

Notices

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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

Agricultural Research Service

Notice of Intent To Grant Exclusive License

AGENCY: Agricultural Research Service, USDA.

ACTION: Notice of intent.

SUMMARY: Notice is hereby given that the U.S. Department of Agriculture, Agricultural Research Service, intends to grant to Seedway of Hall, New York, an exclusive license to Plant Variety Protection Certificate Application No. 9800028, Soybean, "Donegal" filed November 19, 1997. "Donegal" is a forage soybean cultivar recommended for forage production in the northeastern states and is not intended for grain production. "Donegal's" Notice of Availability was published in the **Federal Register** on January 8, 1998.

DATES: Comments must be received on or before July 14, 1998.

ADDRESSES: Send comments to: USDA, ARS, Office of Technology Transfer, Room 415, Building 005, BARC-West, Beltsville, Maryland 20705-2350.

FOR FURTHER INFORMATION CONTACT: June Blalock of the Office of Technology Transfer at the Beltsville address given above; telephone: 301-504-5989.

SUPPLEMENTARY INFORMATION: The Federal Government's patent rights to this invention are assigned to the United States of America, as represented by the Secretary of Agriculture. It is in the public interest to so license this invention as Seedway submitted a complete and sufficient application for a license. The prospective exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The prospective exclusive license may be granted unless, within sixty (60) days from the date of this published Notice, the Agricultural Research Service receives written evidence and argument

which establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

Richard M. Parry, Jr.

Assistant Administrator.

[FR Doc. 98-13007 Filed 5-14-98; 8:45 am]

BILLING CODE 3410-03-P

DEPARTMENT OF AGRICULTURE

Agricultural Research Service

Notice of Intent To Grant Exclusive License

AGENCY: Agricultural Research Service, USDA.

ACTION: Notice of intent.

SUMMARY: Notice is hereby given that the U.S. Department of Agriculture, Agricultural Research Service, intends to grant to Wolf River Valley Seeds of White Lake, Wisconsin, an exclusive license to Plant Variety Protection Certificate Application No. 9800027, Soybean, "Derry" filed November 19, 1997. "Derry" is a forage soybean cultivar recommended for forage production in the northern midwestern states and is not intended for grain production. "Derry's" Notice of Availability was published in the **Federal Register** on January 8, 1998.

DATES: Comments must be received on or before July 14, 1998.

ADDRESSES: Send comments to: USDA, ARS, Office of Technology Transfer, Room 415, Building 005, BARC-West, Beltsville, Maryland 20705-2350.

FOR FURTHER INFORMATION CONTACT: June Blalock of the Office of Technology Transfer at the Beltsville address given above; telephone: 301-504-5989.

SUPPLEMENTARY INFORMATION: The Federal Government's patent rights to this invention are assigned to the United States of America, as represented by the Secretary of Agriculture. It is in the public interest to so license this invention as Wolf River Valley Seeds submitted a complete and sufficient application for a license. The prospective exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The prospective exclusive license may be granted unless, within sixty (60) days from the date of this published Notice, the Agricultural

Research Service receives written evidence and argument which establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

Richard M. Parry, Jr.

Assistant Administrator.

[FR Doc. 98-13004 Filed 5-14-98; 8:45 am]

BILLING CODE 3410-03-P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 97-119-2]

AgrEvo USA Co.; Availability of Determination of Nonregulated Status for Corn Genetically Engineered for Insect Resistance and Glufosinate Herbicide Tolerance

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public of our determination that the AgrEvo USA Company's corn line designated as Transformation Event CBH-351, which has been genetically engineered for insect resistance and glufosinate herbicide tolerance, 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 AgrEvo USA Company in its petition for a determination of nonregulated status, an analysis of other scientific data, and our review of comments received from the public in response to a previous notice announcing our receipt of the AgrEvo USA Company's petition. This notice also announces the availability of our written determination document and its associated environmental assessment and finding of no significant impact.

EFFECTIVE DATE: May 8, 1998.

ADDRESSES: The determination, an environmental assessment and finding of no significant impact, the petition, and all written comments received regarding the petition may be inspected 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. Persons wishing to inspect those documents are requested to call before visiting on (202) 690-2817 to facilitate entry into the reading room.

FOR FURTHER INFORMATION CONTACT: Dr. Susan Koehler, Biotechnology and Biological Analysis, PPQ, APHIS, 4700 River Road Unit 147, Riverdale, MD 20737-1236; (301) 734-4886. To obtain a copy of the determination or the environmental assessment and finding of no significant impact, contact Ms. Kay Peterson at (301) 734-4885; e-mail: mkpeterson@aphis.usda.gov.

SUPPLEMENTARY INFORMATION:

Background

On September 22, 1997, the Animal and Plant Health Inspection Service (APHIS) received a petition (APHIS Petition No. 97-265-01p) from AgrEvo USA Company (AgrEvo) of Wilmington, DE, seeking a determination that a corn line designated as Transformation Event CBH-351 (event CBH-351), which has been genetically engineered for insect resistance and glufosinate herbicide tolerance, does not present a plant pest risk and, therefore, is not a regulated article under APHIS' regulations in 7 CFR part 340.

