could result in a loss of domestic or foreign markets for U.S. potatoes and other commodities.

The PCN quarantine regulations (§§ 301.86 through 301.86–9, referred to below as the regulations) set out procedures for determining the areas quarantined for PCN and impose restrictions on the interstate movement of regulated articles from quarantined areas.

Section 301.86–3 of the regulations sets out the procedures for determining the areas quarantined for PCN. Paragraph (a) of § 301.86–3 states that, in accordance with the criteria listed in § 301.86–3(c), the Administrator will designate as a quarantined area each field that has been found to be infested with PCN, each field that has been found to be associated with an infested field, and any area that the Administrator considers necessary to quarantine because of its inseparability for quarantine enforcement purposes from infested or associated fields.

Paragraph (c) provides that the Administrator will designate a field as an infested field when PCN is found in the field. Paragraph (c) also provides that the Administrator will designate a field as an associated field when PCN host crops, as listed in § 301.86–2(b), have been grown in the field in the last 10 years and the field shares a border with an infested field; the field came into contact with a regulated article listed in § 301.86–2 from an infested field within the last 10 years; or, within the last 10 years, the field shared ownership, tenancy, seed, drainage or runoff, farm machinery, or other elements of shared cultural practices with an infested field that could allow spread of the PCN, as determined by the Administrator.

Paragraph (b) describes the conditions for the designation of an area less than an entire State as a quarantined area. Less than an entire State will be designated as a quarantined area only if the Administrator determines that:

1. The State has adopted and is enforcing restrictions on the intrastate movement of the regulated articles that are equivalent to those imposed by the regulations on the interstate movement of regulated articles; and

2. The designation of less than the entire State as a quarantined area will prevent the interstate spread of PCN.

We have determined that it is not necessary to designate the entire State of Idaho as a quarantined area. Idaho has adopted and is enforcing restrictions on the intrastate movement of regulated articles from that area that are equivalent to those we are imposing on the interstate movement of regulated articles.

Paragraph (d) provides for the removal of fields from quarantine. An infested field will be removed from quarantine when a 3-year biosurvey protocol approved by the Animal and Plant Health Inspection Service has been completed and the field has been found to be free of PCN. An associated field will be removed from quarantine when the field has been found to be free of PCN according to a survey protocol approved by the Administrator as sufficient to support removal from quarantine. Any area other than infested or associated fields which has been quarantined by the Administrator because of its inseparability for quarantine enforcement purposes from infested or associated fields will be removed from quarantine when the relevant infested or associated fields are removed from quarantine.

Paragraph (a) of § 301.86–3 further provides that the Administrator will publish the description of the quarantined area on the Plant Protection and Quarantine (PPQ) Web site, *http://www.aphis.usda.gov/plant_health/plant_pest_info/potato/pcn.shtml*. The description of the quarantined area will include the date the description was last updated and a description of the changes that have been made to the quarantined area. The description of the quarantined area may also be obtained by request from any local office of PPQ; local offices are listed in telephone directories. Finally, paragraph (a) establishes that, after a change is made to the quarantined area, we will publish a notice in the **Federal Register** informing the public that the change has occurred and describing the change to the quarantined area.

We are publishing this notice to inform the public of changes to the PCN quarantined area in accordance with § 301.86–3(a). On February 10, 2009, we updated the quarantined area to remove approximately 2,721 acres. This acreage was composed of associated fields that were found to be free of PCN according to a survey protocol approved by the Administrator, under § 301.86–3. The fields removed from quarantine were in Bingham, Bonneville, and Jefferson Counties.

We also added approximately 4,976 acres to the PCN quarantined area. This acreage was composed of fields that we determined to be associated with a field that was quarantined as an infested field on December 11, 2008. The fields added to the quarantined area were in Bingham and Bonneville Counties.

The current map of the quarantined area can be viewed on the PPQ Web site at *http://www.aphis.usda.gov/plant_health/plant_pest_info/potato/pcn.shtml*.

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

Done in Washington, DC, this 1st day of May 2009.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. E9–10628 Filed 5–6–09; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2006–0166]

Use of Genetically Engineered Fruit Fly and Pink Bollworm in APHIS Plant Pest Control Programs; Record of Decision

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: This notice advises the public of the Animal and Plant Health Inspection Service's record of decision for the Use of Genetically Engineered Fruit Fly and Pink Bollworm in APHIS Plant Pest Control Programs Final Environmental Impact Statement.

