

Notices

Federal Register

Vol. 75, No. 213

Thursday, November 4, 2010

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. APHIS-2010-0047]

Monsanto Company and KWS SAAT AG; Availability of an Environmental Assessment for Supplemental Request for Partial Deregulation of Sugar Beets Genetically Engineered To Be Tolerant to the Herbicide Glyphosate

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public that the Animal and Plant Health Inspection Service (APHIS) has prepared a draft environmental assessment as part of its decisionmaking process to address a supplemental request for partial deregulation of sugar beets genetically engineered (GE) for tolerance to the herbicide glyphosate, or for similar administrative action to authorize the continued cultivation of the GE sugar beets subject to carefully tailored interim measures proposed by APHIS. This environmental assessment will be available for public comment for 30 days. Comments received by the end of the 30-day period will be analyzed and used to inform APHIS' decision on whether to grant the supplemental request for "partial deregulation" of the GE sugar beets or to grant some similar administrative action to authorize the continued cultivation of the GE sugar beets subject to carefully tailored interim measures proposed by APHIS.

DATES: We will consider all comments that we receive on or before December 6, 2010.

ADDRESSES: You may submit comments by either of the following methods:

- *Federal eRulemaking Portal:* [http://www.regulations.gov/fdmspublic/component/main?main=DocketDetail&d=APHIS-](http://www.regulations.gov/fdmspublic/component/main?main=DocketDetail&d=APHIS-2010-0047)

2010-0047 to submit or view comments and to view supporting and related materials available electronically.

• *Postal Mail/Commercial Delivery:* Please send one copy of your comment to Docket No. APHIS-2010-0047, Regulatory Analysis and Development, PPD, APHIS, Station 3A-03.8, 4700 River Road Unit 118, Riverdale, MD 20737-1238. Please state that your comment refers to Docket No. APHIS-2010-0047.

Reading Room: You may read 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.

Other Information: Additional information about APHIS and its programs is available on the Internet at <http://www.aphis.usda.gov>.

FOR FURTHER INFORMATION CONTACT: Mr. Rick Coker, Biotechnology Regulatory Services, APHIS, 4700 River Road Unit 147, Riverdale, MD 20737-1236; (301) 734-5720. To obtain copies of the environmental assessment, contact Ms. Cynthia Eck at (301) 734-0667; e-mail: cynthia.a.eck@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."

On October 8, 2010, the Animal and Plant Health Inspection Service (APHIS) published a notice¹ in the **Federal Register** (75 FR 62365-62366, Docket No. APHIS-2010-0047) announcing

¹To review the notice and the supplemental petition, go to <http://www.regulations.gov/fdmspublic/component/main?main=DocketDetail&d=APHIS-2010-0047>.

receipt of a supplemental petition from the Monsanto Company (Monsanto) and KWS SAAT AG (KWS) requesting "partial deregulation" or some similar administrative action under 7 CFR part 340 for sugar beets (*Beta vulgaris* ssp. *vulgaris*) designated as event H7-1 to authorize its continued cultivation subject to carefully tailored interim measures proposed by APHIS. APHIS has prepared a draft environmental assessment (EA) for event H7-1 sugar beets, which have been genetically engineered for tolerance to the herbicide glyphosate and are considered regulated articles under the regulations in 7 CFR part 340.

The supplemental petition is related to a petition submitted by Monsanto and KWS on November 19, 2003, seeking a determination of nonregulated status for event H7-1 sugar beets (Petition 03-323-01). On October 19, 2004, APHIS published a notice in the **Federal Register** (69 FR 61466-61467, Docket No. 04-075-1) announcing that the Monsanto/KWS petition and an EA were available for public review. On March 17, 2005, we published a notice in the **Federal Register** (70 FR 13007-13008, Docket No. 04-075-2) advising the public of our determination, effective March 4, 2005, that event H7-1 sugar beets were no longer considered a regulated article under APHIS regulations in 7 CFR part 340. On September 21, 2009, the U.S. District Court for the Northern District of California issued a ruling in a lawsuit challenging APHIS' decision to deregulate event H7-1 sugar beets. The Court's September 21, 2009, ruling invalidated APHIS' decision to grant nonregulated status to event H7-1 sugar beets until APHIS prepares a full environmental impact statement (EIS) supporting its decision. Accordingly, event H7-1 sugar beets are once again a regulated article and subject to APHIS' regulatory oversight under 7 CFR part 340.

