

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 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. APHIS prepared a plant pest risk assessment (PPRA) and has concluded that maize line HCEM485 is similar to the antecedent organism and is unlikely to pose a plant pest risk.

APHIS has also prepared a draft environmental assessment (EA) in which it presents two alternatives based on its analyses of data submitted by Stine Seed, a review of other scientific data, and field tests conducted under APHIS oversight. APHIS is considering the following alternatives: (1) Take no action, i.e., APHIS would not change the regulatory status of maize line HCEM485 and it would continue to be a regulated article, or (2) make a determination of nonregulated status of maize line HCEM485.

The draft EA has been prepared to provide the APHIS decisionmaker with a review and analysis of any potential environmental impacts associated with the proposed determination of nonregulated status of maize line HCEM485. 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); (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 APHIS’ analysis of field and laboratory data submitted by Stine Seed, references provided in the extension request, peer-reviewed publications, information analyzed in the EA, and the similarity of maize line HCEM485 to the antecedent organism, Roundup Ready® corn line GA21, APHIS has determined that maize line HCEM485 is unlikely to pose a plant pest risk. We have therefore reached a preliminary decision to approve the request to extend the determination of nonregulated status of Roundup Ready® corn line GA21 to maize line HCEM485, whereby maize line HCEM485 would no longer be subject to our regulations governing the

introduction of certain genetically engineered organisms.

Paragraph (e) of § 340.6 provides that APHIS will publish a notice in the **Federal Register** announcing all preliminary decisions to extend determinations of nonregulated status for 30 days before the decisions become final and effective. In accordance with § 340.6(e) of the regulations, we are publishing this notice to inform the public of our preliminary decision to extend the determination of nonregulated status of Roundup Ready® corn line GA21 to maize line HCEM485.

APHIS will accept written comments on the draft EA and PPRA regarding a determination of nonregulated status of maize line HCEM485 for a period of 30 days from the date this notice is published in the **Federal Register**. The draft EA and PPRA, as well as the extension request and preliminary determination for maize line HCEM485, are available for public review as indicated under **ADDRESSES** and **FOR FURTHER INFORMATION CONTACT** above. Copies of these documents may also be obtained by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**.

After the comment period closes, APHIS will review all written comments received during the comment period and any other relevant information. All comments received regarding the EA and PPRA will be available for public review. After reviewing and evaluating the comments on the EA and PPRA, APHIS will furnish a response to the petitioner regarding our final regulatory determination. APHIS will also publish a notice in the **Federal Register** announcing the regulatory status of maize line HCEM485 and the availability of APHIS’ written environmental decision and regulatory determination.

**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 22nd day of February 2013.

**Michael Gregoire,**

*Deputy Administrator, Biotechnology Regulatory Services, Animal and Plant Health Inspection Service.*

[FR Doc. 2013–04520 Filed 2–26–13; 8:45 am]

**BILLING CODE 3410–34–P**

## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

[Docket No. APHIS–2012–0009]

#### Notice of Decision To Issue Permits for the Importation of Strawberry Fruit From Egypt Into the Continental United States

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

**ACTION:** Notice.

**SUMMARY:** We are advising the public of our decision to begin issuing permits for the importation into the continental United States of fresh strawberry fruit from Egypt. Based on the findings of a pest risk analysis, which we made available to the public for review and comment through a previous notice, we believe that the application of one or more designated phytosanitary measures will be sufficient to mitigate the risks of introducing or disseminating plant pests or noxious weeds via the importation of fresh strawberry fruit from Egypt.

**DATES:** *Effective Date:* February 27, 2013.

**FOR FURTHER INFORMATION CONTACT:** Mr. Marc Phillips, Regulatory Policy Specialist, Regulations, Permits, and Manuals, PPQ, APHIS, 4700 River Road Unit 133, Riverdale, MD 20737–1231; (301) 851–2114.

#### SUPPLEMENTARY INFORMATION:

##### Background

Under the regulations in “Subpart—Fruits and Vegetables” (7 CFR 319.56–1 through 319.56–58, referred to below as the regulations), the Animal and Plant Health Inspection Service (APHIS) of the U.S. Department of Agriculture prohibits or restricts the importation of fruits and vegetables into the United States from certain parts of the world to prevent plant pests from being introduced into and spread within the United States.

Section 319.56–4 of the regulations contains a performance-based process for approving the importation of commodities that, based on the findings of a pest risk analysis (PRA), can be safely imported subject to one or more of the designated phytosanitary measures listed in paragraph (b) of that section. Under that process, APHIS publishes a notice in the **Federal Register** announcing the availability of the PRA that evaluates the risks associated with the importation of a particular fruit or vegetable. Following the close of the 60-day comment period,

APHIS may begin issuing permits for importation of the fruit or vegetable subject to the identified designated measures if: (1) No comments were received on the PRA; (2) the comments on the PRA revealed that no changes to the PRA were necessary; or (3) changes to the PRA were made in response to public comments, but the changes did not affect the overall conclusions of the analysis and the Administrator's determination of risk.

