

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-2010-0102]

#### Bayer CropScience LP; Determination of Nonregulated Status for Cotton Genetically Engineered for Insect Resistance and Herbicide Tolerance

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

**ACTION:** Notice.

**SUMMARY:** We are advising the public of our determination that a genetically engineered cotton developed by Bayer CropScience LP, designated as TwinLink™ cotton (events T304-40 and GHB119), which has been genetically engineered to be tolerant to the herbicide glufosinate and resistant to several lepidopteran pests, 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 Bayer CropScience LP in its petition for a determination of nonregulated status, our analysis of available scientific data, and comments received from the public in response to our previous notice announcing the availability of the petition for nonregulated status and its associated environmental assessment and plant pest risk assessment. This notice also announces the availability of our written determination and finding of no significant impact.

**DATES:** *Effective Date:* October 12, 2011.

**ADDRESSES:** You may read the documents referenced in this notice and the comments we received 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. Those documents are also available on the Internet at [http://www.aphis.usda.gov/biotechnology/not\\_reg.html](http://www.aphis.usda.gov/biotechnology/not_reg.html) and are posted with the previous notice and the comments we received on the *Regulations.gov* Web site at <http://www.regulations.gov/#!docketDetail;D=APHIS-2010-0102>.

**FOR FURTHER INFORMATION CONTACT:** Mr. Evan Chestnut, Policy Analyst, Biotechnology Regulatory Services, APHIS, 4700 River Road, Unit 147, Riverdale, MD 20737-1236; (301) 734-0942, *e-mail:* [evan.a.chestnut@aphis.usda.gov](mailto:evan.a.chestnut@aphis.usda.gov). To obtain copies of the documents referenced in this notice, contact Ms. Cindy Eck at (301) 734-0667, *e-mail:* [cynthia.a.eck@aphis.usda.gov](mailto:cynthia.a.eck@aphis.usda.gov).

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

APHIS received a petition (APHIS Petition Number 08-340-01p) from Bayer CropScience LP (Bayer), seeking a determination of nonregulated status for TwinLink™ cotton (events T304-40 and GHB119), which has been genetically engineered to be tolerant to the herbicide glufosinate and resistant to several lepidopteran pests, stating

that TwinLink™ cotton is unlikely to pose a plant pest risk and, therefore, should not be a regulated article under APHIS’ regulations in 7 CFR part 340.

In a notice<sup>1</sup> published in the **Federal Register** on June 28, 2011 (76 FR 37769-37770, Docket No. APHIS-2010-0102), APHIS announced the availability of the Bayer petition, a plant pest risk assessment (PPRA), and a draft environmental assessment (EA) for public comment. APHIS solicited comments on the petition, whether the subject cotton is likely to pose a plant pest risk, the draft EA, and the PPRA for 60 days ending on August 29, 2011.

APHIS received two comments during the comment period. The commenters expressed general opposition to genetically engineered crops but did not provide any specific comments regarding the petition, draft EA, or PPRA.

#### National Environmental Policy Act

To provide the public with documentation of APHIS’ review and analysis of any potential environmental impacts associated with the determination of nonregulated status for Bayer’s TwinLink™ cotton, an EA has been prepared. 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 our EA and other pertinent scientific data, APHIS has reached a finding of no significant impact with regard to the preferred alternative identified in the EA.

#### Determination

Based on APHIS’ analysis of field and laboratory data submitted by Bayer, references provided in the petition, peer-reviewed publications, information analyzed in the EA, the PPRA, and comments provided by the public, APHIS has determined that Bayer’s TwinLink™ cotton is unlikely to pose a plant pest risk and therefore is no

<sup>1</sup> To view the notice, petition, draft EA, the PPRA, and the comments we received, go to <http://www.regulations.gov/#!docketDetail;D=APHIS-2010-0102>.

longer subject to our regulations governing the introduction of certain genetically engineered organisms.

Copies of the signed determination document, as well as copies of the petition, PPRA, EA, and finding of no significant impact are available as indicated in the **ADDRESSES** and **FOR FURTHER INFORMATION CONTACT** sections of this notice.