On February 23, 1998, APHIS published a notice in the **Federal Register** (63 FR 8897-8898, Docket No. 97-119-1) announcing that the AgrEvo petition had been received and was available for public review. The notice also discussed the role of APHIS, the Environmental Protection Agency, and the Food and Drug Administration in regulating the subject corn line and food products derived from it. In the notice, APHIS solicited written comments from the public as to whether this corn line posed a plant pest risk. The comments were to have been received by APHIS on or before April 24, 1998. During the designated 60-day comment period, APHIS received 2,271 form letters from farmers expressing support for the subject petition, and a comment letter from a research entomologist at a research unit of the U.S. Department of Agriculture's Agricultural Research Service providing data and information that event CBH-351 corn effectively controls European corn borer (ECB) during all corn developmental stages.

Analysis

Corn event CBH-351 has been genetically engineered to express a Cry9C insect control protein derived from the common soil bacterium *Bacillus thuringiensis* subsp. *tolworthi* (*Bt tolworthi*). The petitioner stated that the Cry9C protein is effective in protecting the subject corn line from

damage caused by ECB larvae throughout the growing season. The subject corn line also expresses the *bar* gene derived from the bacterium *Streptomyces hygroscopicus*. The *bar* gene encodes the phosphinothricin acetyltransferase (PAT) enzyme, which, when introduced into the plant cell, confers tolerance to the herbicide glufosinate. The particle bombardment method was used to transfer the added genes into the recipient inbred corn line (PA91 x H99) x H99, and their expression is controlled in part by gene sequences derived from the plant pathogens *Agrobacterium tumefaciens* and cauliflower mosaic virus. While the subject corn line contains the *bla* selectable marker gene, which is normally expressed in bacteria, tests indicate that this gene is not expressed in the plant.

The subject corn line has been considered a regulated article under APHIS' regulations in 7 CFR part 340 because it contains gene sequences derived from plant pathogens. However, evaluation of field data reports from field tests of the corn conducted under APHIS notifications since 1995 indicates that there were no deleterious effects on plants, nontarget organisms, or the environment as a result of the environmental release of corn event CBH-351.

Determination

Based on its analysis of the data submitted by AgrEvo, a review of other scientific data and field tests of the subject corn line, and an analysis of comments from the public on the subject petition, APHIS has determined that corn event CBH-351: (1) Exhibits no plant pathogenic properties; (2) is no more likely to become a weed than corn lines developed by traditional breeding techniques; (3) is unlikely to increase the weediness potential for any other cultivated or wild species with which it can interbreed; (4) will not cause damage to raw or processed agricultural commodities; (5) will not harm threatened or endangered species or other organisms, such as bees, that are beneficial to agriculture; and (6) should not reduce the ability to control insects and weeds in corn or other crops when cultivated. Therefore, APHIS has concluded that the subject corn line and any progeny derived from crosses with other corn varieties will be as safe to grow as corn that is not subject to regulation under 7 CFR part 340.

The effect of this determination is that AgrEvo's corn event CBH-351 is no longer considered a regulated article under APHIS regulations in 7 CFR part 340. Therefore, the requirements

pertaining to regulated articles under those regulations no longer apply to the field testing, importation, or interstate movement of the subject corn or its progeny. However, importation of corn event CBH-351 or seeds capable of propagation are still subject to the restrictions found in APHIS' foreign quarantine notices in 7 CFR part 319.

National Environmental Policy Act

An environmental assessment (EA) has been prepared to examine the potential environmental impacts associated with this determination. The EA was prepared in accordance with: (1) The National Environmental Policy Act of 1969, as amended (NEPA) (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 that EA, APHIS has reached a finding of no significant impact (FONSI) with regard to its determination that AgrEvo's corn event CBH-351 and lines developed from it are no longer regulated articles under its regulations in 7 CFR part 340. Copies of the EA and the FONSI are available upon request from the individual listed under **FOR FURTHER INFORMATION CONTACT**.

Done in Washington, DC, this 11th day of May 1998.

Charles P. Schwalbe,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 98-13006 Filed 5-14-98; 8:45 am]

BILLING CODE 3410-34-P

DEPARTMENT OF AGRICULTURE

Forest Service

Newspaper To Be Used for Publication of Legal Notice of Appealable Decisions and Publications of Notice of Proposed Actions for Southern Region; Alabama, Kentucky, Georgia, Tennessee, Florida, Louisiana, Mississippi, Virginia, West Virginia, Arkansas, Oklahoma, North Carolina, South Carolina, Texas, Puerto Rico

AGENCY: Forest Service, USDA.

ACTION: Notice.

SUMMARY: Deciding Officers in the Southern Region will publish notice of decisions subject to administrative appeal under 36 CFR parts 215 and 217 in the legal notice section of the newspapers listed in the Supplementary Information section of this notice. As