The draft EA analyzes the alternatives available to APHIS for its decision regarding this supplemental request for "partial deregulation" or for similar administrative action to authorize the cultivation of event H7-1 sugar beets subject to carefully tailored interim measures proposed by APHIS. Based on the scope of the draft EA, the specific decisions to be made are:

- Should APHIS grant the supplemental request for “partial deregulation” or similar administrative action to authorize the continued cultivation of event H7–1 sugar beets subject to the interim measures proposed by APHIS in Federal District Court?
 - Should APHIS continue to regulate the environmental release and movement of event H7–1 sugar beets under 7 CFR part 340?
 - What conditions (interim regulatory measures) should be imposed to prevent any potential plant pest risk from planted event H7–1 sugar beets that remain under regulation, to minimize disruptions to U.S. sugar beet production, and to minimize the likelihood of impacts of concern to the Court until APHIS can complete an EIS before making a determination on whether or not to grant nonregulated status to event H7–1 sugar beets?
 - Would the preferred alternative, if selected (see alternative 2 below), have significant impacts on the quality of the human environment requiring preparation of an EIS?
- The draft EA has been prepared to analyze the alternatives available to APHIS for responding to this supplemental request and to provide the public with documentation of APHIS’ review and analysis of any potential individual and cumulative environmental impacts associated with the “partial deregulation” or for similar administrative action to authorize the cultivation of event H7–1 sugar beets subject to carefully tailored interim measures proposed by APHIS.
- The draft EA considers and evaluates three reasonable alternatives. The alternatives analyzed in the draft EA include:
- *Alternative 1—APHIS Denies Petition Request for Partial Deregulation/No Further Actions To Authorize Cultivation of Event H7–1 Sugar Beets (No Action).* This alternative would deny the request for “partial deregulation” or any similar administrative action under 7 CFR part 340 for the cultivation of event H7–1 sugar beets, thereby halting any consideration of authorizing commercial production until the completion of the EIS.
 - *Alternative 2—Event H7–1 Sugar Beet Production (Seed/Root) Under APHIS 7 CFR Part 340 (Preferred Alternative).* APHIS’ preferred alternative is to authorize the commercial production of event H7–1 sugar beets under APHIS permits, in accordance with 7 CFR part 340, subject to mandatory conditions to prevent any potential plant pest risks from such

cultivation. These conditions are intended both to minimize any potential for the escape and dissemination of plant pests and the likelihood of impacts of concern raised by the Court in the lawsuit challenging APHIS’ decision to deregulate event H7–1 sugar beets.

- *Alternative 3—Partial Deregulation of Event H7–1 Sugar Beets (Seed/Root).* This alternative would grant the petition request for partial deregulation to allow the commercial production of event H7–1 sugar beets. The supplemental request that APHIS received from Monsanto/KWS did not clearly explain what the petitioners mean or envision by a “partial deregulation.” The petitioner did not identify any specific mechanism(s) that would be used to impose the conditions to prevent any potential plant pest risks, which parties would be subject to the conditions, or how compliance with the conditions would be ensured. APHIS has interpreted this petition to mean that Monsanto/KWS is requesting that event H7–1 sugar beets would no longer be regulated under 7 CFR part 340 provided that they are cultivated under the conditions and interim measures that APHIS proposed to the Court. APHIS further interprets the request to mean that Monsanto/KWS would be the responsible party for overseeing implementation and monitoring of conditions for cultivation of event H7–1 sugar beets. Under this alternative, APHIS would grant the petition for partial deregulation; APHIS would no longer regulate event H7–1 sugar beets under 7CFR Part 340; and the cultivation of event H7–1 sugar beets would be allowed under conditions imposed by Monsanto/KWS through technology stewardship agreements, contracts, or other legal instruments.

Alternatives considered but rejected in the draft EA include: (1) Deregulating root production under conditions imposed by APHIS while prohibiting seed production, (2) deregulating root production under conditions imposed by APHIS while authorizing continued seed production under APHIS permits or notification, (3) deregulating seed production under conditions imposed by APHIS while prohibiting root production, and (4) deregulating seed production under conditions imposed by APHIS while authorizing continued root production under APHIS permits or notification.

The draft 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).

The draft EA may be viewed on the Regulations.gov Web site or in our reading room. (Instructions for accessing Regulations.gov and information on the location and hours of the reading room are provided under the heading **ADDRESSES** at the beginning of this notice.) In addition, copies may be obtained by calling or writing to 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 1st day of November 2010.

Kevin Shea,
Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2010–27970 Filed 11–2–10; 11:15 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Forest Service

Gallatin County Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Gallatin National Forest’s Gallatin County Resource Advisory Committee will meet in Bozeman, Montana. The committee is meeting as authorized under the Secure Rural Schools and Community Self-Determination Act (Pub. L. 110–343) and in compliance with the Federal Advisory Committee Act. The purpose is of the meeting is to determine parameters and timeframes for the first round of projects and Public Comments.

DATES: The meeting will be held on November 17, 2010, and will begin at 12:30 p.m.

ADDRESSES: The meeting will be held at the Bozeman Public Library, Large Meeting Room, 626 East Main, Bozeman, MT. Written comments should be sent to Babete Anderson, Custer National Forest, 1310 Main Street, Billings, MT 59105. Comments may also be sent via e-mail to branderson@fs.fed.us, or via facsimile to 406–657–6222.

All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments received at Custer