**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 5th day of October 2011.

**Kevin Shea,**

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

[FR Doc. 2011–26349 Filed 10–11–11; 8:45 am]

**BILLING CODE 3410–34–P**

## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

[Docket No. APHIS–2011–0038]

#### **Monsanto Co.; Determination of Nonregulated Status for Soybean Genetically Engineered for Insect Resistance**

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

**ACTION:** Notice.

**SUMMARY:** We are advising the public of our determination that a soybean line developed by the Monsanto Co., designated as event MON 87701, which has been genetically engineered for insect resistance, 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 its petition for a determination of nonregulated status, our analysis of available scientific data, and comments received from the public in response to our previous notice announcing the availability of the petition for nonregulated status and its associated environmental assessment and plant pest risk assessment. This notice also announces the availability of our written determination and finding of no significant impact.

**DATES:** *Effective Date:* October 12, 2011.

**ADDRESSES:** You may read the documents referenced in this notice and the comments we received 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. Those documents are also available on the Internet at [http://www.aphis.usda.gov/biotechnology/not\\_reg.html](http://www.aphis.usda.gov/biotechnology/not_reg.html) and are posted with the previous notice and the comments we received on the *Regulations.gov* Web site at <http://www.regulations.gov/#!docketDetail;D=APHIS-2011-0038>.

#### **FOR FURTHER INFORMATION CONTACT:**

Mr. Evan Chestnut, Policy Analyst, Biotechnology Regulatory Services, APHIS, 4700 River Road Unit 147, Riverdale, MD 20737–1236; (301) 734–0942, *e-mail:*

*evan.a.chestnut@aphis.usda.gov*. To obtain copies of the documents referenced in this notice, contact Ms. Cindy Eck at (301) 734–0667, *e-mail:* *cynthia.a.eck@aphis.usda.gov*.

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

APHIS received a petition (APHIS Petition Number 09–082–01p) from the Monsanto Company (Monsanto) of St. Louis, MO, seeking a determination of nonregulated status for soybean (*Glycine max*) designated as event MON 87701, which has been genetically engineered for insect resistance, stating that this soybean is unlikely to pose a plant pest risk and, therefore, should not be a regulated article under APHIS’ regulations in 7 CFR part 340.

In a notice<sup>1</sup> published in the **Federal Register** on June 28, 2011 (76 FR 37770–37771, Docket No. APHIS–2011–0038), APHIS announced the availability of the Monsanto petition, a plant pest risk assessment (PPRA), and a draft environmental assessment (EA) for public comment. APHIS solicited comments on the petition, whether the subject soybeans are likely to pose a plant pest risk, the draft EA, and the PPRA for 60 days ending on August 29, 2011.

APHIS received four comments during the comment period. Two commenters referenced a different soybean line. One commenter expressed general opposition to genetically engineered crops but did not provide any specific comments on the petition, draft EA, or PPRA. One commenter suggested that APHIS should analyze the impacts of MON 87701 on bees and groundwater. APHIS has addressed the issues raised by this commenter in an attachment to the finding of no significant impact, and impacts to non-target insects and impacts on water are both addressed in the EA.

##### **National Environmental Policy Act**

To provide the public with documentation of APHIS’ review and analysis of any potential environmental impacts associated with the determination of nonregulated status for Monsanto’s soybean event MON 87701, an EA has been prepared. 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 our EA, the response to public comments, and other pertinent scientific data, APHIS has reached a finding of no significant impact with regard to the preferred alternative identified in the EA.

##### **Determination**

Based on APHIS’ analysis of field and laboratory data submitted by Monsanto, references provided in the petition, peer-reviewed publications, information analyzed in the EA, the PPRA, comments provided by the public, and information provided in APHIS’ response to those public comments, APHIS has determined that Monsanto’s

<sup>1</sup> To view the notice, petition, draft EA, the PPRA, and the comments we received, go to <http://www.regulations.gov/#!docketDetail;D=APHIS-2011-0038>.