

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

### Agriculture Research Service

#### Notice of Federal Invention Available for Licensing and Intent to Grant Exclusive License

**AGENCY:** Agricultural Research Service, USDA.

**ACTION:** Notice of availability and intent.

**SUMMARY:** Notice is hereby given that a Federally owned invention, U.S. Plant Patent Application Serial No. 08/634,149, filed April 19, 1996, entitled "Tift 94 Bermudagrass" is available for licensing and that the U.S. Department of Agriculture, Agricultural Research Service intends to grant to The University of Georgia Research Foundation of Athens, Georgia, an exclusive license for U.S. Plant Patent Application Serial No. 08/634,149.

**DATES:** Comments must be received by May 22, 1997.

**ADDRESSES:** Send comments to: USDA, ARS, Office of the Director, National Center for Agricultural Utilization Research, Room 2042, 1815 N. University Street, Peoria, Illinois 61604.

**FOR FURTHER INFORMATION CONTACT:** Andrew Watkins of the National Center for Agricultural Utilization Research at the Peoria address given above; telephone: 309-681-6545.

**SUPPLEMENTARY INFORMATION:** The Federal Government's patent rights to this invention are assigned to the United States of America, as represented by the Secretary of Agriculture. It is in the public interest to so license this invention as The University of Georgia Research Foundation has submitted a complete and sufficient application for a license. The prospective exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The prospective exclusive license may be granted unless, within ninety days from the date of this published Notice, the

Agricultural Research Service receives written evidence and argument which establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

R.M. Parry, Jr.,

*Assistant Administrator.*

[FR Doc. 97-4248 Filed 2-20-97; 8:45 am]

BILLING CODE 3410-03-M

### Animal and Plant Health Inspection Service

[Docket No. 97-006-1]

#### Calgene, Inc.; Receipt of Petition for Determination of Nonregulated Status for Genetically Engineered Cotton

**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 Calgene, Inc., seeking a determination of nonregulated status for cotton lines designated as BXN<sup>®</sup> with Bt cotton lines derived from transformation events 31807 and 31808 that have been genetically engineered for tolerance to the herbicide bromoxynil and for resistance to lepidopteran insect pests. 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 these cotton lines present a plant pest risk.

**DATES:** Written comments must be received on or before April 22, 1997.

**ADDRESSES:** Please send an original and three copies of your comments to Docket No. 97-006-1, Regulatory Analysis and Development, PPD, APHIS, Suite 3C03, 4700 River Road Unit 118, Riverdale, MD 20737-1238. Please state that your comments refer to Docket No. 97-006-1. A copy of the petition and any comments received 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 access to that room to inspect the petition or

comments are asked to call in advance of visiting at (202) 690-2817.

**FOR FURTHER INFORMATION CONTACT:** Dr. James White, BSS, PPQ, APHIS, Suite 5B05, 4700 River Road Unit 147, Riverdale, MD 20737-1236; (301) 734-7612. To obtain a copy of the petition, contact Ms. Kay Peterson at (301) 734-7612; e-mail:

mcpeterson@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. Paragraphs (b) and (c) of § 340.6 describe the form that a petition for determination of nonregulated status must take and the information that must be included in the petition.

On January 13, 1997, APHIS received a petition (APHIS Petition No. 97-013-01p) from Calgene, Inc., (Calgene) of Davis, CA, requesting a determination of nonregulated status under 7 CFR part 340 for bromoxynil-tolerant and lepidopteran insect-resistant cotton lines designated as BXN<sup>®</sup> with BT derived from transformation events 31807 and 31808 (events 31807 and 31808). The Calgene petition states that the subject cotton lines should not be regulated by APHIS because they do not present a plant pest risk.

As described in the petition, events 31807 and 31808 have been genetically engineered to express a nitrilase enzyme isolated from *Klebsiella pneumoniae* subsp. *ozaenae* which degrades the herbicide bromoxynil, and a CryIA(c) insect control protein originally derived from *Bacillus thuringiensis* subsp. *kurstaki* HD-73 (Bt). The subject cotton lines also contain the *np1II* gene which

codes for the enzyme neomycin phosphotransferase and has been used as a selectable marker in the development of the transgenic cotton plants. Expression of the introduced genes is controlled in part by noncoding DNA sequences derived from the plant pathogens *Agrobacterium tumefaciens* and cauliflower mosaic virus. The *Agrobacterium* transformation system was used to transfer the added genes into the *Gossypium hirsutum* (var. Coker 130) parental plants.

The subject cotton lines are currently considered regulated articles under the regulations in 7 CFR part 340 because they contain gene sequences derived from plant pathogenic sources. Events 31807 and 31808 have been evaluated in field trials conducted since 1994 under APHIS notifications. In the process of reviewing the notifications for field trials of these cotton lines, APHIS determined that the vectors and other elements were disarmed and 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 the Federal Plant Pest Act, as amended (7 U.S.C. 150aa *et seq.*), "plant pest" is defined as "any living stage of: Any insects, mites, nematodes, slugs, snails, protozoa, or other invertebrate animals, bacteria, fungi, other parasitic plants or reproductive parts thereof, viruses, or any organisms similar to or allied with any of the foregoing, or any infectious substances, which can directly or indirectly injure or cause disease or damage in any plants or parts thereof, or any processed, manufactured or other products of plants." 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 insecticides and herbicides, be registered prior to distribution or sale, unless exempt by EPA regulation. Accordingly, the plant pesticide active ingredient Bt CryIA(c) delta-endotoxin will be regulated by EPA under an existing registration. In cases in which the genetically modified plant allows for a new or different use pattern for an herbicide, the EPA must approve the new or different use.

Residue tolerances for pesticides are established by the EPA under the Federal Food, Drug and Cosmetic Act (FFDCA) (21 U.S.C. 201 *et seq.*), and the Food and Drug Administration (FDA) enforces tolerances set by the EPA under the FFDCA.

The 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 statement of policy includes a discussion of the 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. Calgene has entered into the consultative process with the FDA on the subject cotton lines.

In accordance with § 340.6(d) of the regulations, we are publishing this notice to inform the public that APHIS will accept written comments regarding the Petition for Determination of Nonregulated Status from any interested person for a period of 60 days from the date of this notice. The petition and any comments received are available for public review, and copies of the petition may be ordered (see the ADDRESSES section of this notice).

After the comment period closes, APHIS will review the data submitted by the petitioner, all written comments received during the comment period, and any other relevant information. Based on the available 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 Calgene's BXN® with Bt cotton lines derived from transformation events 31807 and 31808 and the availability of APHIS' written decision.

Authority: 7 U.S.C. 150aa-150jj, 151-167, and 1622n; 31 U.S.C. 9701; 7 CFR 2.22, 2.80, and 371.2(c).

Done in Washington, DC, this 14th day of February 1997.

Terry L. Medley,

*Administrator, Animal and Plant Health Inspection Service.*

[FR Doc. 97-4308 Filed 2-20-97; 8:45 am]

BILLING CODE 3410-34-P

## Commodity Credit Corporation

### Notice of Request for Extension and Revision of a Currently Approved Information Collection

**AGENCY:** Commodity Credit Corporation, USDA.

**ACTION:** Notice and request for comments.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, this notice announces the Commodity Credit Corporation's (CCC) intention to request an extension for and revision to a currently approved information collection in support of the CCC's Dairy Export Incentive Program (DEIP) based on re-estimates.

**DATES:** Comments on this notice must be received by April 22, 1997.

**ADDITIONAL INFORMATION OR COMMENTS:** Contact L.T. McElvain, Director, Commodity Credit Corporation Operations Division, Foreign Agricultural Service, U.S. Department of Agriculture, AgBox 1035, Washington, DC 20250-1035, telephone (202) 720-6211.

#### SUPPLEMENTARY INFORMATION:

*Title:* CCC's Dairy Export Incentive Program (DEIP).

*OMB Number:* 0551-0029.

*Expiration Date of Approval:* June 30, 1997.

*Type of Request:* Extension and revision of a currently approved information collection.

*Abstract:* The major objectives of the DEIP are to expand U.S. dairy exports and to encourage other countries exporting agricultural commodities to undertake serious negotiations on agricultural trade problems. At the current time, more than 112 countries and 3 country regions are targeted destinations under the program and more than 226 exporters are eligible to participate. Under 7 CFR Part 1494, exporters are required to submit the following: (1) information required for program participation (section 1494.301), (2) performance security (section 1494.401), (3) export sales information in connection with applying for a CCC bonus (section 1494.501), (4) evidence of export and related information (section 1494.701), and (5) evidence that the eligible commodity entered into the eligible country (section 1494.401). In addition, each exporter must maintain accurate records showing sales and deliveries of the eligible commodity exported in connection with an agreement made under the DEIP as outlined in section 1494.1001. The information collected is