

(*Beta vulgaris* L.) designated as Transformation Event T120-7 (event T120-7), which has been genetically engineered for tolerance to the herbicide glufosinate, does not present a plant pest risk and, therefore, is not a regulated article under APHIS' regulations in 7 CFR part 340.

On February 6, 1998, APHIS published a notice in the **Federal Register** (63 FR 6148-6149, Docket No. 97-130-1) announcing that the AgrEvo petition had been received and was available for public review. The notice also discussed the role of APHIS, the Environmental Protection Agency, and the Food and Drug Administration in regulating the subject sugar beet and food products derived from it. In the notice, APHIS solicited written comments from the public as to whether this sugar beet posed a plant pest risk. The comments were to have been received by APHIS on or before April 7, 1998. APHIS received no comments on the subject petition during the designated 60-day comment period.

#### Analysis

Event T120-7 sugar beet has been genetically engineered to contain a synthetic version of the *pat* gene derived from *Streptomyces viridochromogenes*. The *pat* gene encodes the enzyme phosphinothricin-N-acetyltransferase (PAT), which confers tolerance to the herbicide glufosinate. Expression of the *pat* gene is controlled by 35S promoter and terminator sequences derived from the plant pathogen cauliflower mosaic virus. Event T120-7 sugar beet also contains the *aph(3')II* or *nptII* marker gene used in plant transformation.

Expression of the *nptII* gene is controlled by gene sequences derived from *Agrobacterium tumefaciens*, and analysis indicates that the NPTII protein is expressed in certain parts of the subject sugar beet plants. The *A. tumefaciens* method was used to transfer the added genes into the parental sugar beet line.

The subject sugar beet has been considered a regulated article under APHIS' regulations in 7 CFR part 340 because it contains gene sequences derived from plant pathogens. However, evaluation of field data reports from field tests of this sugar beet conducted under APHIS permits since 1994 indicates that there were no deleterious effects on plants, nontarget organisms, or the environment as a result of the environmental release of event T120-7 sugar beet.

#### Determination

Based on its analysis of the data submitted by AgrEvo, and a review of

other scientific data and field tests of the subject sugar beet, APHIS has determined that event T120-7: (1) Exhibits no plant pathogenic properties; (2) is no more likely to become a weed than sugar beet developed by traditional breeding techniques; (3) is unlikely to increase the weediness potential for any other cultivated or wild species with which it can interbreed; (4) will not cause damage to raw or processed agricultural commodities; and (5) will not harm threatened or endangered species or other organisms, such as bees, that are beneficial to agriculture. Therefore, APHIS has concluded that the subject sugar beet and any progeny derived from crosses with other sugar beet varieties will be as safe to grow as sugar beet in traditional breeding programs that are not subject to regulation under 7 CFR part 340.

The effect of this determination is that AgrEvo's event T120-7 sugar beet is no longer considered a regulated article under APHIS' regulations in 7 CFR part 340. Therefore, the requirements pertaining to regulated articles under those regulations no longer apply to the subject sugar beet or its progeny. However, importation of event T120-7 sugar beet or seeds capable of propagation are still subject to the restrictions found in APHIS' foreign quarantine notices in 7 CFR part 319. National Environmental Policy Act

An environmental assessment (EA) has been prepared to examine the potential environmental impacts associated with this determination. 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, APHIS has reached a finding of no significant impact (FONSI) with regard to its determination that AgrEvo's event T120-7 sugar beet and lines developed from it are no longer regulated articles under its regulations in 7 CFR part 340. Copies of the EA and the FONSI are available upon request from the individual listed under **FOR FURTHER INFORMATION CONTACT**.

Done in Washington, DC, this 30th day of April, 1998.

**Craig A. Reed,**

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

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## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

[Docket No. 98-032-1]

#### **AgrEvo USA Co.; Extension of Determination of Nonregulated Status to Soybean Genetically Engineered for Glufosinate Herbicide Tolerance**

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

**ACTION:** Notice.

**SUMMARY:** We are advising the public of our decision to extend to one additional soybean line our determination that certain soybean lines developed by AgrEvo USA Company, which have been genetically engineered for glufosinate herbicide tolerance, are no longer considered regulated articles under our regulations governing the introduction of certain genetically engineered organisms. Our decision is based on our evaluation of data submitted by AgrEvo USA Company in its request for an extension of a determination of nonregulated status and an analysis of other scientific data. This notice also announces the availability of an environmental assessment and finding of no significant impact.

**EFFECTIVE DATE:** June 8, 1998.

**ADDRESSES:** The extension request and an environmental assessment and finding of no significant impact may be inspected 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 those documents are asked to call in advance of visiting at (202) 690-2817.

**FOR FURTHER INFORMATION CONTACT:** Dr. Sivramiah Shantharam, Biotechnology and Biological Analysis, PPQ, APHIS, 4700 River Road Unit 147, Riverdale, MD 20737-1236; (301) 734-4882. To obtain a copy of the extension request or the environmental assessment and finding of no significant impact, contact Ms. Kay Peterson at (301) 734-4885; e-mail: mkipeterson@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."

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. Further, the regulations in § 340.6(e)(2) provide that a person may request that APHIS extend a determination of nonregulated status to other organisms. Such a request shall include information to establish the similarity of the antecedent organism and the regulated article in question.

