

Notices

Federal Register

Vol. 74, No. 235

Wednesday, December 9, 2009

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

Grain Inspection, Packers and Stockyards Administration

Designation for the West Sacramento, CA; Frankfort, IN; Indianapolis, IN; and Virginia Areas

AGENCY: Grain Inspection, Packers and Stockyards Administration, USDA.

ACTION: Notice.

SUMMARY: GIPSA is announcing the designation of the following organizations to provide official services

under the United States Grain Standards Act, as amended (USGSA): California Agri Inspection Company, Ltd. (California Agri); Frankfort Grain Inspection, Inc. (Frankfort); Indianapolis Grain Inspection & Weighing Service, Inc. (Indianapolis); and Virginia Department of Agriculture and Consumer Services (Virginia).

DATES: Effective Date: January 1, 2010.

ADDRESSES: William A. Ashley, Acting Branch Chief, Review Branch, Compliance Division, GIPSA, USDA, STOP 3604, Room 1647-S, 1400 Independence Avenue, SW., Washington, DC 20250-3604

FOR FURTHER INFORMATION CONTACT: William A. Ashley, 202-720-8262 or William.A.Ashley@usda.gov.

READ APPLICATIONS: All applications and comments will be available for public inspection at the office above during regular business hours (7 CFR 1.27(c)).

SUPPLEMENTARY INFORMATION: In the June 1, 2009, Federal Register (74 FR 26199), GIPSA requested applications for

designation to provide official services in the geographic areas presently serviced by the agencies named above. Applications were due by July 1, 2009.

California Agri, Frankfort, Indianapolis, and Virginia were the sole applicants for designations to provide official services in these areas. As a result, GIPSA did not ask for additional comments.

GIPSA evaluated all available information regarding the designation criteria in section 7(f)(1) of the USGSA (7 U.S.C. 79(f)) and determined that California Agri, Frankfort, Indianapolis, and Virginia are able to provide official services in the geographic areas specified in the June 1, 2009, Federal Register for which they applied. These designation actions to provide official services in the specified areas are effective January 1, 2010, and terminate on December 31, 2012.

Interested persons may obtain official services by calling the telephone numbers listed below:

| Official agency | Headquarters location and telephone | Designation start | Designation end |
|-----------------------|--|-------------------|-----------------|
| California Agri | West Sacramento, CA (916-374-9700), Additional Locations: Corcoran and Stockton, CA. | 1/1/2010 | 12/31/2012 |
| Frankfort | Frankfort, IN (765-258-3624) | 1/1/2010 | 12/31/2012 |
| Indianapolis | Indianapolis, IN (317-899-2337) | 1/1/2010 | 12/31/2012 |
| Virginia | Richmond, VA (804-786-0480), Additional Location: Chesapeake, VA | 1/1/2010 | 12/31/2012 |

Section 7(f)(1) of the USGSA authorizes GIPSA's Administrator to designate a qualified applicant to provide official services in a specified area after determining that the applicant is better able than any other applicant to provide such official services (7 U.S.C. 79 (f)(1)).

Under section 7(g)(1) of the USGSA, designations of official agencies are effective for 3 years unless terminated by the Secretary; however, designations may be renewed according to the criteria and procedures prescribed in section 7(f) of the Act.

Authority: 7 U.S.C. 71-87k.

J. Dudley Butler,

Administrator, Grain Inspection, Packers and Stockyards Administration.

[FR Doc. E9-29346 Filed 12-8-09; 8:45 am]

BILLING CODE 3410-KD-P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS-2008-0094]

Pioneer Hi-Bred International, Inc.; Determination of Nonregulated Status for Corn Genetically Engineered for Tolerance to Glyphosate and Acetolactate Synthase-Inhibiting Herbicides

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public of our determination that a corn line developed by Pioneer Hi-Bred International, designated as transformation event 98140, which has been genetically engineered for tolerance to glyphosate and acetolactate synthase-inhibiting herbicides, 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 the Pioneer Hi-Bred International in its petition for a determination of nonregulated status, our analysis of other scientific data, and comments received from the public in response to a previous notice announcing the availability of the petition for nonregulated status and its associated environmental assessment. This notice also announces the availability of our written determination and finding of no significant impact.

EFFECTIVE DATE: December 9, 2009.

ADDRESSES: You may read the petition, final environmental assessment, determination, finding of no significant impact, comments we received on our previous notice, and our responses to those comments 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. To view these documents on the Internet, go to (<http://www.regulations.gov/fdmspublic/component/main?main=DocketDetail&d=APHIS-2008-0094>).