ADDRESSES: Copies of the record of decision and the final environmental impact statement on which the record of decision is based are available for public inspection at USDA, room 1141, South Building, 14th Street and Independence Avenue, SW., Washington, DC, between 8 a.m. and 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.

The record of decision may also be viewed on the APHIS Web site at *http://www.aphis.usda.gov/plant_health/ea/geneng.shtml*. Supporting and related materials, including the final environmental impact statement, may also be viewed on the Internet at *http://www.regulations.gov/fdmspublic/component/main?main=DocketDetail&d=APHIS-2006-0166*.

FOR FURTHER INFORMATION CONTACT: Mr. David A. Bergsten, APHIS Interagency NEPA Contact, Environmental Services, PPD, APHIS, 4700 River Road, Unit 149, Riverdale, MD 20737–1238; (301) 734–6103.

SUPPLEMENTARY INFORMATION: This notice advises the public that the Animal and Plant Health Inspection Service (APHIS) has prepared a record

of decision based on its final environmental impact statement (FEIS) for the Use of Genetically Engineered Fruit Fly and Pink Bollworm in APHIS Plant Pest Control Programs, October 2008.

The FEIS was prepared in compliance with the National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. 4321 *et seq.*), and its implementing regulations.

On December 19, 2006, APHIS published in the **Federal Register** (71 FR 75933–75934, Docket No. APHIS–2006–0166) a notice of its intent to prepare the environmental impact statement (EIS) for the purpose of analyzing the use of and alternatives to genetic engineering technology applied to sterile insect releases in agency pest control programs. On May 30, 2008, the Environmental Protection Agency (EPA) published in the **Federal Register** (73 FR 31115) a notice of the availability of the draft EIS. The official comment period on the draft EIS ended on July 14, 2008. APHIS accepted late comments on that document until August 6, 2008.

In October 2008, APHIS published and distributed the FEIS, which included discussion of the seven public comments received on the draft EIS. On November 14, 2008, EPA published in the **Federal Register** (73 FR 67511) a notice of the availability of the FEIS. The NEPA implementing regulations in 40 CFR 1506.10 require a 30-day waiting period between the time a final EIS is published and the time an agency makes a decision on an action covered by the EIS. APHIS did not receive any comments on the FEIS by the time this waiting period ended on December 15, 2008.

APHIS has reviewed the FEIS and has concluded that it has fully analyzed the issues covered by the draft EIS and those comments and suggestions submitted by commenters. APHIS has now prepared a record of decision on the FEIS and is making that record available to the public.

The Record of Decision for the Use of Genetically Engineered Fruit Fly and Pink Bollworm in APHIS Plant Pest Control Programs Final Environmental Impact Statement, as prepared pursuant to the Council on Environmental Quality's NEPA implementing regulations at 40 CFR 1505.2, is set out below in its entirety.

Record of Decision for the Use of Genetically Engineered Fruit Fly and Pink Bollworm in APHIS Plant Pest Control Programs Final Environmental Impact Statement

This Record of Decision (ROD) has been developed in compliance with the agency decision-making requirements of NEPA. The purpose of this ROD is to document APHIS' decision to adopt the preferred alternative of the Final Environmental Impact Statement (FEIS), that is, the alternative to permit integration of genetically engineered insects into its plant pest control and eradication programs. The alternatives have been fully described and evaluated in the FEIS.

This ROD is intended to: (a) State the APHIS decision, present the rationale for its selection, and describe its implementation; (b) identify the alternatives considered in reaching the decision; and (c) state whether all means to avoid or minimize environmental harm from implementation of the selected alternative have been adopted (40 CFR 1505.2).

National Environmental Policy Act

On November 14, 2008, the U.S. Environmental Protection Agency (EPA) published in the **Federal Register** [73 FR 67511] a notice of availability of the final environmental impact statement titled ''Use of Genetically Engineered Fruit Fly and Pink Bollworm in APHIS Plant Pest Control Programs.'' The FEIS considered the environmental impacts from integration of genetically engineered insects into sterile insect technique components of APHIS plant pest control programs that could result from our adoption of the proposed new technologies.

Pursuant to the implementing regulations for NEPA in cases requiring an EIS, APHIS must prepare a record of decision to express the agency determination from review of the EIS documentation. The NEPA implementing regulations require that a record of decision state what decision is being made; identify alternatives considered in the environmental impact statement process; specify the environmentally preferred alternative; discuss preferences based on relevant factors, including economic and technical considerations, as well as national policy considerations, where applicable; and state how all of the factors discussed entered into the decision. In addition, the record of decision must indicate whether the ultimate decision has been designed to avoid or minimize environmental harm and, if not, why not.

