

# Notices

Federal Register

Vol. 69, No. 2

Monday, January 5, 2004

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. 03–101–1]

#### Monsanto Co. and The Scotts Co.; Availability of Petition for Determination of Nonregulated Status for Genetically Engineered Glyphosate-Tolerant Creeping Bentgrass; Request for Information and Comment

**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 received a petition from Monsanto Company and The Scotts Company seeking a determination of nonregulated status for creeping bentgrass (*Agrostis stolonifera* L.) designated as event ASR368, which has been genetically engineered for tolerance to the herbicide glyphosate. The petition has been submitted in accordance with our regulations concerning the introduction of certain genetically engineered organisms and products. In accordance with those regulations, we are soliciting public comments on whether this creeping bentgrass presents a plant pest risk. We are also requesting information and public comment on certain issues pertaining to the potential environmental effects of the subject bentgrass.

**DATES:** We will consider all comments we receive on or before March 5, 2004.

**ADDRESSES:** You may submit comments by postal mail/commercial delivery or by e-mail. If you use postal mail/commercial delivery, please send four copies of your comments (an original and three copies) to Docket No. 03–101–1, Regulatory Analysis and Development, PPD, APHIS, Station

3C71, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comments refer to Docket No. 03–101–1. If you use e-mail, address your comment to [regulations@aphis.usda.gov](mailto:regulations@aphis.usda.gov). Your comment must be contained in the body of your message; do not send attached files. Please include your name and address in your message and Docket No. 03–101–1 on the subject line.

You may read a copy of the petition for a determination of nonregulated status submitted by Monsanto Company and The Scotts Company and any comments we receive on this notice of availability in our reading room. The reading room is located in room 1141, 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 that someone is available to help you, please call (202) 690–2817 before coming.

APHIS documents published in the **Federal Register**, and related information, including the names of organizations and individuals who have commented on APHIS dockets, are available on the Internet at <http://www.aphis.usda.gov/ppd/rad/webrepor.html>.

**FOR FURTHER INFORMATION CONTACT:** Dr. Bruce MacBryde, BRS, APHIS, Suite 5B05, 4700 River Road Unit 147, Riverdale, MD 20737–1236; (301) 734–5787. To obtain a copy of the petition, contact Ms. Kay Peterson at (301) 734–4885; e-mail:

[Kay.Peterson@aphis.usda.gov](mailto:Kay.Peterson@aphis.usda.gov). The petition is also available on the Internet at [http://www.aphis.usda.gov/brs/aphisdocs/03\\_10401p.pdf](http://www.aphis.usda.gov/brs/aphisdocs/03_10401p.pdf).

**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. 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 April 14, 2003, APHIS received a petition (APHIS Petition No. 03–104–01p) from Monsanto Company of St. Louis, MO, and The Scotts Company of Gervais, OR (Monsanto/Scotts), requesting a determination of nonregulated status under 7 CFR part 340 for a creeping bentgrass (*Agrostis stolonifera* L., synonym *A. palustris* Huds.) designated as event ASR368 (event ASR368), which has been genetically engineered for tolerance to the herbicide glyphosate. The Monsanto/Scotts petition states that the subject creeping bentgrass should not be regulated by APHIS because it does not present a plant pest risk.

As described in the petition, event ASR368 has been genetically engineered to express a 5-enolpyruvylshikimate-3-phosphate synthase protein from *Agrobacterium* sp. strain CP4 (CP4 EPSPS). The CP4 EPSPS enzyme confers tolerance to glyphosate herbicides. Expression of the added genes is controlled in part by gene sequences from the plant pathogens cauliflower mosaic virus and *A. tumefaciens*. Particle bombardment technology was used to transfer the added genes into the recipient creeping bentgrass cultivar Backspin.

Creeping bentgrass event ASR368 has been considered a regulated article under the regulations in 7 CFR part 340 because it contains gene sequences from plant pathogens. This creeping bentgrass has been field tested since 2000 in the United States under APHIS notifications. In the process of reviewing the notifications for field trials of event ASR368, APHIS determined that the trials, which were conducted under conditions of reproductive and physical containment or isolation, would not present a risk of plant pest introduction or dissemination.