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. Michael Watson, Biotechnology Regulatory Services, APHIS, 4700 River Road Unit 147, Riverdale, MD 20737-1236; (301) 734-0846, email: michael.t.watson@aphis.usda.gov. To obtain copies of the petition or the environmental assessment, contact Mrs. Cindy Eck at (301) 734-0667, email: cynthia.a.eck@aphis.usda.gov. The petition and the environmental assessment are also available on the Internet at (http://www.aphis.usda.gov/brs/aphisdocs/07_15201p.pdf) and (http://www.aphis.usda.gov/brs/aphisdocs/07_15201p_ea.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 June 1, 2007, APHIS received a petition seeking a determination of nonregulated status (APHIS Petition Number 07-152-01p) from Pioneer Hi-Bred International, Inc., of Johnston, IA

(Pioneer), for corn (*Zea mays* L.) designated as transformation event 98140, which has been genetically engineered for tolerance to glyphosate and acetolactate synthase (ALS)-inhibiting herbicides, stating that corn line 98140 is unlikely to pose a plant pest risk and, therefore, should not be a regulated article under APHIS' regulations in 7 CFR part 340.

As described in the petition, the 98140 corn line has been genetically engineered to express modified glyphosate acetyltransferase (GAT4621) and modified maize acetolactate synthase (ZM-HRA) proteins. The GAT4621 protein, encoded by the *gat4621* gene, confers tolerance to glyphosate-containing herbicides by acetylating glyphosate and thus rendering it non-phytotoxic. The ZM-HRA protein, encoded by the *zm-hra* gene, confers tolerance to the ALS-inhibiting class of herbicides (e.g., sulfonyleureas and imidazolinones). Expression of the *zm-hra* gene is controlled by the maize ALS (acetolactate synthase) promoter. ALS is the enzyme required for the production of essential branched-chain amino acids such as valine, leucine, and isoleucine. The *gat4621* gene is based on the sequences of three *gat* genes from *Bacillus licheniformis*, a common soil bacterium. Expression of the *gat4621* gene is driven by the corn ubiquitin promoter (*ubiZM1*). The *zm-hra* gene was made by isolating the herbicide sensitive maize *ALS* gene and introducing two specific changes known to confer herbicide tolerance to tobacco *ALS*.

The genetic insert also contains the terminator sequence from *Solanum tuberosum* (potato) and two sequences from two prevalent plant pests, cauliflower mosaic virus (enhancer) and *Agrobacterium tumefaciens* (border region). All of these sequences are well-characterized and are non-coding regulatory regions only. Therefore, these sequences will not cause the 98140 corn line to promote plant disease.

A single copy of these genes and other DNA regulatory sequences were introduced into the corn genome with the transformation vector PHP24279 using disarmed (non-plant pest causing) *A. tumefaciens* transformation of immature embryos. Plant cells containing the introduced DNA were selected by culturing in the presence of glyphosate. After the initial transformation, the antibiotic carbenicillin was included in the culture medium to kill any remaining *Agrobacterium*. Therefore, no part of the plant pest *A. tumefaciens* remains in

Pioneer HT corn due to the transformation method.

Pioneer's 98140 corn line has been considered a regulated article under the regulations in 7 CFR part 340 because it contains gene sequences from plant pathogens. The 98140 corn line has been field tested in the United States since 2005 as authorized by APHIS notifications and permits. In the process of reviewing the permits for field trials of the subject corn, APHIS determined that the vectors and other elements used to introduce the new genes 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. Field tests conducted under APHIS regulatory oversight allowed for evaluation in a natural agricultural setting while imposing measures to minimize the risk of persistence in the environment after completion of the test. Data are gathered on multiple parameters and used by the applicant to evaluate agronomic characteristics and product performance. These field test data, in turn, are used by APHIS to determine if the regulated corn event poses a plant pest risk. Pioneer has petitioned APHIS to make a determination that the 98140 corn line and the progeny derived from its crosses with other nonregulated corn will no longer be considered regulated articles under 7 CFR part 340.

In a notice¹ published in the **Federal Register** on December 8, 2008 (73 FR 74453-74454, Docket No. APHIS-2008-0094), APHIS announced the availability of Pioneer's petition and its associated draft environmental assessment (EA) for public comment. APHIS solicited comments on whether the subject corn would present a plant pest risk and on the EA. APHIS received 31 unique comments during the comment period. There were 12 comments from groups or individuals who supported deregulation and 19 from those who opposed deregulation; attached to one of these comments were 13,255 form letters (same letter, different submitters). In addition, APHIS received a number of documents attached to 12 blank comments. APHIS has addressed the issues raised during the comment period and has provided responses to these comments as an attachment to the finding of no significant impact.

¹ To view the notice, petition, EA, and the comments we received, go to (<http://www.regulations.gov/fdmspublic/component/main?main=DocketDetail&d=APHIS-2008-0094>).