The Decision

This decision described in the ROD addresses impacts from the preferred alternative of the FEIS whose availability was published in the **Federal Register** on November 14, 2008 (73 FR 67511, Docket No. ER–FRL–8587–5). After a thorough evaluation of the potential impacts of the alternatives considered in the FEIS, APHIS has decided to integrate the use of genetically engineered insects into the sterile insect technique used in agency plant pest control programs. This includes the adherence to specific agency requirements for mass-rearing and release of these new strains of plant pests. It also involves adherence to certain procedures for program-specific evaluations of these strains prior to release in any pest control or pest eradication applications. As with any new sterile insect technique, there are some containment, handling, species/strain-specific, and associated release issues that will need to be addressed as part of the NEPA documentation for future advances in the application-specific technologies.

Alternatives Considered in the Impact Statement Process

The FEIS considers the alternatives of (1) No action, essentially maintaining sterile insect technique through irradiation of mass-reared insects in plant pest control programs as is currently practiced, (2) expansion of existing programs in overall size, capacity, and diversity of plant pest species, and (3) integration of genetically engineered insects into APHIS' plant pest control programs.

Environmentally Preferable Alternative

The environmentally preferable alternative for the use of sterile insect technique in plant pest control programs is the alternative that minimizes potential impacts to human health, nontarget species, and environmental quality. Among the alternatives considered in this EIS, the preferred alternative, which involves integration of genetically engineered insects into programs, is also the environmentally preferable alternative. This alternative is environmentally preferable because the potential environmental impacts of this alternative are minimized by program use of genetically engineered strains of sterile and marker-gene insects maintained in biologically secure containment facilities, by the reduced use of irradiation with its associated hazards, by the reduced need for large numbers of insects due to the release of males that are more competitive in mating, and by the reduced need to apply pesticides from a more effective genetic sterile insect technique and improved monitoring of pest populations through the use of genetic markers.

Preferences Among Alternatives

The preference among the alternatives for the final EIS is to integrate genetically engineered insects into the sterile insect technique of APHIS' plant pest control programs. In review of the alternatives considered, APHIS could use the present methods without further development (no action), APHIS could expand on the present methods without genetic engineering technology, or APHIS could integrate genetic technology into the sterile insect technique components of the plant pest programs. Each alternative involves potential impacts, but the context and intensity of those impacts relate largely to the methods and their respective relative effectiveness of sterile insect production. The potential environmental impacts from methods under alternatives other than the preferred alternative are reduced under the preferred alternative to the extent that genetically engineered insects are incorporated. For example, the use of genetically engineered insects has the potential to decrease the need for insecticide applications, to decrease the need to produce both male and female insects for use in sterile insect releases, to increase production of males that are more competitive in mating than radiation-sterilized males, and to eliminate the need to use, operate, and maintain strong gamma radiation sources.

The no action alternative (alternative 1 above) was rejected because continuation of this approach does not contribute to increased mitigation of present or future plant pest risks. It does provide a baseline for the present state of sterile insect technique in plant pest control programs, but it does not provide APHIS program managers the flexibility to apply new methods or new technologies for the control of fruit flies or pink bollworm. In particular, this alternative lacks clear options to expand the use of irradiation, to expand the use of fluorescent dye, to expand development and use of classical selective genetic gender selection processes, and to increase the overall fitness of released radiation-sterilized insects. Any improvement of the insect mass-rearing production as a result of genetic engineering would not occur under this alternative.

The alternative of expansion of existing programs (alternative 2 above) involves an increase in the present plant pest control actions and inputs to improve the effectiveness of sterile insect technique currently used in APHIS plant pest control programs. This alternative could include expansion of the pest insect mass-rearing operations, the irradiation treatment capacity, the development of classical genetic selection methods for separation of insect sexes for more fruit fly species, the use of sterile insect technique for more plant pest species, the sterile insect dispersal capacity, the monitoring and surveillance capacity, and the pest mitigation capacity including the increased use of chemical pesticides. Although this approach could meet the increasing demand for sterile insects, the selection of this alternative would incur higher program costs, greater mass-rearing facility construction, longer timeframes for development, and more extensive pest mitigation efforts than would be afforded by the integration of genetically engineered insects into APHIS sterile insect technique programs.

