

# Notices

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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

### Animal and Plant Health Inspection Service

[Docket No. APHIS-2007-0016]

#### Syngenta Seeds, Inc.; Determination of Nonregulated Status for Corn Genetically Engineered To Produce an Enzyme That Facilitates Ethanol Production

**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 Syngenta Seeds, Inc., designated as transformation event 3272, which has been genetically engineered to produce a microbial enzyme that facilitates ethanol production, 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 Syngenta Seeds, Inc., in its petition for a determination of nonregulated status, our analysis of available scientific data, and comments received from the public in response to our previous notice announcing the availability of the petition for nonregulated status and its associated environmental assessment and plant pest risk assessment. This notice also announces the availability of our written determination and finding of no significant impact.

**DATES:** *Effective Date:* February 15, 2011.

**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/not\\_reg.html](http://www.aphis.usda.gov/brs/not_reg.html) and are posted with the previous notices and the comments we received on the Regulations.gov Web site at <http://www.regulations.gov/fdmspublic/component/main?main=DocketDetail&d=APHIS-2007-0016>.

*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. Andrea Huberty, Biotechnology Regulatory Services, APHIS, 4700 River Road, Unit 146, Riverdale, MD 20737-1236; (301) 734-0485, email: [andrea.f.huberty@aphis.usda.gov](mailto:andrea.f.huberty@aphis.usda.gov). To obtain copies of the documents referenced in this notice, contact Ms. Cindy Eck at (301) 734-0667, e-mail: [cynthia.a.eck@aphis.usda.gov](mailto:cynthia.a.eck@aphis.usda.gov).

#### 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 October 7, 2005, APHIS received a petition seeking a determination of nonregulated status (APHIS Petition No. 05-280-01p) from Syngenta Seeds, Inc., of Research Triangle Park, NC

(Syngenta), for corn (*Zea mays* L.) designated as transformation event 3272, which has been genetically engineered to produce a microbial enzyme that facilitates ethanol production. The petition stated that Event 3272 corn is unlikely to pose a plant pest risk and, therefore, should not be a regulated article under APHIS' regulations in 7 CFR part 340.

In a notice<sup>1</sup> published in the **Federal Register** on November 19, 2008 (73 FR 69602-69604, Docket No. APHIS-2007-0016), APHIS announced the availability of the Syngenta petition and a draft environmental assessment (EA) for public comment. APHIS solicited comments on the petition, whether the subject corn is likely to pose a plant pest risk, and on the draft EA for 60 days ending on January 20, 2009. In a subsequent notice published in the **Federal Register** on June 4, 2009 (74 FR 26832-26835, Docket No. APHIS-2007-0016), we reopened the comment period until July 6, 2009.

APHIS received over 13,000 comments during the comment period, most of which conveyed opposition to the deregulation of the Event 3272 corn. 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.

#### 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 Syngenta's Event 3272 corn, an EA has been 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 our EA, the response to public comments, and other pertinent scientific data, APHIS has reached a

<sup>1</sup> To view the notice, petition, draft EA, the plant pest risk assessment and the comments we received, go to <http://www.regulations.gov/fdmspublic/component/main?main=DocketDetail&d=APHIS-2007-0016>.

finding of no significant impact with regard to the preferred alternative identified in the EA.

#### Determination

Based on APHIS' analysis of field, greenhouse, and laboratory data submitted by Syngenta, references provided in the petition, information analyzed in the EA, the plant pest risk assessment, comments provided by the public, and information provided in APHIS' response to those public comments, APHIS has determined that Syngenta's Event 3272 corn is unlikely to pose a plant pest risk and should be granted nonregulated status.

Copies of the signed determination document, as well as copies of the petition, plant pest risk assessment, EA, finding of no significant impact, and response to comments 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 11th day of February 2011.