Determination

Based on APHIS' analysis of field, greenhouse, and laboratory data submitted by Pioneer, references provided in the petition, information described in the EA, comments provided by the public, and information provided in APHIS' response to those public comments, APHIS has determined that 98140 corn will not pose a plant pest risk and should be granted nonregulated status for the following reasons: (1) Gene introgression from Pioneer HT corn into wild relatives in the United States and its territories is extremely unlikely and is not likely to increase the weediness potential of any resulting progeny nor adversely affect genetic diversity of related plants any more than would introgression from traditional corn varieties; (2) it exhibits no characteristics that would cause it to be weedier than the non-genetically engineered parent corn line or any other cultivated corn; (3) horizontal gene transfer is unlikely to occur between Pioneer HT corn and soil bacteria; (4) based on its lack of toxicity and allergenicity, it does not pose a risk to non-target organisms, including beneficial organisms and federally listed threatened or endangered species, and species proposed for listing; (5) considering its cultivation in the agroecosystem, it does not pose a risk to non-target organisms, including threatened and endangered species, or designated critical habitat as a result of the use of EPA-registered glyphosate and ALS-inhibiting herbicides, as these have been safely used in corn for many years; (6) it does not pose a threat to biodiversity as it does not exhibit traits that increase its weediness, its unconfined cultivation should not lead to increased weediness of other cultivated corn, and it exhibits no changes in disease susceptibility; (7) its commercial use should not have significant effects on agricultural practices; (8) compared to current corn pest and weed management practices, cultivation of Pioneer HT corn should not impact standard agricultural practices in corn cultivation including those for organic growers; (9) it should not cause significant impacts on the development of herbicide resistant weeds or cumulative impacts in combination with other herbicide tolerant crops; (10) agronomic performance, disease and insect susceptibility, and compositional profiles of Pioneer HT corn are similar to those of its parent line and other corn cultivars grown in the United States, therefore no direct or indirect plant pest

effects on raw or processed plant commodities are expected; (11) when considered in light of other actions, APHIS identified no significant environmental impacts that would result from a determination to grant nonregulated status to Pioneer HT corn.

National Environmental Policy Act

To provide the public with documentation of APHIS' review and analysis of any potential environmental impacts associated with the determination of nonregulated status for 98140 corn, an EA was prepared. 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, the response to public comments, and other pertinent scientific data, APHIS has reached a finding of no significant impact (FONSI) with regard to the determination that Pioneer's 98140 corn line 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 **ADDRESSES** and **FOR FURTHER INFORMATION CONTACT** sections of this notice.

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 3rd day of December 2009.

Kevin Shea

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. E9-29264 Filed 12-8-09; 8:45 am]

BILLING CODE: 3410-34-S

DEPARTMENT OF AGRICULTURE

Forest Service

Eastern Arizona Counties Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Eastern Arizona Counties Resource Advisory Committee will meet in Pinetop, Arizona. The purpose of the meeting is to review and recommend funding of project proposals in accordance with Public Law 110-343 (the Secure Rural Schools and Community Self-Determination Act).

DATES: The meeting will be held January 7, 2010 starting at 10 a.m. Should this meeting be postponed due to inclement weather, the alternate meeting date is December 12, 2010.

ADDRESSES: The meeting will be held in the conference room of the Arizona Game and Fish Department Regional Office, 2878 East White Mountain Boulevard, Pinetop, Arizona 85935. Send written comments to Julia Faith Rivera, Coordinator, Eastern Arizona Counties Resource Advisory Committee, c/o Forest Service, USDA, P.O. Box 640, Springerville, Arizona 85938 or electronically to jfrivera@fs.fed.us.

FOR FURTHER INFORMATION CONTACT: Julia Faith Rivera, Apache-Sitgreaves National Forests, (928) 333-4301.

SUPPLEMENTARY INFORMATION: The meeting is open to the public and opportunity for public input will be provided. Committee discussion is limited to Forest Service staff and Committee members. However, persons who wish to bring Public Law 110-343 related matters to the attention of the Committee may file written statements with the Committee staff before or after the meeting.

Dated: December 3, 2009.

Chris Knopp,

Forest Supervisor, Apache-Sitgreaves National Forests.

[FR Doc. E9-29301 Filed 12-8-09; 8:45 am]

BILLING CODE 3410-11-M

DEPARTMENT OF AGRICULTURE

Grain Inspection, Packers and Stockyards Administration

Opportunity for Designation in the Muncie, IN; Fremont, NE; Maryland; and West Lafayette, IN Areas; Request for Comments on the Official Agencies Servicing These Areas

AGENCY: Grain Inspection, Packers and Stockyards Administration, USDA.

ACTION: Notice.

SUMMARY: The designations of the official agencies listed below will end on June 30, 2010. We are asking persons or governmental agencies interested in providing official services in the areas presently served by these agencies to submit an application for designation. In addition, we are asking for comments on the quality of services provided by the following designated agencies: East Indiana Grain Inspection, Inc. (East Indiana); Fremont Grain Inspection Department, Inc. (Fremont); Maryland Department of Agriculture (Maryland); and Titus Grain Inspection, Inc. (Titus).