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 11th day of February 2008.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. E8–2910 Filed 2–14–08; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2006–0152]

Importation of Solid Wood Packing Material; Record of Decision

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: This notice advises the public of the Animal and Plant Health Inspection Service's record of decision for the supplement to the Importation of Solid Wood Packing Material Final Environmental Impact Statement.

ADDRESSES: Copies of the record of decision and the supplement to the final environmental impact statement on which the record of decision is based are available for public inspection 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. To be sure someone is there to help you, please call (202) 690–2817 before coming.

The record of decision may also be viewed on the APHIS Web site at *http://www.aphis.usda.gov/plant_health/ea/swpm.shtml*. Supporting and related materials, including the final and supplemental environmental impact statements, may also be viewed on the Internet by visiting *http://www.regulations.gov/fdmspublic/component/main?main=DocketDetail&d=APHIS-2006-0152*.

FOR FURTHER INFORMATION CONTACT: Mr. David A. Bergsten, APHIS Interagency NEPA Contact, Environmental Services, PPD, APHIS, 4700 River Road, Unit 149, Riverdale, MD 20737–1238; (301) 734–6103.

SUPPLEMENTARY INFORMATION: This notice advises the public that the Animal and Plant Health Inspection Service (APHIS) has prepared a record of decision based on its supplemental environmental impact statement (SEIS) for the Importation of Solid Wood Packing Material Final Environmental Impact Statement, August 2003 (FEIS).

The SEIS and FEIS address Federal actions described in a final rule APHIS published in the **Federal Register** on September 16, 2004 (69 FR 55719–55733, Docket No. 02–032–3). The final rule amended the regulations for the importation of unmanufactured wood articles to adopt an international standard entitled ''Guidelines for Regulating Wood Packaging Material in International Trade.'' The FEIS was prepared with regard to that final rule in compliance with the National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. 4321 *et seq.*), and its implementing regulations.

On October 24, 2006, APHIS published in the **Federal Register** (71 FR 62240, Docket No. APHIS–2006–0152) a notice of its intent to prepare the SEIS for the purpose of reevaluating and refining the estimates of methyl bromide usage associated with the alternatives considered in the FEIS. On March 9, 2007, the Environmental Protection Agency (EPA) published in the **Federal Register** (72 FR 10749) a notice of the availability of the draft SEIS. Comments were accepted on the draft SEIS until June 25, 2007.

In October 2007, APHIS published and distributed the final SEIS, which included discussion of the three comments received on the draft SEIS. On November 23, 2007, EPA published in the **Federal Register** (72 FR 65732) a notice of the availability of the final SEIS. The NEPA implementing regulations at 40 CFR 1506.10 require a 30-day waiting period between the time a final EIS is published and the time an agency makes a decision on an action covered by the EIS. APHIS did not receive any comments on the final SEIS by the time this waiting period ended on December 24, 2007.

APHIS has reviewed the final SEIS and has concluded that it has fully analyzed the issues covered by the draft SEIS and the comments and suggestions submitted by commenters. APHIS has now prepared a record of decision on the adopted SEIS and is making that record available to the public.

The Record of Decision for the Importation of Solid Wood Packing Material Supplement to the Final Environmental Impact Statement, prepared pursuant to the Council on Environmental Quality's NEPA implementing regulations at 40 CFR 1505.2, is set out below in its entirety.

Record of Decision for the Importation of Solid Wood Packing Material Supplement to the Final Environmental Impact Statement

This Record of Decision (ROD) has been developed in compliance with the agency decision-making requirements of NEPA. The purpose of this ROD is to document APHIS' decision to adopt the September 16, 2004, final rule. Alternatives have been fully described and evaluated in the Supplement to the Final Environmental Impact Statement (SEIS) and in the Final Environmental Impact Statement (FEIS).

This ROD is intended to: (a) State the APHIS decision, present the rationale for its selection, and describe its implementation; (b) identify the alternatives considered in reaching the decision; and (c) state whether all means to avoid or minimize environmental harm from implementation of the selected alternative have been adopted (40 CFR 1505.2).

National Environmental Policy Act

On November 23, 2007, the U.S. Environmental Protection Agency (EPA) published in the **Federal Register** [72 FR 65732] a notice of availability of the final supplement to the environmental impact statement titled ''Importation of Solid Wood Packing Material.'' The FEIS considered the environmental impacts from importation of wood packaging materials that could result from our adoption of the proposed rule. The SEIS reevaluates and refines the estimates of methyl bromide usage associated with the alternatives considered in the FEIS.

