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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 04-076-3]

Monsanto Co.; Availability of Determination of Nonregulated Status for Cotton Genetically Engineered for Tolerance to the Herbicide Glyphosate

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public of our determination that the Monsanto Company cotton designated as MON 88913, which has been genetically engineered for tolerance to the herbicide glyphosate, 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 Monsanto Company in its petition for a determination of non-regulated status, our analysis of other scientific data, and comments received from the public in response to a previous notice. This notice also announces the availability of our written determination and our finding of no significant impact.

DATES: *Effective Date:* December 20, 2004.

ADDRESSES: You may read the determination, the environmental assessment and finding of no significant impact, the petition for a determination of nonregulated status submitted by Monsanto Company, and all comments received on the petition and the environmental assessment 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.

You may view APHIS documents published in the **Federal Register** and related information, including the names of groups and individuals who have commented on APHIS dockets, on the Internet at <http://www.aphis.usda.gov/ppd/rad/webrepor.html>.

FOR FURTHER INFORMATION CONTACT: Mr. Michael Blanchette, Biotechnology Regulatory Services, APHIS, 4700 River Road Unit 147, Riverdale, MD 20737-1236; (301) 734-5141. To obtain a copy of the determination or environmental assessment and finding of no significant impact, contact Ms. Terry Hampton at (301) 734-5715; e-mail:

Terry.A.Hampton@aphis.usda.gov. The petition and environmental assessment are also available on the Internet at http://www.aphis.usda.gov/brs/aphisdocs/04_08601p.pdf and http://www.aphis.usda.gov/brs/aphisdocs/04_08601p_ea.pdf. The determination and the final environmental assessment and finding of no significant impact are available on the Internet at http://www.aphis.usda.gov/brs/aphisdocs/04_08601p_com.pdf.

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.

On March 26, 2004, APHIS received a petition from Monsanto Company of St. Louis, MO (Monsanto), requesting a determination of nonregulated status under 7 CFR part 340 for cotton (*Gossypium hirsutum* L.) designated as MON 88913, which has been genetically engineered for tolerance to the herbicide glyphosate. The Monsanto petition states that the subject cotton should not be regulated by APHIS because it does not present a plant pest risk.

On October 4, 2004, APHIS published a notice in the **Federal Register** (69 FR 59181-59182, Docket No. 04-076-1) announcing that the Monsanto petition and an environmental assessment (EA) were 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 cotton and food products developed from it. In a subsequent notice published in the **Federal Register** on November 24, 2004 (69 FR 68301-68302, Docket No. 04-076-2), APHIS announced the availability of an addendum to the Monsanto petition.

APHIS received three comments on the petition and the EA during the 60-day comment period, which ended December 4, 2004. The comments were from a university professor, a trade organization, and a private individual. Two of the commenters supported nonregulated status for MON 8891, while the third commenter opposed it. APHIS has provided a response to these comments as an attachment to the finding of no significant impact (FONSI). The EA and FONSI are available as indicated under **FOR FURTHER INFORMATION CONTACT**.

MON 88913 has been genetically engineered to express a 5-enolpyruvylshikimate-3-phosphate synthase protein from *Agrobacterium* sp. strain CP4 (CP4 EPSPS), which confers tolerance to the herbicide glyphosate. Expression of the added genes is controlled in part by gene sequences derived from the plant pathogens figwort mosaic virus and cauliflower mosaic virus. The *Agrobacterium tumefaciens* transformation method was used to transfer the added genes into the recipient upland cotton variety Coker 312.

MON 88913 cotton has been considered a regulated article under the

regulations in 7 CFR part 340 because it contains gene sequences from plant pathogens. In the process of reviewing the notifications for field trials of the subject cotton, APHIS determined that the vectors and other elements were disarmed and that the trials, which were conducted under conditions of reproductive and physical confinement or isolation, would not present a risk of plant pest introduction or dissemination.

Determination

Based on its analysis of the data submitted by Monsanto Company, a review of other scientific data, field tests of the subject cotton, and comments submitted by the public, APHIS has determined that MON 88913 cotton: (1) Exhibits no plant pathogenic properties; (2) is no more likely to become weedy than the non-transgenic parental line or other cultivated cotton; (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 organisms that are beneficial to agriculture; and (6) should not reduce the ability to control pests and weeds in cotton or other crops. Therefore, APHIS has concluded that the subject cotton and any progeny derived from hybrid crosses with other non-transformed cotton varieties will be as safe to grow as cotton in traditional breeding programs that is not subject to regulation under 7 CFR part 340.