**Kevin Shea,**

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

[FR Doc. 2011–3504 Filed 2–14–11; 8:45 am]

**BILLING CODE 3410–34–P**

## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

[Docket No. APHIS–2010–0108]

#### Availability of an Environmental Assessment and Finding of No Significant Impact for a Biological Control Agent for *Arundo donax*

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

**ACTION:** Notice.

**SUMMARY:** We are advising the public that a final environmental assessment and finding of no significant impact have been prepared by the Animal and Plant Health Inspection Service relative to a proposed biological control program for *Arundo donax* (giant reed, Carrizo cane). The environmental assessment documents our review and analysis of environmental impacts associated with the proposed biological control program. 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 FURTHER INFORMATION CONTACT:** Dr. Shirley A. Wager-Page, Chief, Pest Permitting Branch, PPO, APHIS, 4700 River Road Unit 133, Riverdale, MD 20737–1237; (301) 734–8453.

#### SUPPLEMENTARY INFORMATION:

##### Background

*Arundo donax* is a highly invasive, bamboo-like weed that was introduced to North America in the early 1500s for its fiber uses. It is among the fastest growing plants in the continental United States, making it a severe threat to riparian habitats and irrigation canals of the Rio Grande River Basin and the Southwestern United States, where it causes erosion, damages bridges, alters channel morphology, increases costs for chemical and mechanical control along transportation corridors, and impedes law enforcement activities along international borders. *A. donax* also consumes excessive amounts of water in arid regions where scarce water supplies are critical to the environment, agriculture, and municipal users. Existing *A. donax* management options include herbicides, prescribed fires, biomass removal, and other control methods, but these measures are expensive, temporary, and have impacts on species other than *A. donax*.

The proposed biological control agent, Arundo scale (*Rhizaspidiotus donacis* (Hemiptera: Diaspididae)), is one of the most damaging insects to *A. donax* in its native range. Arundo scale attacks the rhizome and developing underground buds of *A. donax* by feeding on cells that carry out photosynthesis and cellular respiration, resulting over time in gradual thinning, leaf reduction, and a sickly, yellowish-clouded appearance of the weed. While Arundo scale may not be singularly successful in reducing the *A. donax* population in the continental United States, its use is expected to be effective in combination with other control methods or biological control agents that may be released in the future.

On November 12, 2010, we published in the **Federal Register** (75 FR 69396, Docket No. APHIS–2010–0108) a notice<sup>1</sup> announcing the availability for public review and comment of an environmental assessment (EA), in which we considered the effects of, and alternatives to, the release of Arundo scale into the continental United States for use as a biological control agent to reduce the severity of *A. donax*

<sup>1</sup> To view the notice, the environmental assessment, the finding of no significant impact, and the comments we received, go to <http://www.regulations.gov/fdmspublic/component/main?main=DocketDetail&d=APHIS-2010-0108>.

infestations. The EA evaluated two alternatives: (1) No action and (2) a biological control program (the preferred action).

We solicited comments concerning the environmental assessment for 30 days ending December 13, 2010. We received 12 comments by that date from farmers, State and local government officials, scientists, and the general public. Eleven commenters were in favor of the release of Arundo scale. The remaining commenter expressed general disapproval of APHIS activities but did not provide any substantive concerns regarding Arundo scale that required additional consideration in the EA.

In this document, we are advising the public of our decision and finding of no significant impact (FONSI) regarding a proposed program for the control of *A. donax*. This decision is based upon the final EA, entitled “Field Release of the Arundo Scale, *Rhizaspidiotus donacis* (Hemiptera: Diaspididae), an Insect for Biological Control of *Arundo donax* (Poaceae) in the Continental United States” (December 2010).

The EA and FONSI may be viewed on the Regulations.gov Web site (see footnote 1). Copies of the EA and FONSI are also 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. Persons wishing to inspect copies are requested to call ahead on (202) 690–2817 to facilitate entry into the reading room. In addition, copies may be obtained by writing to the individual listed under **FOR FURTHER INFORMATION CONTACT**.

The EA and FONSI have been 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).

Done in Washington, DC, this 9th day of February 2011.

**Kevin Shea,**

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

[FR Doc. 2011–3368 Filed 2–14–11; 8:45 am]

**BILLING CODE 3410–34–P**