In § 403 of the Plant Protection Act (7 U.S.C. 7701–7772), plant pest is defined as any living stage of any of the

following that can directly or indirectly injure, cause damage to, or cause disease in any plant or plant product: A protozoan, a nonhuman animal, a parasitic plant, a bacterium, a fungus, a virus or viroid, an infectious agent or other pathogen, or any article similar to or allied with any of the foregoing. APHIS views this definition very broadly. The definition covers direct or indirect injury, disease, or damage not just to agricultural crops, but also to plants in general, for example, native species, as well as to organisms that may be beneficial to plants, for example, honeybees, rhizobia, etc.

The U.S. Environmental Protection Agency (EPA) is responsible for the regulation of pesticides under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (7 U.S.C. 136 *et seq.*). FIFRA requires that all pesticides, including herbicides, be registered prior to distribution or sale, unless exempt by EPA regulation. In cases in which genetically modified plants allow for a new use of a pesticide or involve a different use pattern for the pesticide, EPA must approve the new or different use. Monsanto/Scotts have filed a proposed supplemental label for Roundup PRO herbicide for uses in seed production of glyphosate-tolerant creeping bentgrass and a separate supplementary label for Roundup PRO herbicide for general weed control in glyphosate-tolerant creeping bentgrass turf, planted to golf course tees, greens, and fairways. When the use of the pesticide on the genetically modified plant would result in an increase in the residues in a food or feed crop for which the pesticide is currently registered, or in new residues in a crop for which the pesticide is not currently registered, establishment of a new tolerance or a revision of the existing tolerance would be required. Residue tolerances for pesticides are established by EPA under the Federal Food, Drug, and Cosmetic Act (FFDCA), as amended (21 U.S.C. 301 *et seq.*), and the Food and Drug Administration (FDA) enforces tolerances set by EPA under the FFDCA. A determination has been made that a revision of the existing tolerance is not necessary for a minimal use of creeping bentgrass straw and chaff as animal feed.

FDA published a statement of policy on foods derived from new plant varieties in the **Federal Register** on May 29, 1992 (57 FR 22984–23005). The FDA statement of policy includes a discussion of FDA's authority for ensuring food safety under the FFDCA, and provides guidance to industry on the scientific considerations associated with the development of foods derived

from new plant varieties, including those plants developed through the techniques of genetic engineering. The petitioners have provided to FDA a summary of the animal feed safety and nutritional assessment of event ASR368 to permit the feed use of glyphosate-tolerant creeping bentgrass straw and chaff. On September 23, 2003, FDA notified the petitioners that no further questions remained to be considered.

In accordance with the regulations in 7 CFR 340.6(d), we are publishing this notice to inform the public that APHIS will accept written comments regarding the petition for a determination of nonregulated status from any interested person for a period of 60 days from the date of this notice. We are also soliciting data, information, and comments on the following matters to inform our review and analysis of potential risk assessment issues and environmental effects associated with a proposed determination of nonregulated status for creeping bentgrass event ASR368.

APHIS has done a preliminary risk assessment (available on the Internet at [http://www.aphis.usda.gov/brs/aphisdocs/03\\_10401p\\_ra.pdf](http://www.aphis.usda.gov/brs/aphisdocs/03_10401p_ra.pdf)) and reached the following conclusions:

1. ASR368 contains a single insert of two EPSPS genes that are inherited as a single Mendelian locus.
2. There appear to be no major unintended effects resulting from the introduction of the EPSPS gene into the creeping bentgrass genome.
3. ASR368 is not sexually compatible with any Federal threatened or endangered species.
4. ASR368 is not sexually compatible with any species on the Federal noxious weed list.
5. ASR368 is not significantly different from its parental line or null comparators except for its tolerance to glyphosate.
6. ASR368 does not differ in pest and pathogen susceptibility or resistance from its parent.

