

# 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. 04-085-2]

#### Monsanto Co. and Forage Genetics International; Availability of Petition and Environmental Assessment for Determination of Nonregulated Status for Alfalfa Genetically Engineered for Tolerance to the Herbicide Glyphosate

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

**ACTION:** Notice; reopening of comment period.

**SUMMARY:** We are advising the public that the Animal and Plant Health Inspection Service is reopening the comment period for a petition from Monsanto Company and Forage Genetics International that seeks a determination of nonregulated status for alfalfa designated as events J101 and J163, which have 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 alfalfa presents a plant pest risk. We are also making available for public comment an environmental assessment for the proposed determination of nonregulated status. This action will allow interested persons additional time to prepare and submit comments.

**DATES:** We will consider all comments we receive on or before February 17, 2005.

**ADDRESSES:** You may submit comments by any of the following methods:

- Postal Mail/Commercial Delivery: Please send four copies of your comment (an original and three copies) to Docket No. 04-085-1, Regulatory

Analysis and Development, PPD, APHIS, Station 3C71, 4700 River Road Unit 118, Riverdale, MD 20737-1238. Please state that your comment refers to Docket No. 04-085-1.

- 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. 04-085-1" on the subject line.

**Reading Room:** You may read the petition, the environmental assessment, and any comments that we receive on Docket No. 04-085-1 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.

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

**FOR FURTHER INFORMATION CONTACT:** Dr. Virgil Meier, Biotechnology Regulatory Services, APHIS, 4700 River Road Unit 147, Riverdale, MD 20737-1236; (301) 734-3363. To obtain copies of the petition or the environmental assessment (EA), contact Ms. Terry Hampton at (301) 734-5715; e-mail: [Terry.A.Hampton@aphis.usda.gov](mailto:Terry.A.Hampton@aphis.usda.gov). The petition and the EA are also available on the Internet at [http://www.aphis.usda.gov/brs/aphisdocs/04\\_11001p.pdf](http://www.aphis.usda.gov/brs/aphisdocs/04_11001p.pdf) and [http://www.aphis.usda.gov/brs/aphisdocs/04\\_11001p\\_ea.pdf](http://www.aphis.usda.gov/brs/aphisdocs/04_11001p_ea.pdf).

**SUPPLEMENTARY INFORMATION:** On April 16, 2004, the Animal and Plant Health Inspection Service (APHIS) received a petition from Monsanto Company of St. Louis, MO, and Forage Genetics International of West Salem, WI (Monsanto/FGI), requesting a determination of nonregulated status under 7 CFR part 340 for alfalfa (*Medicago sativa* L.) designated as events J101 and J163, which have been genetically engineered for tolerance to the herbicide glyphosate. The Monsanto/FGI petition states that the

subject alfalfa should not be regulated by APHIS because it does not present a plant pest risk.

In a notice published in the **Federal Register** on November 24, 2004 (69 FR 68300-68301, Docket No. 04-085-1), APHIS announced the receipt of the Monsanto/FGI petition and solicited comments on whether the subject alfalfa would present a plant pest risk. We solicited comments concerning our notice for 60 days, ending January 24, 2005.

We are reopening the comment period for an additional 2 weeks from the date of this notice to give interested parties additional time to submit comments. We will also consider all comments we received between the January 25, 2005 (the day after the close of the original comment period) and the date of this notice.

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 interested persons for a period of 14 days from the date of this notice. We are also soliciting written comments from interested persons on the environmental assessment (EA) prepared to examine any environmental impacts of the proposed determination for the subject alfalfa event. The petition and the EA and any comments received are available for public review, and copies of the petition and the EA 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 petitioner, all written comments received during the comment period, and any other relevant information. After reviewing and evaluating the comments on the petition and the EA 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/FGI glyphosate-tolerant alfalfa events J101 and J163 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 28th day of January 2005.

**Elizabeth E. Gaston,**

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

[FR Doc. E5-409 Filed 2-2-05; 8:45 am]

BILLING CODE 3410-34-P

## DEPARTMENT OF AGRICULTURE

### Forest Service

#### **Emerald Creek Garnet Area; Idaho Panhandle National Forests, Benewah and Latah Counties, ID**

**AGENCY:** Forest Service, USDA.

**ACTION:** Notice of intent to prepare an environmental impact statement.

**SUMMARY:** The St. Joe Ranger District of the Idaho Panhandle National forests is beginning analysis and preparation of an Environmental Impact Statement to address recreational gemstone digging of the garnet resource in the Emerald Creek drainage.

