (UMRA) (Pub. L. 104–4). In addition, this action does not significantly or uniquely affect small governments. Although this action does not generally create new binding legal requirements, where it does, such requirements do not substantially and directly affect Tribes under Executive Order 13175 (63 FR 67249, November 9, 2000). Although this grant action does not have significant Federalism implications under Executive Order 13132 (64 FR 43255, August 10, 1999), EPA consulted with states in the development of these grant guidelines. This action is not subject to Executive Order 13211, “Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use” (66 FR 28355, May 22, 2001), because it is not a significant regulatory action under Executive Order 12866. This action does not involve technical standards; thus, the requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This action does

not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). The Congressional Review Act, 5 U.S.C. 801 *et seq.*, generally provides that before certain actions may take effect, the agency promulgating the action must submit a report, which includes a copy of the action, to each House of the Congress and to the Comptroller General of the United States. Since this grant action, when finalized, will contain legally binding requirements, it is subject to the Congressional Review Act, and EPA will submit its final action in its report to Congress under the Act.

Dated: April 24, 2009.

**Myra Blakely,**

*Acting Director, Office of Brownfields and Land Revitalization, Office of Solid Waste and Emergency Response.*

[FR Doc. E9-9964 Filed 4-29-09; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OPP-2008-0401; FRL-8409-5]

### Pesticide Product Registrations; Conditional Approval

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

**ACTION:** Notice.

**SUMMARY:** This notice announces Agency approval of applications submitted by Syngenta Seeds, Incorporated – Field Crops – NAFTA, to conditionally register the pesticide products, MIR162 Maize, *Bt11* x MIR162 Corn, and *Bt11* x MIR162 x MIR604 Corn, containing a new active ingredient not included in any previously registered products pursuant to the provisions of section 3(c)(7)(C) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

**FOR FURTHER INFORMATION CONTACT:** Jeannine Kausch, Biopesticides and Pollution Prevention Division (7511P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (703) 347-8920; e-mail address: [kausch.jeannine@epa.gov](mailto:kausch.jeannine@epa.gov).

### SUPPLEMENTARY INFORMATION:

#### I. General Information

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

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially

affected entities may include, but are not limited to:

- Crop production (NAICS code 111)
- Animal production (NAICS code 112)
- Food manufacturing (NAICS code 311)
- Pesticide manufacturing (NAICS code 32532).

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. 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 a docket for this action under docket identification (ID) number EPA-HQ-OPP-2008-0401. Publicly available docket materials are available either in the electronic docket at <http://www.regulations.gov>, or, if only available in hard copy, at the Office of Pesticide Programs (OPP) Regulatory Public Docket in Rm. S-4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The hours of operation of this Docket Facility are from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305-5805.

In accordance with section 3(c)(2) of FIFRA, a copy of the approved label, the list of data references, the data and other scientific information used to support registration, except for material specifically protected by section 10 of FIFRA, are also available for public inspection. Requests for data must be made in accordance with the provisions of the Freedom of Information Act and must be addressed to the Freedom of Information Office (A-101), 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001. Such requests should: Identify the product name and registration number and specify the data or information desired.

Electronic versions of the fact sheet and Biopesticide Regulatory Action Document are available at [http://www.epa.gov/oppbppd1/biopesticides/pips/pip\\_list.htm](http://www.epa.gov/oppbppd1/biopesticides/pips/pip_list.htm).

**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>.

### II. Did EPA Conditionally Approve the Application?

A conditional registration may be granted under section 3(c)(7)(C) of FIFRA for a new active ingredient where certain data are lacking, on condition that such data are received by the end of the conditional registration period and do not meet or exceed the risk criteria set forth in 40 CFR 154.7; that use of the pesticide during the conditional registration period will not cause unreasonable adverse effects; and that use of the pesticide is in the public interest. The Agency has considered the available data on the risks associated with the proposed use of *Bacillus thuringiensis* Vip3Aa20 insecticidal protein and the genetic material for its production (via elements of vector pNOV1300) in Event MIR162 maize (OECD Unique Identifier SYN-IR162-4), and information on social, economic, and environmental benefits to be derived from such use. Specifically, the Agency has considered the nature and its pattern of use, application methods and rates, and level and extent of potential exposure. Based on these reviews, the Agency was able to make basic health and safety determinations which show that use of *Bacillus thuringiensis* Vip3Aa20 insecticidal protein and the genetic material for its production (via elements of vector pNOV1300) in Event MIR162 maize (OECD Unique Identifier SYN-IR162-4) during the period of conditional registration will not cause any unreasonable adverse effect on the environment, and that use of the pesticide is, in the public interest.

Consistent with section 3(c)(7)(C) of FIFRA, the Agency has determined that these conditional registrations are in the public interest. Use of the pesticides are of significance to the user community, and appropriate labeling, use directions, and other measures have been taken to ensure that use of the pesticides will not result in unreasonable adverse effects to man and the environment.

### III. Conditional Approval

EPA issued a notice, published in the **Federal Register** of July 23, 2008 (73 FR 42799) (FRL-8365-4), which announced that Syngenta Seeds, Incorporated – Field Crops – NAFTA, P.O. Box 12257, 3054 Cornwallis Road, Research Triangle Park, NC 27709–2257, had submitted applications to conditionally register the pesticide products, MIR162 Maize, *Bt11* x MIR162 Corn, and *Bt11* x MIR162 x MIR604 Corn, Plant-