

comments will be further described in the NOI. The EIS/EIR process will also include public review and hearings on the draft EIS/EIR; publication of a final EIS/EIR; and publication of a record of decision anticipated in early 2011.

Dated: December 22, 2008.

Timothy J. Meeks,
Administrator.

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ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OPP-2008-0933; FRL-8398-7]

Issuance of an Experimental Use Permit

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has granted an experimental use permit (EUP) (524-EUP-99) to the pesticide applicant--Monsanto Company. An EUP permits use of a pesticide for experimental or research purposes only in accordance with the limitations in the permit.

FOR FURTHER INFORMATION CONTACT: Mike Mendelsohn, Biopesticides and Pollution Prevention Division (7511P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (703) 308-8715; e-mail address: Mike.Mendelsohn@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. Although this action may be of particular interest to those persons who conduct or sponsor research on pesticides, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the information in this action, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Copies of this Document and Other Related Information?

1. *Docket.* EPA has established a docket for this action under docket identification (ID) number EPA-HQ-OPP-2008-0933. Publicly available docket materials are available either in the electronic docket at <http://www.regulations.gov>, or, if only available in hard copy, at the Office of

Pesticide Programs (OPP) Regulatory Public Docket in Rm. S-4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The hours of operation of this Docket Facility are from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305-5805.

2. *Electronic access.* You may access this **Federal Register** document electronically through the EPA Internet under the "**Federal Register**" listings at <http://www.epa.gov/fedrgstr>.

II. EUP

EPA has issued the following EUP: 524-EUP-99—*Issuance.* Monsanto Company, 800 N. Lindbergh Blvd St. Louis, MO 63167. This EUP allows the use of the plant-incorporated protectants:

1. *Bacillus thuringiensis* Cry1A.105 protein and the genetic material necessary for its production (vector PV-ZMIR245) in event MON 89034 corn,
2. *Bacillus thuringiensis* Cry2Ab2 protein and the genetic material necessary for its production (vector PV-ZMIR245) in event MON 89034 corn,
3. *Bacillus thuringiensis* Cry3Bb1 protein and the genetic material necessary for its production (vector ZMIR39) in event MON 88017 corn (Organization for Economic Cooperation Development (OECD) Unique Identifier: MON-88017-3),
4. *Bacillus thuringiensis* Cry1F protein and the genetic material necessary for its production (plasmid insert PHI 8999) in corn (TC1507),
5. *Bacillus thuringiensis* Cry34Ab1 and Cry 35Ab1 proteins and the genetic material necessary for their production (plasmid insert PHP 17662) in event DAS-59122-7 corn.

These plant-incorporated protectants will be planted in the following combinations:

- MON 89034,
- MON 89034 x MON 88017,
- MON 89034 x TC1507,
- MON 89034 x DAS-59122-7,
- MON 89034 x MON 88017 x TC1507,
- MON 89034 x TC1507 x DAS-59122-7,
- MON 89034 x MON 88017 x DAS-59122-7,
- MON 88017 x TC1507 x DAS-59122-7,
- MON 88017,
- TC1507,
- DAS-59122-7,
- TC1507 x DAS-59122-7, and
- MON 89034 x MON 88017 x TC1507 x DAS-59122-7.

The quantity authorized equates to 73, 080 lbs of corn seed (4.385 lbs active

ingredients) on 4993 acres. This program is authorized to take place in the states of Alabama, Arkansas, California, Colorado, Florida, Georgia, Hawaii, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, New York, North Carolina, Ohio, Oregon, Pennsylvania, Puerto Rico, South Dakota, Tennessee, Texas, Washington, and Wisconsin. This EUP is effective from July 17, 2008, through June 30, 2009, and allows the protocols of breeding and observation, inbred seed increase and sample hybrid production, line per se, hybrid yield and herbicide tolerance trials, insect efficacy, product characterization and performance trials, insect resistance management trials, benefit trials, and seed treatment trials.