The preferred alternative (alternative 3 above), integration of genetically engineered insects into programs, provides program managers with several methods for pest risk reduction in an environmentally safe and efficient manner. Although the present plant pest control program benefits apply to fruit flies and pink bollworm, long-term program activities are likely to be extended to other plant pest species and new technologies. APHIS plant pest programs could augment their use of sterile insect technique by mass-rearing only male fruit flies that have a marker gene and are subject to sterilization by radiation, mass-rearing genetically sterilized male fruit flies that have a marker gene and that compete more effectively for mates than radiation-sterilized male insects, mass-rearing fruit flies that produce only male offspring which carry a sterility gene resulting in only males that pass on this sterility gene and no female offspring, mass-rearing both male and female pink bollworm that have a marker gene and are subject to sterilization by radiation, and mass-rearing of both male and female pink bollworm that are genetically sterile and more competitive in mating with wild bollworms than radiation-sterilized bollworms. The benefits to fruit fly programs are long-term in consideration of the continuing introductions that occur from abroad. There are also long-term benefits to cotton growers from successful eradication of pink bollworm that may result from this new technology being incorporated into APHIS program actions.

Please see the FEIS for a full discussion of the reasons why APHIS is proposing to adopt the preferred alternative.

Factors in the Decision

APHIS' authority for action and cooperation with other agencies in these plant pest control programs is based upon the Plant Protection Act (PPA, 7 U.S.C. 7701 *et seq.*), which authorizes the Secretary of Agriculture to carry out operations to eradicate insect pests and to use measures to prevent the dissemination of plant pests that are new or not known to be widely prevalent or distributed within or throughout the United States. There is an impending need for the development of more efficient, lower cost, and more effective control and eradication methods for the pink bollworm and invasive fruit fly species because of the continuing and increasing frequency of detection of fruit flies and other invasive and crop destructive insects. In order to achieve these objectives, the use of genetically engineered insects provides biological traits that are of value for use in sterile insect technique control methodologies. These novel biological traits are not available to present programs and could not be readily developed or adopted for program use by APHIS using other methods.

This record of decision authorizes the development and use of genetically engineered insects in sterile insect technique applications for APHIS plant pest control programs in order to achieve the mandates of the PPA. In addition, this selection of the environmentally preferable alternative for these control programs is in keeping with the ongoing effort at the agency to promote environmental quality through ongoing efforts to identify and add to our regulations valid technical and economically feasible alternatives to fulfill regulatory mandates.

Avoid or Minimize Environmental Harm

The environment can be harmed by the presence of invasive plant pest insect species and the mitigations applied to decrease the pest damage to crops. Actions such as those considered in the preferred alternative reduce pest risks through applications of sterile insect technique in control programs and preventive release programs. The extent to which such actions reduce the pest damage, reduce the need for use of chemical pesticides, and reduce the need to expand facilities and insect production are the basis for minimizing environmental impacts. Adequate enforcement of effective quarantine measures is required to protect the environment from these pest risks. APHIS is committed to monitoring these efforts through the NEPA process, and otherwise.

Other

A considerable amount of research and development of alternatives to ongoing program actions has been done since the early applications of sterile insect technique over a half century ago. Much of this work has involved developing improved strains, developing more effective methods for handling and transport of insects, and developing more effective techniques of insect sterilization. APHIS has attempted to adapt new technologies to our pest control programs as these methods become available and logistically feasible for program applications. The use of genetically engineered insects to improve agency sterile release programs involves genetic engineering technologies that are new to the agency, but many of the sterile release methods have involved extensive testing over many years. The work on improved markers, more effective pest strains (including genetically engineered strains), improved handling, and more efficient rearing is expected to continue to be an important part of APHIS' future innovations to agency pest control programs.

In a notice summarizing EPA comments on recent environmental impact statements and proposed regulations that was published in the **Federal Register** on August 15, 2008 (73 FR 47947–47948), EPA expressed their lack of objection to the draft EIS and APHIS' adoption of the preferred alternative to permit integration of genetically engineered insects into the sterile insect release components of plant pest control programs.

The record of decision has been prepared in accordance with: (1) NEPA, (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).

Done in Washington, DC, this 1st day of May 2009.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. E9–10633 Filed 5–6–09; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service

Notice of Proposed Change to Section IV of the Virginia State Technical Guide

AGENCY: Natural Resources Conservation Service (NRCS), U.S. Department of Agriculture.

ACTION: Notice of availability of proposed changes in the Virginia NRCS State Technical Guide for review and comment.

SUMMARY: It has been determined by the NRCS State Conservationist for Virginia that changes must be made in the NRCS State Technical Guide specifically in practice standards: #338, Prescribed