Pursuant to the implementing regulations for NEPA in cases requiring an EIS, APHIS must prepare a record of decision to express the agency determination from review of the EIS documentation. The NEPA implementing regulations require that a record of decision state what decision is being made; identify alternatives considered in the environmental impact statement process; specify the environmentally preferred alternative; discuss preferences based on relevant factors—economic and technical considerations, as well as national policy considerations, where applicable; and state how all of the factors discussed entered into the decision. In addition, the record of decision must indicate whether the ultimate decision has been designed to avoid or minimize environmental harm and, if not, why not.

The Decision

This decision described in the ROD addresses impacts from the final rule published by APHIS in the **Federal Register** on September 16, 2004 (69 FR 55719–55733, Docket No. 02–032–3). After a thorough reevaluation and refinement of the estimates of methyl bromide usage associated with the alternatives considered in the FEIS and in the SEIS, APHIS has decided to continue to enforce the 2004 regulations that establish requirements stipulated in the International Plant Protection Convention (IPPC) guidelines for importation of wood packaging material into the United States from other countries. This includes specific treatment requirements for either heat treatment or fumigation with methyl bromide of the wood

packaging material. The quantitative range determined in the SEIS (822–2,351 MT) for the refined methyl bromide estimate is narrower than the range determined in the FEIS (384–4,630 MT), but that range is encompassed within the broader range presented in the FEIS. The limited changes in methyl bromide usage projected in the SEIS do not justify changes to the previous findings in the Record of Decision for the FEIS.

Alternatives Considered in the Impact Statement Process

The SEIS considers the same range of alternatives as the FEIS, but focuses on the potential impacts from treatments with methyl bromide. The range of alternatives includes (1) No action, essentially maintaining the exemption from treatment requirements for importation of wood packaging material from foreign countries except as regulated under the September 18, 1998, interim rule that required treatment of wood packaging material from China (China interim rule, 63 FR 50099–50111, Docket No. 98–087–1), (2) extension to all countries of the treatments in the China interim rule, (3) adoption of the IPPC Guidelines, (4) establishment of a comprehensive risk reduction program, and (5) use of substitute (non-solid wood) packaging material only.

Environmentally Preferable Alternative

The environmentally preferable alternative would be to prohibit importation of wood packaging material, which would virtually eliminate all associated pest risks, as well as the need for quarantine treatments. This regulatory approach (alternative 5 above) would require all commodities that are to be imported to the United States to be transported with only substitute packaging material. Restriction to only substitute packaging materials is, however, more trade-restrictive than necessary to achieve an adequate level of phytosanitary protection. For the foreseeable future, switching to substitute packaging materials would be costly or technically infeasible for many exporters, especially in developing countries. In addition, depending upon the type of substitute packing material, the environmental impacts from the manufacturing process for substitute packing material may increase overall impacts and other associated risks that are not major concerns with the present regulations.

Preferences Among Alternatives

The preference among the alternatives for the final rule was and remains to adopt the IPPC Guidelines (alternative 3 above). The preference for this alternative is based principally on the determination that it meets the Agency's obligations under the Plant Protection Act (7 U.S.C. 7701 *et seq.*) (PPA), and other legislation such as NEPA and the Clean Air Act.

The no action alternative (alternative 1 above) was rejected because, if left unchecked, pests introduced by imported wood packaging material have the potential to cause significant economic damage to the agricultural and forest resources of the United States.

The alternative of extending the China interim rule to all wood packaging material worldwide (alternative 2 above) would not ensure long-term exclusion of some wood pests of quarantine concern, such as certain deep wood-borers, fungi, rots, and wilts. Additionally, adoption of the China interim rule requirements would result in the greatest additional use of methyl bromide of all the alternatives.

The preferred alternative (alternative 3 above), adoption of the IPPC treatment standards for all importing countries, addresses the pest threats already covered by the China interim rule for beetle families such as Cerambycidae. In addition, it protects against nine other families of wood boring pests.

The comprehensive risk reduction program (alternative 4 above) would consist of an array of mitigation methods (e.g., inspection, various heat treatments, various fumigants and other chemical treatments, irradiation, etc.) more extensive than that contained in either the China Interim Rule or the IPPC Guidelines. Many of the methods are in various phases of research and development and, therefore, do not provide an adequate basis for any final decisions about program implementation.

Mandating the use of substitute packing material (alternative 5 above) requires use of materials that likely cost more than wood packaging material that is either heat treated or fumigated with methyl bromide. The availability of these substitute packing materials is also an issue of concern for exporters in some developing countries.