However, unlike all deregulated articles previously considered by APHIS, creeping bentgrass is a widespread perennial species that establishes without cultivation in various habitats. Furthermore, as noted in the preliminary risk assessment, creeping bentgrass can form hybrids with at least 12 other U.S. naturalized or native species of *Agrostis* (bentgrasses) and *Polypogon* (rabbit's-foot grasses). These circumstances raise the possibility that glyphosate-tolerant creeping bentgrass and/or glyphosate-tolerant relatives would establish in various urbanized to rural and natural areas.

We are especially interested in receiving information pertaining to the following questions:

1. In which environments and crops (and locations) are creeping bentgrass and/or its sexually compatible relatives controlled or managed by herbicides, mechanical measures, and/or biological agents?

2. What are the intents and practices for the targeted or secondary control or management of creeping bentgrass and its sexually compatible relatives, to what extent is glyphosate used, and what are alternative herbicides that could be used?

3. What would be the cumulative effects from commercialization of glyphosate-tolerant creeping bentgrass, and how might these effects be monitored and mitigated by deployment (release) strategies or management practices?

(a) To what extent would glyphosate-tolerant creeping bentgrass and/or glyphosate-tolerant relatives become a problem in the glyphosate-tolerant crops? How might this potential problem be controlled or mitigated through management?

(b) What is the likelihood of glyphosate-tolerant creeping bentgrass contaminating non-glyphosate-tolerant grass seed production? Are there management measures that could reduce this potential problem?

(c) To what extent would the development of resistant weeds or weed shifts in bentgrasses production be accelerated as compared to existing practices? Are there management practices that could be implemented to delay resistance?

(d) What environmental or management problems would be raised by the intentional or unintentional stacking of herbicide-tolerant traits in *Agrostis*?

The petition and any comments received on this document are available for public review, and copies of the petition are available as indicated in the **FOR FURTHER INFORMATION CONTACT** section of this notice.

After the comment period closes, APHIS will review the data submitted by the petitioners, all written comments received during the comment period, and any other relevant information. After reviewing and evaluating the comments on the petition and other data and information, APHIS will prepare an environmental document in accordance with the requirements of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 *et seq.*), to examine any potential environmental impacts associated with a determination of nonregulated status for the subject

creeping bentgrass. The environmental document will be made available for public comment. After reviewing and evaluating the comments on the environmental document and other data and information, APHIS will furnish a response to the petitioner, either approving the petition in whole or in part, or denying the petition. APHIS will then publish a notice in the **Federal Register** announcing the regulatory status of the Monsanto/Scotts creeping bentgrass event ASR368 and the availability of APHIS' written decision.

**Authority:** 7 U.S.C. 1622n and 7701-7772; 31 U.S.C. 9701; 7 CFR 2.22, 2.80, and 371.3.

Done in Washington, DC, this 29th day of December, 2003.

**Kevin Shea,**

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

[FR Doc. 04-62 Filed 1-2-04; 8:45 am]

**BILLING CODE 3410-34-P**

## DEPARTMENT OF AGRICULTURE

### Forest Service

#### Notice of Resource Advisory Committee Meeting

**AGENCY:** North Central Idaho Resource Advisory Committee, Kamiah, Idaho, USDA, Forest Service.

**ACTION:** Notice of meeting.

**SUMMARY:** Pursuant to the authorities in the Federal Advisory Committee act (Pub. L. 92-463) and under the Secure Rural Schools and Community Self-Determination Act of 2000 (Pub. L. 106-393) the Nez Perce and Clearwater National Forests' North Central Idaho Resource Advisory Committee will meet Friday, February 6, 2004, in Kooskia, Idaho for a business meeting. The meeting is open to the public.

**SUPPLEMENTARY INFORMATION:** The business meeting on February 6, at the IOOF Hall, 102 N. Main Street, Kooskia, ID, begins at 10 a.m. (p.s.t.). Agenda topics will include discussion of potential projects. A public forum will begin at 2:30 p.m.

**FOR FURTHER INFORMATION CONTACT:** Ihor Mereszczak, Staff Officer and Designated Federal Officer, at (208) 935-2513.

Dated: December 20, 2003.