The effect of this determination is that Monsanto Company's MON 88913 cotton 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 subject cotton or its progeny. However, importation of MON 88913 cotton and seeds capable of propagation are still subject to the restrictions found in APHIS' foreign quarantine notices in 7 CFR part 319 and imported seed regulations in 7 CFR part 361.

National Environmental Policy Act

An EA was prepared to examine any potential environmental impacts associated with the proposed determination of non-regulated status for the subject cotton event. 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 that EA, APHIS has reached a FONSI with regard to the determination that Monsanto MON 88913 cotton and lines developed from it are no longer regulated articles under its regulations in 7 CFR part 340. Copies of the EA and FONSI are available as indicated in the **FOR FURTHER INFORMATION CONTACT** section of this notice.

Done in Washington, DC, this 27th day of December 2004.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

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DEPARTMENT OF AGRICULTURE

Forest Service

Notice of Availability; County Line Vegetation Management Project Draft, Environmental Impact Statement

AGENCY: Forest Service, Rio Grande National Forest.

ACTION: Notice of availability and public hearings.

SUMMARY: The United States Department of Agriculture (USDA) Forest Service (USFS), Rio Grande National forest (RGNF) announces the availability of the County Line Vegetation Management Project Draft Environmental Impact Statement (EIS). The Draft EIS was prepared in accordance with the Council on Environmental Quality's National Environmental Policy Act (NEPA) Implementing Regulations (40 CFR Parts 1500–1508). The EIS analyzes the environmental impacts of a proposal to manage a spruce beetle infestation by performing up to 715 acres of sanitation/salvage harvest and up to 841 acres of preventative thinning. Timber harvest activities could produce from 22 to 29 MMBF of spruce sawtimber. The action alternatives propose to realign 0.3 miles of system road, to reconstruct from 10.7 to 15.6 miles of system roads to construct 2.3 miles of temporary roads, and to close up to 2.3 miles of open system road and convert it to a non-motorized trail. Three alternatives are considered: (A) The No Action Alternative; (B) the Proposed Action (Sanitation/salvage and preventative thinning); and (C) Sanitation/Salvage. **DATES:** USFS invites Federal agencies, state and local governments, Native

American tribes, and the public to comment on the Draft EIS. The comment period extends from the publication of this Notice of Availability until February 07, 2005. Written comments must be submitted by February 07, 2005. Comments submitted after that date will be considered to the extent practicable. The USFS will consider the comments in the preparation of the Final EIS. Public meetings to present information and receive written comments on the Draft EIS are not planned at this time.

The following Web site may be accessed for additional information: <http://www.fs.fed.us/r2/riogrande/>.

ADDRESSES: Send written comments on the Draft EIS or requests for copies of the Draft EIS to Mr. John Murphy, Interdisciplinary Team Leader, USDA–USFS, Rio Grande National Forest, Public Lands Center, 1803 West Highway 160, Monte Vista, CO 81144. Electronic mail (e-mail) may be sent to comments-rocky-mountain-riogrande@fs.fed.us and faxes may be sent to (719) 852–6250.

A copy of the Draft EIS will be available on the Internet at: <http://www.fs.fed.us/r2/riogrande/>.

FOR FURTHER INFORMATION CONTACT: Contact Mr. John Murphy, Interdisciplinary Team Leader, USDA–USFS, Public Lands Center (719) 852–6221. Refer to **SUPPLEMENTARY INFORMATION** regarding public disclosure of submitted comment information.

SUPPLEMENTARY INFORMATION: The Rio Grande National Forest is comprised of 1.86 million acres located in southwestern Colorado. Denver, Colorado, is approximately 300 miles to the north of the RGNF, and Albuquerque, New Mexico, is approximately 270 miles to the south. The Continental Divide runs for 236 miles along most of the western border of the RGNF. The County Line analysis Area is located about 15 miles north-east of Chama, New Mexico on lands administered by the RGNF.

The spruce beetle (*Dendroctonus rufipennis*) is the most significant cause of mortality of mature Engelmann spruce (*Picea engelmannii*) stands. Large-scale spruce beetle infestations in excess of 100,000 acres have occurred over the last 25 years in North America from Alaska to Arizona.

The scope of spruce beetle outbreaks can be significant, at times killing up to 80% or more of the mature spruce trees within a watershed.

Many areas of the Rio Grande National Forest are currently experiencing severe infestations of spruce beetle, including the County