

DEPARTMENT OF AGRICULTURE**Animal and Plant Health Inspection Service**

[Docket No. APHIS-2011-0080]

Scotts Miracle-Gro Co.; Regulatory Status of Kentucky Bluegrass Genetically Engineered for Herbicide Tolerance**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 received a letter from the Scotts Miracle-Gro Company seeking confirmation that their Kentucky bluegrass, which has been genetically engineered for herbicide tolerance without the use of plant pest components, does not meet the definition of a regulated article under APHIS regulations for genetically engineered organisms. Based on the information provided in the letter, we agree that the Kentucky bluegrass does not meet the definition of a regulated article under APHIS regulations for genetically engineered organisms.

ADDRESSES: You may view the letter from Scotts and APHIS' response letter on the Internet at <http://www.aphis.usda.gov/biotechnology/news.shtml>.

FOR FURTHER INFORMATION CONTACT: Dr. Andrea Huberty, Branch Chief, Regulatory and Environmental Analysis Branch, Biotechnology Regulatory Services, APHIS, 4700 River Road, Unit 147, Riverdale, MD 20737-1236; (301) 734-0485, *e-mail*: andrea.f.huberty@aphis.usda.gov. To obtain copies of the letters, contact Ms. Cindy Eck at (301) 734-0667, *e-mail*: cynthia.a.eck@aphis.usda.gov.

SUPPLEMENTARY INFORMATION:**Background**

The Plant Protection Act (PPA, 7 U.S.C. 7701 *et seq.*), authorizes the Secretary of Agriculture to prohibit or restrict the importation, entry, exportation, or movement in interstate commerce of any plant, plant product, biological control organism, noxious weed, article, or means of conveyance if the Secretary determines that the prohibition or restriction is necessary to prevent the introduction of a plant pest or noxious weed into the United States or dissemination of a plant pest or noxious weed within the United States.

In section 403 of the PPA, "plant pest" is defined as any living stage of any of the following that can directly or

indirectly injure, cause damage to, or cause disease in any plant or plant product: A protozoan, a nonhuman animal, a parasitic plant, a bacterium, a fungus, a virus or viroid, an infectious agent or other pathogen, or any article similar to or allied with any of the foregoing.

Under the plant pest authority of the PPA, the Animal and Plant Health Inspection Service (APHIS) administers 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," which 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 (GE) organisms and products are considered "regulated articles."

In the past, APHIS has received letters from developers seeking clarification on the regulatory status of GE organisms that the developers believed did not meet the definition of a regulated article. These developers sought confirmation from APHIS that APHIS did not consider the organisms to be regulated under 7 CFR part 340. When APHIS receives such a request, we review the information provided. If APHIS agrees with the developer that the GE organism does not meet the definition of a regulated article, then the organism is not subject to regulation under 7 CFR part 340. If APHIS disagrees, the organism is subject to all of the requirements of 7 CFR part 340.

On September 13, 2010, APHIS received a letter from the Scotts Miracle-Gro Company (Scotts) of Marysville, OH, seeking confirmation that their Kentucky bluegrass (*Poa pratensis* L.), which has been genetically engineered for herbicide tolerance, does not meet the definition of a regulated article under APHIS regulations. Scotts stated that the Kentucky bluegrass was genetically engineered without plant pest components and, therefore, should not be subject to APHIS' regulations in 7 CFR part 340, as it does not meet the definition of a regulated article in those regulations. No permits have been issued or notifications acknowledged by APHIS for the interstate movement or for field releases of Scotts' GE Kentucky bluegrass.

As described in the letter, Scotts' GE Kentucky bluegrass has been genetically engineered to express an enzyme, 5-enolpyruvylshikimate-3-phosphate

synthase, from thale cress (*Arabidopsis thaliana*), which imparts tolerance to the herbicide glyphosate. Scotts' GE Kentucky bluegrass was also genetically engineered using genetic material from rice (*Oryza sativa*) and corn (*Zea mays*).

We agree that, according to the description provided by Scotts, their GE Kentucky bluegrass does not meet the definition of a "regulated article" and is not subject to the regulations in 7 CFR part 340. Kentucky bluegrass itself is not a plant pest, no organisms used as sources of the genetic material used to create Scotts' GE Kentucky bluegrass are plant pests, and the method used to genetically engineer Scotts' GE Kentucky bluegrass did not involve plant pests. Because no plant pests, unclassified organisms, or organisms whose classification is unknown were used to genetically engineer Scotts' GE Kentucky bluegrass, APHIS has no reason to believe it is a plant pest and therefore does not consider the Kentucky bluegrass described in the Scotts letter to be regulated under 7 CFR part 340.

In addition to plant pests, APHIS regulates noxious weeds under the authority of the PPA. In a separate notice published in today's **Federal Register**, we are advising the public of our decision that Kentucky bluegrass that has been genetically engineered for tolerance to the herbicide glyphosate will not be regulated under APHIS regulations governing noxious weeds in 7 CFR part 360.

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 July 2011.

Gregory L. Parham,*Administrator, Animal and Plant Health Inspection Service.*

[FR Doc. 2011-17117 Filed 7-6-11; 8:45 am]

BILLING CODE 3410-34-P**DEPARTMENT OF AGRICULTURE****Forest Service****Modoc County Resource Advisory Committee****AGENCY:** Forest Service, USDA.**ACTION:** Notice of meeting.

SUMMARY: The Modoc County Resource Advisory Committee will meet in Alturas, CA. 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