Two comments were submitted in response to the notice of receipt for this permit application which was published in the **Federal Register** on April 16, 2008 (73 FR 20625) (FRL-8357-8). Both comments were submitted by one individual who objected to issuance of an EUP. Comments expressed concern over Monsanto's credibility, unspecified environmental and human health effects, as well as the Agency's methodology in granting EUPs. The Agency understands the commenter's concerns and recognizes that some individuals believe that genetically modified crops and food should be banned completely. However, under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), the Agency is tasked with reviewing applications for EUPs and granting such applications to the extent that the conditions of FIFRA section 5, and the regulations thereunder, have been met (subject to such terms and conditions as the Agency determines are warranted). In this instance, EPA has determined that the relevant statutory and regulatory conditions have been met. Furthermore, EPA has concluded that there is a reasonable certainty that no harm will result from dietary exposure to these proteins as expressed in corn. Further, the Agency has concluded that no adverse environmental effects will be expected from their expression in corn via the subject testing which is of limited scope and duration.

III. What is the Agency's Authority for Taking this Action?

The Agency's authority for taking this action is 7 U.S.C. 136c.

List of Subjects

Environmental protection,
Experimental use permits.

Dated: December 29, 2008.

W. Michael McDavit,

*Acting Director, Biopesticides and Pollution
Prevention Division, Office of Pesticide
Programs.*

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**ENVIRONMENTAL PROTECTION
AGENCY**

[EPA-HQ-OPP-2008-0135; FRL-8397-5]

**Pesticide Experimental Use Permit;
Receipt of Application Amendment;
Comment Request**

AGENCY: Environmental Protection
Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's receipt of an application 524-EUP-99 from Monsanto Company requesting an amendment to the experimental use permit (EUP) for the plant-incorporated protectants: 1) *Bacillus thuringiensis* Cry1A.105 protein and the genetic material necessary for its production (vector PV-ZMIR245) in event MON 89034 corn, 2) *Bacillus thuringiensis* Cry2Ab2 protein and the genetic material necessary for its production (vector PV-ZMIR245) in event MON 89034 corn, 3) *Bacillus thuringiensis* Cry3Bb1 protein and the genetic material necessary for its production (vector ZMIR39) in Event MON 88017 corn (Organization for Economic Cooperation and Development (OECD) Unique Identifier: MON-88017-3), 4) *Bacillus thuringiensis* subspecies Cry1F protein and the genetic material necessary for its production (vector PHI 8999) in corn, and 5) *Bacillus thuringiensis* Cry34Ab1 and Cry35Ab1 proteins and the genetic material necessary for their production (vector PHP 17662) in Event DAS-59122-7 corn. The Agency has determined that the permit may be of regional and national significance. Therefore, in accordance with 40 CFR 172.11(a), the Agency is soliciting comments on this application.

DATES: Comments must be received on or before February 6, 2009.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA-HQ-OPP-2008-0135, by one of the following methods:

• *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.

• *Mail:* Office of Pesticide Programs (OPP) Regulatory Public Docket (7502P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001.

• *Delivery:* OPP Regulatory Public Docket (7502P), Environmental Protection Agency, Rm. S-4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. Deliveries are only accepted during the Docket Facility's normal hours of operation (8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays). Special arrangements should be made for deliveries of boxed information. The Docket Facility telephone number is (703) 305-5805.

Instructions: Direct your comments to docket ID number EPA-HQ-OPP-2008-0135. EPA's policy is that all comments received will be included in the docket without change and may be made available on-line at <http://www.regulations.gov>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through www.regulations.gov or e-mail. The www.regulations.gov website is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through www.regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the docket index available at <http://www.regulations.gov>. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either in the

electronic docket at <http://www.regulations.gov>, or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S-4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The hours of operation of this Docket Facility are from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305-5805.

FOR FURTHER INFORMATION CONTACT:

Susanne Cerrelli, Biopesticides and Pollution Prevention Division (7511P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (703) 308-8077; e-mail address: cerrelli.susanne@epa.gov.

SUPPLEMENTARY INFORMATION:**I. General Information***A. Does this Action Apply to Me?*

This action is directed to the public in general. This action may, however, be of interest to those persons interested in agricultural biotechnology or those who are or may be required to conduct testing of chemical substances under the Federal Food, Drug, and Cosmetic Act (FFDCA) or the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. What Should I Consider as I Prepare My Comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through www.regulations.gov or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD-ROM that you mail to EPA, mark the outside of the disk or CD-ROM as CBI and then identify electronically within the disk or CD-ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When submitting comments, remember to: