

# 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–2011–0081]

#### International Center for Technology Assessment and the Center for Food Safety; Noxious Weed Status of Kentucky Bluegrass Genetically Engineered for Herbicide Tolerance

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

**ACTION:** Notice.

**SUMMARY:** We are advising the public of our decision that Kentucky bluegrass that has been genetically engineered for tolerance to the herbicide glyphosate should not be listed as a Federal noxious weed and therefore will not be regulated under the Animal and Plant Health Inspection Service's regulations for noxious weeds. Our decision is based on our analysis of available scientific data, our weed risk assessment, and other available information.

**ADDRESSES:** The assessment and other related documents cited in this notice may be viewed at <http://www.regulations.gov/> `#!docketDetail;D=APHIS-2011-0081` or in our reading room, which 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) 6902817 before coming.

You may view APHIS' 2011 response to the petition, as well as our weed risk assessment and other related documents, on the APHIS Web site at [http://www.aphis.usda.gov/plant\\_health/plant\\_pest\\_info/weeds/newregs.shtml](http://www.aphis.usda.gov/plant_health/plant_pest_info/weeds/newregs.shtml).

**FOR FURTHER INFORMATION CONTACT:** Dr. Alan Tasker, National Program Manager (Noxious Weeds), Emergency and Domestic Programs, Plant Protection and Quarantine, APHIS, 4700 River Road Unit 26, Riverdale, MD 20737–1236; (301) 734–5708, *e-mail:* [alan.v.tasker@aphis.usda.gov](mailto:alan.v.tasker@aphis.usda.gov). Dr. Tasker may also be contacted to obtain copies of the weed risk assessment and APHIS' response to the petition.

#### SUPPLEMENTARY INFORMATION:

##### Background

The Plant Protection Act (PPA, 7 U.S.C. 7701 *et seq.*), authorizes the Secretary of Agriculture to prohibit or restrict the importation, entry, exportation, or movement in interstate commerce of any plant, plant product, biological control organism, noxious weed, article, or means of conveyance if the Secretary determines that the prohibition or restriction is necessary to prevent the introduction of a plant pest or noxious weed into the United States or dissemination of a plant pest or noxious weed within the United States.

The PPA defines “noxious weed” as “any plant or plant product that can directly or indirectly injure or cause damage to crops (including nursery stock or plant products), livestock, poultry, or other interests of agriculture, irrigation, navigation, and the natural resources of the United States, the public health, or the environment.”

Under the authority of the PPA, the Animal and Plant Health Inspection Service (APHIS) administers the regulations in 7 CFR part 360, “Noxious Weed Regulations,” which prohibit or restrict the importation and interstate movement of those plants that we have designated as noxious weeds in § 360.200 (the Federal noxious weed list). Noxious weeds are likely to be aggressively invasive, have significant negative impacts, and are extremely difficult to manage or control once established. If APHIS determines that a plant poses a level of harm that would warrant its designation as a Federal noxious weed, APHIS may place the plant on the Federal noxious weed list and regulate it under 7 CFR part 360.

In a petition dated July 18, 2002, the International Center for Technology Assessment and the Center for Food Safety (the petitioners) requested that APHIS list two turf grasses, including Kentucky bluegrass that has been

genetically engineered for tolerance to the herbicide glyphosate, as Federal noxious weeds. On May 13, 2003, APHIS responded to the petition and declined the request to list the turf grasses as Federal noxious weeds based on scientific weed risk assessments prepared by the Agency. Subsequently, the petitioners challenged APHIS' decision in Federal court. On February 5, 2007, the United States District Court for the District of Columbia vacated APHIS' denial of the petition and remanded the matter back to APHIS.

APHIS has prepared a new weed risk assessment (WRA) for Kentucky bluegrass, which encompasses Kentucky bluegrass that has been genetically engineered for tolerance to the herbicide glyphosate as well as non-herbicide-tolerant Kentucky bluegrass.

Based on its analysis, APHIS has determined that Kentucky bluegrass does not pose a level of harm that would warrant its listing as a noxious weed. For that reason, APHIS is denying the petitioners' request to list Kentucky bluegrass that has been genetically engineered for tolerance to the herbicide glyphosate as a Federal noxious weed under 7 CFR part 360. APHIS is furnishing a response to the petitioner denying the petition.

The WRA and other related documents are available for public review and copies are available as indicated under **ADDRESSES** and **FOR FURTHER INFORMATION CONTACT** above. In addition to noxious weeds, APHIS regulates plant pests under authority of the PPA. In a separate notice published in today's **Federal Register**, we are advising the public of our decision that Kentucky bluegrass genetically engineered by the Scotts Miracle-Gro Company (Scotts) for tolerance to the herbicide glyphosate without the use of plant pest components does not meet the definition of a regulated article under APHIS regulations for genetically engineered organisms in 7 CFR part 340.

**Authority:** 7 U.S.C. 7701–7772 and 7781–7786; 7 CFR 2.22, 2.80, and 371.3.

Done in Washington, DC, this 1st day of July 2011.

**Gregory L. Parham,**

*Administrator, Animal and Plant Health Inspection Service.*

[FR Doc. 2011–17118 Filed 7–6–11; 8:45 am]

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