Please see the FEIS and SEIS for a full discussion of the reasons why adopting the IPPC standard was considered the preferred alternative.

Factors in the Decision

APHIS' mission is guided by the PPA, under which the detection, control, eradication, suppression, prevention, and retardation of the spread of plant pests or noxious weeds have been determined by Congress to be necessary and appropriate for the protection of the agriculture, environment, and economy of the United States. The PPA also has been designed to facilitate exports, imports, and interstate commerce in agricultural products and other commodities. In order to achieve these objectives, use of pesticides, including methyl bromide, has often been prescribed.

Methyl bromide is an ozone depleting substance that is strictly regulated under the Montreal Protocol and the Clean Air Act. While the goal of these authorities and agreements is to limit and ultimately phase out all ozone depleting substances, certain exemptions and exclusions are recognized, including an exemption for methyl bromide use for plant quarantine and preshipment purposes, including those purposes provided for in the final wood packaging material rule. The exemption is not unconditional, however. The United States, like other signatories to the Montreal Protocol, must review its national plant health regulations with a view to removing the requirement for the use of methyl bromide for quarantine and preshipment applications where technically and economically feasible alternatives exist.

This rule authorizes the use of heat treatment and methyl bromide fumigation to treat wood packaging material from other countries in order to meet the mandates of the PPA. In addition, the agency is working to promote environmental quality with ongoing work to identify and add to our regulations valid technically and economically feasible alternatives to methyl bromide.

Avoid or Minimize Environmental Harm

The environment can be harmed by the use of methyl bromide which can delay the recovery of the stratospheric ozone layer. However, any lack of quarantine application of methyl bromide or heat treatment to wood packaging material poses potential adverse effects to agriculture and forested ecosystems among environmental components that could be devastating. Adequate enforcement of effective quarantine measures is required to protect the environment. By ensuring that quarantine use of methyl bromide remains limited, the Agency strikes a proper balance in its efforts to minimize environmental harm. APHIS is committed to monitoring these efforts through the NEPA process, and otherwise. Furthermore, where appropriate, measures such as gas recapture technology are encouraged by APHIS to minimize methyl bromide emissions and preclude harm to environmental quality. The prudent use of heat treatment and substitute packaging material by developed countries is expected to promote this regulatory approach in developing countries as their trade opportunities expand.

Other

Methyl bromide used in quarantine applications prescribed by the United States contributes just a small fraction of the total anthropogenic bromine released into the atmosphere. Nevertheless, the Montreal Protocol is action-forcing in the sense that signatories must review their national plant health regulations with a view to finding alternatives to exempted uses of methyl bromide. The EPA has also cautioned that, regardless of the incremental contribution, it is important to recognize that any additional methyl bromide releases delay recovery of the stratospheric ozone layer.

A considerable amount of research and development of methyl bromide alternatives has been conducted within the USDA and continues today. Under the Clean Air Act, EPA has also established a program to identify alternatives to ozone depleting substances, including methyl bromide, but EPA's listing of an acceptable alternative does not always adequately address its suitability for a particular use. We must not put agriculture and ecosystems at risk based upon unproven technology.

APHIS is firmly committed to the objectives of the Montreal Protocol to reduce and ultimately eliminate reliance on methyl bromide for quarantine uses, consistent with its responsibilities to safeguard this country's agriculture and ecosystems. Achieving the objectives of both reducing (and ultimately eliminating) methyl bromide emissions as well as safeguarding agriculture and ecosystems in the most expeditious, cost-

effective way possible, requires close coordination within the Federal Government of research, development, and testing efforts. APHIS is determined to cooperate actively with the Agricultural Research Service, EPA, the Office of Management and Budget, and others involved in this effort to find effective alternatives to methyl bromide quarantine uses.

The most recent effort by APHIS to reduce quarantine use of methyl bromide is through cooperative work with the IPPC on a draft International Standard for Phytosanitary Measures (ISPM). This ISPM titled ''Developing a Strategy to Reduce or Replace the Use of Methyl Bromide for Phytosanitary Purposes'' has been under review since June 2007 by contracting parties to the IPPC.

In a notice summarizing EPA comments on recent environmental impact statements and proposed regulations that was published in the **Federal Register** on July 20, 2007 (72 FR 39807–39808), EPA expressed a lack of objections to the draft SEIS and APHIS' adoption of the IPPC Guidelines.