In accordance with that process, we published a notice<sup>1</sup> in the **Federal Register** on April 16, 2012 (77 FR 22557–22558, Docket No. APHIS–2012–0009), in which we announced the availability, for review and comment, of a PRA that evaluates the risks associated with the importation into the continental United States of fresh strawberry (*Fragaria* spp.) fruit with calyx and short stalk from Egypt. We solicited comments on the notice for 60 days ending on June 15, 2012. We received three comments by that date. They were from a State department of agriculture, an agricultural research center, and a non-profit industry representative.

In the PRA, APHIS determined that three plant pests have a high risk potential of being introduced into the United States via the pathway of fresh strawberry fruit from Egypt. Those pests are: *Chrysodeixis chalcites*, *Eutetranychus orientalis*, and *Spodoptera littoralis*. The PRA notes that *Eutetranychus orientalis* could potentially avoid detection beneath the calyx of the strawberries due to its small size. One commenter cited this potential risk as a phytosanitary concern. The commenter stated that they would be willing to revisit this issue if current mitigation procedures are proven to be effective and without any detections of this mite.

We acknowledge the risk that this plant pest could potentially evade detection and be introduced into the United States in the manner referred to by the commenter. However, while the pest itself may potentially evade detection by its small size, its presence can be detected by visible signs of discoloration and damage to fruits and leaves. Additionally, good agricultural practices can effectively suppress or eliminate this pest from fields or prevent infestation. Successful control programs typically include monitoring, cultural, biological, and chemical components, all of which are used as part of Egypt's standard pre- and post-

harvest practices for the production of export strawberries. Moreover, APHIS has permitted the entry of commercial strawberries from several countries in Asia, Europe, and South America where this pest of concern occurs. Over several decades, there has only been one interception of *Eutetranychus orientalis* in strawberry consignments.

Another commenter stated that the PRA does not provide for adequate phytosanitary security against any tetranychid mite.

In the risk assessment portion of the PRA, the only tetranychid species identified as likely to follow the importation pathway was *Eutetranychus orientalis*. For the reasons detailed above, we have determined that the application of certain phytosanitary measures coupled with standard industry practices will be adequate to mitigate the risk posed by this pest. Other tetranychid species identified as pests of fresh strawberry were: *Tetranychus cinnabarinus* (Boisduval), *Tetranychus ludeni* Zacher, *Tetranychus neocalendonicus* André, and *Tetranychus urticae* Koch, which are reported as being present in Egypt, but do not meet the definition of quarantine pests, and *Tetranychus turkestanii*, which has been reported as being present in the region, but APHIS did not find sufficient evidence the pest is present in Egypt. The commenter did not discuss any particular species of tetranychid which they believe to be of concern, nor did they present evidence contradicting the information presented in the risk assessment.

The third commenter recommended that we adopt specific phytosanitary measures to address the pest risks discussed in the PRA.

APHIS has permitted the entry of commercial strawberries from several countries in Asia, Europe, and South America with similar lists of pests of concern (e.g., Jordan and Israel). Based on our knowledge and experience in relation to importation of fresh strawberry fruit from these countries with similar pest lists, we are confident of the efficacy of the designated measures in mitigating the phytosanitary risks posed by the importation of strawberry from Egypt.

Finally, the commenter added that we should intensively monitor fresh strawberry from Egypt at the port of entry.

An integral part of standard APHIS phytosanitary practices is inspection at the port of entry.

For these reasons, together with Egypt's use of integrated pest management practices in the production of commercial strawberries, APHIS has

concluded that commercial strawberries for export from Egypt are unlikely to contain the identified quarantine pests. Accordingly, we have determined that no changes to the PRA are necessary based on these comments.

Therefore, in accordance with the regulations in § 319.56–4(c)(2)(ii), we are announcing our decision to begin issuing permits for the importation into the continental United States of fresh strawberry fruit from Egypt subject to the following phytosanitary measures:

- The fresh strawberry fruit may be imported into the continental United States in commercial consignments only;
- Each consignment of fresh strawberry fruit must be inspected by the national plant protection organization of Egypt and accompanied by a phytosanitary certificate that includes an additional declaration stating that the consignment was inspected and found free of *Chrysodeixis chalcites*, *Eutetranychus orientalis*, and *Spodoptera littoralis*; and
- The fresh strawberry fruit is subject to inspection upon arrival at the U.S. port of entry.

These conditions will be listed in the Fruits and Vegetables Import Requirements database (available at <http://www.aphis.usda.gov/favir>). In addition to these specific measures, fresh strawberry fruit from Egypt will be subject to the general requirements listed in § 319.56–3 that are applicable to the importation of all fruits and vegetables.

**Authority:** 7 U.S.C. 450, 7701–7772, and 7781–7786; 21 U.S.C. 136 and 136a; 7 CFR 2.22, 2.80, and 371.3.

Done in Washington, DC, this 20th day of February 2013.

**Kevin Shea,**

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

[FR Doc. 2013–04475 Filed 2–26–13; 8:45 am]

**BILLING CODE 3410–34–P**

## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

[Docket No. APHIS–2012–0090]

#### Syngenta Seeds, Inc., and Bayer CropScience AG; Availability of Petition for Determination of Nonregulated Status of Soybean Genetically Engineered for Herbicide Tolerance

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

**ACTION:** Notice.

<sup>1</sup> To view the notice, the PRA, and the comments we received, go to <http://www.regulations.gov/#/docketDetail;D=APHIS-2012-0009>.