### Background

On January 14, 1998, APHIS received a request for an extension of a determination of nonregulated status (APHIS No. 98-014-01p) from AgrEvo USA Company (AgrEvo) of Wilmington, DE, for a soybean line designated as transformation event A5547-127 (event A5547-127), which has been genetically engineered for resistance, or tolerance, to the herbicide glufosinate. The AgrEvo request seeks an extension of a determination of nonregulated status that was issued for certain lines of glufosinate tolerant soybean (antecedent organisms) in response to APHIS petition number 96-068-01p (61 FR 42581-42582, August 16, 1996, Docket No. 96-019-2). Based on the similarity of event A5547-127 to the antecedent organisms, AgrEvo requests a determination that glufosinate tolerant soybean event A5547-127 does not present a plant pest risk and, therefore, is not a regulated article under APHIS' regulations in 7 CFR part 340.

### Analysis

Event A5547-127 soybean contains a synthetic version of the *pat* gene derived from *Streptomyces viridochromogenes*, which encodes the PAT enzyme and confers tolerance to glufosinate. Expression of the synthetic *pat* gene is controlled by a 35S promoter and terminator derived from the plant pathogen cauliflower mosaic virus. While the subject soybean event contains fragments of the *bla* marker gene, tests indicate this gene is not expressed in the plant. The particle acceleration method was used to transfer the added genes into the parental *Glycine max* A5547 cultivar. Event A5547-127 soybean was transformed with the same plasmid vector and in the same manner as certain antecedent organisms described

in APHIS petition number 96-068-01p, and differs from them only in the copy number and extent of integrated DNA.

The subject soybean line has been considered a regulated article under APHIS' regulations in 7 CFR part 340 because it contains gene sequences derived from a plant pathogen. However, evaluation of field data reports from field tests of this soybean conducted under APHIS notifications since 1996 indicates that there were no deleterious effects on plants, nontarget organisms, or the environment as a result of its environmental release.

### Determination

Based on an analysis of the data submitted by AgrEvo and a review of other scientific data and field tests of the subject soybean line, APHIS has determined that event A5547-127 soybean: (1) Exhibits no plant pathogenic properties; (2) is no more likely to become a weed than soybean lines developed by traditional breeding techniques; (3) is unlikely to increase the weediness potential for any other cultivated or wild species with which it can interbreed; (4) will not cause damage to raw or processed agricultural commodities; and (5) will not harm threatened or endangered species or other organisms, such as bees, that are beneficial to agriculture. Therefore, APHIS has concluded that the subject soybean line and any progeny derived from crosses with other soybean varieties will be as safe to grow as soybeans in traditional breeding programs that are not subject to regulation under 7 CFR part 340.

The effect of this determination is that AgrEvo's event A5547-127 soybean is no longer considered a regulated article under APHIS' regulations in 7 CFR part 340. Therefore, the requirements pertaining to regulated articles under those regulations no longer apply to the field testing, importation, or interstate movement of the subject soybean line or its progeny. However, importation of the subject soybean line or seeds capable of propagation are still subject to the restrictions found in APHIS' foreign quarantine notices in 7 CFR part 319.

### National Environmental Policy Act

An environmental assessment (EA) has been prepared to examine the potential environmental impacts associated with this determination. The EA was prepared in accordance with: (1) The National Environmental Policy Act of 1969, as amended (NEPA) (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, APHIS has reached a finding of no significant impact (FONSI) with regard to its determination that AgrEvo's event A5547-127 soybean and lines developed from it are no longer regulated articles under its regulations in 7 CFR part 340. Copies of the EA and the FONSI are available upon request from the individual listed under **FOR FURTHER INFORMATION CONTACT.**

Done in Washington, DC, this 1st day of May 1998.

**Craig A. Reed,**

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

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## DEPARTMENT OF AGRICULTURE

### Forest Service

#### **Anchor Hill Project, Gilt Edge Mine, Environmental Impact Statement Supplement, Black Hills National Forest, SD**

**AGENCY:** Forest Service, USDA.

**ACTION:** Notice of intent to prepare a draft supplement to a final environmental impact statement.

**SUMMARY:** J. Thomas Millard, Spearfish/Nemo District Ranger, of the Black Hills National Forest gives notice of the agency's intent to prepare a Draft Supplement to the Final Environmental Impact Statement for the Anchor Hill Project of the Gilt Edge Mine. The responsible official for this project is John C. Twiss, Forest Supervisor, Black Hills National Forest.

**DATES:** The Draft Supplement should be available for public comment by the end of April 1998. The Final Supplement should be ready for public review in July of 1998.

**ADDRESSES:** Send written comments to District Ranger, Spearfish/Nemo District, P.O. Box 407, Deadwood, SD 57732.

**FOR FURTHER INFORMATION CONTACT:** Don Murray Lands and Minerals Staff on the Spearfish/Nemo Ranger District, (605) 578-2744.

**SUPPLEMENTARY INFORMATION:** The Draft Supplement will provide additional information and clarification of items in the Final Environmental Impact Statement for the Anchor Hill Project published in November 1997. The Anchor Hill Project is the proposed expansion of an existing open pit gold