

risks associated with the importation into the continental United States of fresh figs, pomegranates, and baby kiwi fruit from Chile. We solicited comments on the notice for 60 days ending on April 12, 2010. We received 25 comments by that date, from port terminal operators, growers' associations, trade associations, a fumigation service, a State agriculture department, a foreign Government agency, a foreign trade association, and several produce importers, exporters, and wholesalers. Most of the commenters agreed that the mitigation measures described in the pest risk analysis would be adequate. However, three commenters raised concerns about the pest risk analyses or proposed mitigation measures. These concerns are discussed below.

One commenter raised several concerns regarding the risks associated with the importation of fresh figs from Chile. In order to give ourselves adequate time to explore the issues raised by the commenter, we are delaying our decision on figs and will address only pomegranates and baby kiwi from Chile in this notice. Our decision with respect to fresh figs from Chile will be announced in a later notice.

Two commenters stated that APHIS should conduct assessments at regular intervals to ensure that Chilean pomegranates remain safe from the Mediterranean fruit fly (Medfly).

APHIS does not believe that this is necessary. We currently recognize all of Chile, with the exceptions of the provinces of Arica and Parinacota, as free of Medfly. Furthermore, on February 1, 2010, we published a notice in the **Federal Register** (75 FR 5034-5035, Docket No. APHIS-2009-0082) in which we announced our determination that Arica and Parinacota Provinces are free from Medfly and solicited comments on that determination. We received only supportive comments on this announcement and intend to proceed with a followup notice formalizing this determination. This will result in all of Chile being recognized as a pest-free area for Medfly. Until the decision is implemented, APHIS will allow export of pomegranates only from areas of Chile currently recognized as free of Medfly. Commercial consignments must have a phytosanitary certificate with an additional declaration stating that the fruit comes from an area found free of Medfly.

The same commenter endorsed the use of methyl bromide as a treatment to mitigate the risks associated with the Chilean false red mite (*Brevipalpis*

*chilensis*) but went on to suggest that APHIS develop a quarantine program that could be implemented in the event that pest should enter the United States.

APHIS does not believe it is necessary to develop a quarantine program as a precautionary measure. APHIS has established protocols that we use to guide our response to incursions of new plant pests.

One commenter questioned whether our estimate of the number of hectares of pomegranate production in Chile was accurate. The commenter stated that U.S. pomegranate growers had observed larger areas under cultivation than were estimated in our pest risk analysis.

In our pest risk analysis, we stated that Chile had 150 hectares of pomegranate cultivation in zones III and IV, that is, in Atacama and Coquimbo provinces, in 2007. According to the Association of Chilean Exporters, Chile currently has 300 hectares of pomegranates in production at present. It is possible that Chile has a greater number of hectares under cultivation, but that some of those orchards are not yet mature and thus are not considered to be in production.

Therefore, in accordance with the regulations in § 319.56-4(c)(2)(ii), we are announcing our decision to begin issuing permits for the importation into the continental United States of fresh pomegranates and baby kiwi from Chile subject to the following phytosanitary measures:

- Each shipment of pomegranates or baby kiwi must be accompanied by a phytosanitary certificate. For shipments of pomegranates, the phytosanitary certificate must also bear the following additional declaration: "The pomegranates in this consignment originated in an area free of Mediterranean fruit fly (*Ceratitis capitata*)." The phytosanitary certificate or phytosanitary certificate with additional declaration must be issued by the national plant protection organization of Chile.

- The shipment must be fumigated with methyl bromide using treatment schedule T-101-i-2-1 in accordance with 7 CFR part 305.

- The pomegranates or baby kiwi must be a commercial consignment as defined in 7 CFR 319.56-2.

These conditions will be listed in the Fruits and Vegetables Import Requirements database (available at (<http://www.aphis.usda.gov/favir>)). In addition to those specific measures, the fresh pomegranates and baby kiwi will be subject to the general requirements listed in § 319.56-3 that are applicable to the importation of all fruits and vegetables.

**Authority:** 7 U.S.C. 450, 7701-7772, and 7781-7786; 21 U.S.C. 136 and 136a; 7 CFR 2.22, 2.80, and 371.3.

Done in Washington, DC, this 10<sup>th</sup> day of May, 2010.

**Kevin Shea**

*Acting Administrator, Animal and Plant Health Inspection Service.*

[FR Doc. 2010-11438 Filed 5-12-10; 7:26 am]

**BILLING CODE 3410-34-S**

## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

[Docket No. APHIS-2008-0059]

#### ArborGen, LLC; Availability of an Environmental Assessment and Finding of No Significant Impact for a Controlled Release of Genetically Engineered Eucalyptus Hybrids

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

**ACTION:** Notice.

**SUMMARY:** We are advising the public that the Animal and Plant Health Inspection Service has prepared an environmental assessment for proposed controlled field releases of a genetically engineered clone of a *Eucalyptus* hybrid. The purpose of this release is to continue research on the efficacy of genetic constructs intended to confer cold tolerance, alter lignin biosynthesis and alter fertility. After assessing the application, reviewing pertinent scientific information, and considering comments provided by the public, APHIS has concluded that these field releases are unlikely to pose a plant pest risk, nor are they likely to 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:** May 12, 2010.