The project area produces extraordinary quality and quantity of large garnets. Some of the drainages produce star garnets. The Forest Service currently manages a public digging area by fee permit in 281 Gulch, a tributary to Emerald Creek.

The purpose and need for this project is based on the fact that the garnet resource is finite and valuable and there is considerable public interest in retaining the recreational digging area. Gemstone deposits within the current National Forest recreational digging area in 281 Gulch are being depleted. If the Forest Service is going to continue to provide this unique recreational digging opportunity another area needs to be identified and developed. Different operation methods are also needed to protect water quality and fish habitat while still providing a recreational gemstone collecting experience for the public.

*Responsible Official:* Ranotta McNair, Forest Supervisor, Idaho Panhandle National Forests, 3815 Schreiber Way, Coeur d'Alene, ID 83815.

**DATES:** The Draft Environmental Impact Statement is expected to be filed by March 25, 2005. The Final Environmental Impact Statement is expected to be filed by September 30, 2005.

*Proposed Action:* The Forest Service would continue operating the public digging area. Several tributaries of the East Fork of Emerald Creek would be reserved for future opportunities for public recreational digging of gemstone garnets. These areas would not be

available for commercial lease. A rehabilitation plan for PeeWee, No Name and 281 Gulch would be prepared to improve fish habitat and maintain water quality. These are streams where garnet digging has occurred or is currently active and where fish habitat can be enhanced. The public dig would remain in 281 Gulch as long as it is feasible or until the operations reach Forest Road 447 on the East Fork of Emerald Creek (two to three years). Continuing auger or trench exploration would be conducted to facilitate future dig planning.

In two to three years the Forest Service would move the public dig from 281 Gulch to Garnet Gulch. Forest Service operation of the public digging area would change to protect water quality and fish habitat. This would in turn change the recreational garnet collecting experience. Currently an area along the drainage is marked off and people can choose where to dig for garnet-bearing gravels. Gravels are then washed in a settling pond. This method would be phased out in the next two to three years. Equipment would be used to remove the overburden and stockpile garnet-bearing gravels. Recreational diggers would fill a bucket from the garnet-bearing stockpile and take it to a sluice for washing.

When operations move to Garnet Gulch the public would have a longer walk to the digging area. Currently recreational garnet diggers walk approximately one quarter mile to the dig site. When operations move to Garnet Gulch the walk would be approximately one mile. The walk would have some steeper pitches (up to 20 percent) than the current walk.

The operations plan for Garnet Gulch would include using equipment for stream channel work, rehabilitation, removing overburden, and stockpiling garnet-bearing gravels. The stream would only be disturbed once. The Forest Service would be able to rehabilitate the area immediately following overburden removal rather than at the end of the digging season. Water for the sluice would be put into a settling pond, recycled and then distributed over land.

*Issues:* Maintaining fish and water quality are issues of primary importance. Whether or not to maintain recreational digging areas is likely to be an issue. Other issues will be identified through public involvement and environmental analysis. A likely alternative to the proposed action would include constructing a road that would allow people to drive all the way to the sluice site at Garnet Gulch.

*Public Involvement:* A scoping letter was sent to garnet area visitors and other people who may be interested in the project to inform them about the project and solicit comments. News releases were sent to local and major newspapers in northern Idaho. This project is also listed on the Idaho Panhandle National Forest Web site (<http://www.fs.fed.us/ipnf>). Pertinent documents will be displayed on this site. In addition, the comment period on the draft environmental impact statement will be 45 days from the date the Environmental Protection Agency publishes the notice of availability in the **Federal Register**. It is the reviewer's obligation to comment during the scoping and/or DEIS review.

The Forest Service believes, at this early stage, it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions.

*Vermont Yankee Nuclear Power Corp. v. NRDC*, 435 U.S. 519, 553 (1973). Also, environmental objections that could be raised at the draft environmental impact statement stage but that are not raised until after completion of the final environmental impact statement may be waived or dismissed by the courts. *City of Amgoon v. Hodel*, 803 F.2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc. v. Harris*, 490 F. Supp 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45-day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final environmental impact statement.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft environmental impact statement should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the draft environmental impact statement or the merits of the alternatives formulated and discussed in the statement. Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.