The record of decision has been prepared in accordance with: (1) NEPA, (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 1), and (4) APHIS' NEPA Implementing Procedures (7 CFR part 372).

Done in Washington, DC, this 11th day of February 2008.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. E8–2908 Filed 2–14–08; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2007–0029]

Planet Biotechnology, Inc.; Availability of an Environmental Assessment and Finding of No Significant Impact for a Field Release To Produce Antibodies in Genetically Engineered Nicotiana Hybrids

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public that we have prepared an environmental assessment for a proposed field release involving a *Nicotiana* hybrid line that has been genetically engineered to produce an antimicrobial antibody that binds to a bacterium (*Streptococcus mutans*) associated with tooth decay in humans. The purpose of this field release is to generate plant biomass from which the antibody will be extracted after harvest. The environmental assessment provides a basis for our conclusion that this field release will not present a risk of introducing or disseminating a plant pest and will not have a significant impact on the quality of the human environment. Based on its finding of no significant impact, the Animal and Plant Health Inspection Service has determined that an environmental impact statement need not be prepared for this field release.

EFFECTIVE DATE: February 15, 2008.

ADDRESSES: You may read the environmental assessment (EA), the finding of no significant impact (FONSI), and the comments we received on this docket 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. The EA, FONSI and decision notice, and responses to comments are available on the Internet at: *http://www.aphis.usda.gov/brs/aphisdocs/05_35403r_ea.pdf.*

Other Information: Additional information about APHIS and its programs is available on the Internet at *http://www.aphis.usda.gov*.

FOR FURTHER INFORMATION CONTACT: Dr. Margaret Jones, Biotechnology Regulatory Services, APHIS, 4700 River Road Unit 147, Riverdale, MD 20737–1236; (301) 734–4880. To obtain copies of the EA, FONSI and decision notice, and responses to comments, contact Ms. Cynthia Eck at (301) 734–0667; e-mail: *cynthia.a.eck@aphis.usda.gov*.

SUPPLEMENTARY INFORMATION: 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.'' A permit must be obtained or a notification acknowledged before a regulated article may be introduced. The regulations set forth the permit application requirements and the notification procedures for the importation, interstate movement, or release in the environment of a regulated article.

On December 21, 2005, the Animal and Plant Health Inspection Service (APHIS) received a permit application (APHIS No. 05–354–03r) from Planet Biotechnology, Inc., of Hayward, CA, for a field trial using a transgenic *Nicotiana* hybrid. Permit application 05–354–03r describes a *Nicotiana* hybrid line (*Nicotiana tabacum* X *Nicotiana glauca*), designated as 06PBCarHG1, that produces a chimeric antimicrobial antibody (trade name CaroRx™) that binds to the bacterium (*Streptococcus mutans*) associated with tooth decay in humans. Expression of the gene sequence is controlled by the cauliflower mosaic virus (CaMV) promoter and terminated by NOS from *Agrobacterium tumefaciens* and utilizes the selectable marker NPTII from *Escherichia coli*. Constructs were inserted into the recipient organisms via a disarmed *Agrobacterium tumefaciens* vector system. The antibodies generated from this planting will be extracted after harvest.

The subject *Nicotiana* hybrid is considered a regulated article under the regulations in 7 CFR part 340 because it has been genetically engineered using genetic sequences from plant pathogens.

On June 13, 2007, APHIS published a notice [1] in the **Federal Register** (72 FR 32607–32608, Docket No. APHIS–2007–0029) announcing the availability of an environmental assessment (EA) for the proposed release of a transgenic *Nicotiana* hybrid line. During the 30-day comment period, APHIS received six comments. All six comments were opposed to APHIS' issuance of this permit and genetically engineered crops in general, but only one raised specific issues regarding the EA. APHIS has provided responses to these comments as an attachment to the finding of no significant impact (FONSI).

Pursuant to the regulations promulgated under the Plant Protection Act, APHIS has determined that this field release will not pose a risk of introducing or disseminating a plant pest. Additionally, based upon analysis described in the EA, APHIS has determined that the action proposed in Alternative B of the EA (the preferred alternative), to issue the permit with supplemental permit conditions, will not have a significant impact on the quality of the human environment. Therefore, APHIS has determined that a FONSI is appropriate for this proposed action. You may read the FONSI and Decision Notice on the Internet or in the

[1] To view the notice, the EA, and the comments we received, go to *http://www.regulations.gov/fdmspublic/component/main?main=DocketDetail&d=APHIS-2007-0029.*