**ADDRESSES:** You may read the documents referenced in this notice and the comments we received 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. Those documents are also available on the Internet at (<http://www.aphis.usda.gov/brs/>)

*biotech\_ea\_permits.html*) and are posted with the previous notice and the comments we received on the Regulations.gov Web site at (<http://www.regulations.gov/fdmspublic/component/main?main=DocketDetail&d=APHIS-2008-0059>).

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

**FOR FURTHER INFORMATION CONTACT:** To obtain copies of the EA, FONSI, and response to comments, contact Ms. Cynthia Eck at (301) 734-0667; e-mail: [cynthia.a.eck@aphis.usda.gov](mailto: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 January 11, 2008, the Animal and Plant Health Inspection Service (APHIS) received a permit application (APHIS No. 08-011-106rm) from ArborGen, LLC, in Summerville, SC, for a controlled field release of genetically engineered *Eucalyptus* hybrids in 19 locations. On January 14, 2008, APHIS received a second permit application (APHIS No. 08-014-101rm) from ArborGen for another controlled release of genetically engineered *Eucalyptus* hybrids in 10 additional locations. Under these permits, trees allowed to be planted on 28 sites under previously approved permits (APHIS Nos. 06-325-111r, 08-039-102rm, and 08-151-101r) would be allowed to flower on 27 of the 28 sites. The original request was to plant 29 sites and allow 28 to flower, however, one location was removed from permit application 08-014-101rm, which reduced the number to 28 sites, with 27 allowed to flower. If granted, the permits would be issued for 3 years. To continue the field tests beyond this 3-year period, the applicant will be

required to submit a renewal for an additional 3 years.

Permit applications 08-11-106rm and 08-014-101rm describe *Eucalyptus* trees derived from a hybrid of *Eucalyptus grandis* X *Eucalyptus urophylla*. The purpose of this release is to continue research on the efficacy of genetic constructs intended to confer cold tolerance, alter lignin biosynthesis and alter fertility. In addition, the trees have been engineered with the kanamycin resistance selectable marker gene (*nptII*). These DNA sequences were introduced into *Eucalyptus* trees using disarmed *Agrobacterium tumefaciens*. The subject *Eucalyptus* trees are considered regulated articles under the regulations in 7 CFR part 340 because they were created using donor sequences from plant pests.

In a notice<sup>1</sup> published in the **Federal Register** on June 3, 2009 (74 FR 26648-26649, Docket No. APHIS-2008-0059), APHIS announced the availability of an environmental assessment (EA) for public review and comment for a proposed controlled field release of a genetically engineered clone of a *Eucalyptus* hybrid. Comments on the EA were required to be received on or before July 6, 2009. Commenters noted that one of the documents cited in the EA, a U.S. Forest Service assessment of hydrological impacts from *Eucalyptus*, was not available for review. Subsequently, APHIS published a notice in the **Federal Register** on January 19, 2010 (75 FR 2845, Docket No. APHIS-2008-0059) announcing the availability of an amended EA, which included the U.S. Forest Service document, and reopened the comment period for the environmental assessment an additional 30 days. APHIS also accepted comments received in the interim between the two **Federal Register** notices. There were 45 respondents that supported issuance of the permit; and 12,462 respondents who were opposed. Further information regarding the nature of the comments received, as well as APHIS' response to those comments are contained in the response to comments document (see **ADDRESSES** above).

Pursuant to the regulations promulgated under the Plant Protection Act, APHIS has determined that this field release is unlikely to 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 – issue the

<sup>1</sup>To view the notice, the environmental assessment, and the comments we received, go to (<http://www.regulations.gov/search/Regs/home.html#docketDetail?R=APHIS-2008-0059>)

permit with supplemental permit conditions – is unlikely to have a significant impact on the quality of the human environment. The EA, finding of no significant impact (FONSI), and response to comments documents are available as indicated in the **ADDRESSES** sections of this notice. Copies may also be obtained from the person listed under the **FOR FURTHER INFORMATION CONTACT** section of this notice.

To provide the public with documentation of APHIS' review and analysis of any potential environmental impacts and plant pest risks associated with the proposed release of these *Eucalyptus* trees, an EA and FONSI have been prepared. The EA and FONSI were 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).

**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 10<sup>th</sup> day of May 2010.

**Kevin Shea**

*Acting Administrator, Animal and Plant Health Inspection Service.*

[FR Doc. 2010-11437 Filed 5-11-10; 9:22 am]

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## DEPARTMENT OF AGRICULTURE

### Natural Resources Conservation Service

#### Clarke County Water Supply Project, Clarke County, IA

**AGENCY:** Natural Resources Conservation Service.

**ACTION:** Notice of intent to prepare a revised Environmental Impact Statement.

**SUMMARY:** Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR part 1500); and the Natural Resources Conservation Service Guidelines (7 CFR part 650); the Natural Resources Conservation Service, U.S. Department of Agriculture gives notice that a revised environmental impact statement is being prepared for the Clarke County Water Supply Project, Clarke County, Iowa.