**Ihor Mereszczak,**

*Acting Forest Supervisor.*

[FR Doc. 04-19 Filed 1-2-04; 8:45 am]

**BILLING CODE 3410-11-M**

## DEPARTMENT OF AGRICULTURE

### Forest Service

#### Wrangell-Petersburg Reservoir Advisory Committee

**AGENCY:** Forest Service, USDA.

**ACTION:** Notice of meeting.

**SUMMARY:** The Wrangell-Petersburg Resource Advisory Committee (RAC) will meet from 1 p.m. until 5:15 p.m. (or until the conclusion of public testimony) on Friday, January 23, and from 8 a.m. until 1 p.m., Saturday, January 24, 2004, in Petersburg, Alaska. The purpose of this meeting is to review, discuss and potentially recommend for funding proposals received pursuant to Title II, Public Law 106-393, H.R. 2389, the Secure Rural Schools and Community Self-Determination Act of 2000, also called the "Payments to States" Act. Public testimony regarding the proposals will also be taken.

**DATES:** The meeting will be held commencing at 1 p.m. on Friday, January 23, through 1 p.m., Saturday, January 24, 2004.

**ADDRESSES:** The meeting will be held at the Petersburg Lutheran Church, Holy Cross House, 407 Fram Street, Petersburg, Alaska.

**FOR FURTHER INFORMATION CONTACT:** Chip Weber, Wrangell District Ranger, P.O. Box 51, Wrangell, AK 99929, phone (907) 874-2323, e-mail [cweber@fs.fed.us](mailto:cweber@fs.fed.us), or Patty Grantham, Petersburg District Ranger, P.O. Box 1328, Petersburg, AK 99833, phone (907) 772-3871, e-mail [pgrantham@fs.fed.us](mailto:pgrantham@fs.fed.us). For further information on RAC history, operations, and the applications process, a Web site is available at <http://www.fs.fed.us/r10/ro/payments>.

**SUPPLEMENTARY INFORMATION:** This meeting will focus on the review and discussion of proposals received by the RAC for funding under Title II of the Payments to States legislation (Pub. L. 106-393), particularly proposals that were of high interest to the committee, but lacked enough information for the committee to act. New information will be introduced concerning these proposals. No new proposals (initial reading) will be discussed at this meeting. The committee may make recommendations for project funding at this meeting. A field trip to review proposals proximate to the Petersburg, Alaska, area may take place. The meeting is open to the public. Should members of the public wish to participate in the potential field trip, please contact Patty Grantham or Chip

Weber at the above noted addresses/e-mails/telephone numbers. Public input opportunity will be provided and individuals will have the opportunity to address the committee at that time.

Dated: December 22, 2003.

**Dennis Neill,**

*Acting Forest Supervisor.*

[FR Doc. 04-66 Filed 1-2-04; 8:45 am]

**BILLING CODE 3410-11-M**

## COMMISSION ON CIVIL RIGHTS

### Sunshine Act Meeting

**AGENCY:** U.S. Commission on Civil Rights.

**DATE AND TIME:** Friday, January 9, 2004, 9:30 a.m.

**PLACE:** U.S. Commission on Civil Rights, 624 9th Street, NW., room 540, Washington, DC 20425.

**STATUS:**

*Agenda*

- I. Approval of Agenda
- II. Approval of Minutes of December 12, 2003 Meeting
- III. Announcements
- IV. Staff Director's Report
- V. State Advisory Committee Report: Coping with Police Misconduct in West Virginia (West Virginia)
- VI. Program Planning
- VII. Future Agenda Items

**FOR FURTHER INFORMATION CONTACT:** Les Jin, Press and Communications (202) 376-7700.

**Debra A. Carr,**

*Deputy General Counsel.*

[FR Doc. 03-32339 Filed 12-31-03; 3:36 pm]

**BILLING CODE 6335-01-M**

## DEPARTMENT OF COMMERCE

[I.D. 122903D]

### Submission for OMB Review; Comment Request

The Department of Commerce has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

*Agency:* National Oceanic and Atmospheric Administration (NOAA).

*Title:* Northeast Region Sea Scallop Exemption Requirements.

*Form Number(s):* None.

*OMB Approval Number:* 0648-0416.

*Type of Request:* Regular submission.

*Burden Hours:* 2,994.

*Number of Respondents:* 267.