



## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

[Docket No. APHIS-2020-0030]

#### State University of New York College of Environmental Science and Forestry; Availability of a Revised Petition, Draft Environmental Impact Statement, and Draft Plant Pest Risk Assessment for Determination of Nonregulated Status for Blight-Tolerant Darling 54 American Chestnut (*Castanea dentata*) Developed Using Genetic Engineering

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

**ACTION:** Notice of availability.

**DATES:** We will consider all comments that we receive on or before [INSERT DATE 45 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

**SUMMARY:** We are advising the public that the Animal and Plant Health Inspection Service has prepared a revised draft environmental impact statement (EIS) and revised draft plant pest risk assessment (PPRA) evaluating the potential environmental impacts and plant pest risk that may result from the approval of a petition for nonregulated status for blight-tolerant American chestnut (*Castanea dentata*) from the State University of New York College of Environmental Science and Forestry. The trees have been developed using genetic engineering to express an oxalate oxidase enzyme from wheat as a defense against the fungal pathogen *Cryphonectria parasitica*, making American chestnut tolerant to chestnut blight. Based on a revised petition submitted by the State University of New York College of Environmental Science and Forestry, we have revised the draft EIS and draft PPRA. We are making the revised petition, revised draft EIS, and revised draft PPRA available for public review and comment.

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

- Federal eRulemaking Portal: Go to [www.regulations.gov](http://www.regulations.gov). Enter APHIS-2020-0030 in the Search field and select the Documents tab.
- Our reading room, which is located in room 1620 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) 799-7039 before coming.

The petition, draft environmental impact statement, and draft plant pest risk assessment, and any comments we receive on this docket may be viewed at [regulations.gov](http://regulations.gov) or in our reading room, which is located in room 1620 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) 799-7039 before coming.

The petition, draft environmental impact statement, and draft plant pest risk assessment are also available on the APHIS website at: <https://www.aphis.usda.gov/biotechnology/legacy-petition-process/petitions>. Search for APHIS petition 19-309-01p.

**FOR FURTHER INFORMATION CONTACT:** Mr. Alan Pearson, Biotechnology Regulatory Services, APHIS, USDA, 4700 River Road Unit 147, Riverdale, MD 20737-1236; (301) 851-3944; email: [alan.pearson@usda.gov](mailto:alan.pearson@usda.gov).

**SUPPLEMENTARY INFORMATION:**

Background

Under the authority of the plant pest provisions of the Plant Protection Act, as amended (7 U.S.C. 7701 *et seq.*), 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 altered or

produced through genetic engineering that are plant pests or that there is reason to believe are plant pests.

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.

In 2020, APHIS received a petition from the State University of New York College of Environmental Science and Forestry (ESF) (APHIS Petition Number 19-309-01p) seeking a determination of nonregulated status for blight-tolerant Darling 58 American chestnut (*Castanea dentata*). The petition stated that Darling 58 American chestnut is unlikely to pose a plant pest risk and, therefore, should not be regulated under APHIS' regulations in 7 CFR part 340.

According to our process for soliciting public comment when considering petitions for determination of nonregulated status of regulated organisms, APHIS accepts written comments regarding a petition once APHIS deems it complete. On August 19, 2020, we announced in the *Federal Register* (85 FR 51008-51009, Docket No. APHIS-2020-0030) the availability of the blight-tolerant chestnut petition for public comment. We solicited comments on the petition for 60 days to help us identify potential environmental and interrelated economic issues and impacts that APHIS should consider in evaluation of the petition. We received 4,320 comments on the petition from the academic sector, farmers, non-governmental organizations, nonprofit organizations, industry, Tribes, and unaffiliated individuals.

As part of our evaluation of the petition and consideration of public comments, APHIS determined that the proposed determination of nonregulated status has the potential to significantly

affect the quality of the human environment.<sup>1</sup> In a notice<sup>2</sup> published in the *Federal Register* on August 6, 2021 (86 FR 43160-43162, Docket No. APHIS-2020-0030), we announced our intention to prepare an environmental impact statement (EIS) to conduct a detailed and rigorous environmental analysis to inform its decision about the proposed determination of nonregulated status for Darling 58 American chestnut.

APHIS solicited public comment on the notice for a period of 30 days ending September 7, 2021, as part of its scoping process to identify issues to address in the draft EIS. We received a total of 3,964 public comments.

On November 10, 2022, we published in the *Federal Register* (87 FR 67861-67862, Docket No. APHIS-2020-0030) a notice of availability<sup>3</sup> of a draft EIS and draft plant pest risk assessment (PPRA) and made the documents available for review and comment for 45 days. A notice of availability of the draft EIS was also published by the U.S. Environmental Protection Agency (EPA) in the *Federal Register* on November 10, 2022 (87 FR 67901, Docket No. FRL OP-OFA-043).

Comments on the draft EIS and draft PPRA were required to be received on or before December 27, 2022. We extended the comment period for an additional 30 days, to January 26, 2023, to allow interested persons additional time to prepare and submit comments.

Subsequently, in August 2024, ESF submitted a revised petition to provide additional clarifications and corrections about the chestnut event. In January 2020, ESF initially submitted a petition referring to Darling 58 instead of Darling 54. These two lines were produced at the same time, using the same transgenes in the same genetic background, so they express the same protein products. Multiple analyses in 2023 revealed that essentially all the offspring from the initial

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<sup>1</sup> Human environment means comprehensively the natural and physical environment and the relationship of present and future generations of Americans with that environment. Impacts/effects include ecological (such as effects on natural resources, and on the components, structures, and functioning of affected ecosystems), aesthetic, historic, cultural, economic (such as the effects on employment), social, or health effects (see 40 CFR 1508.1).

<sup>2</sup> To view the notice and the comments we received, go to [www.regulations.gov](http://www.regulations.gov) and enter APHIS-2020-0030 in the Search field.

<sup>3</sup> To view the notice, supporting documents, and the comments that we received, go to [www.regulations.gov](http://www.regulations.gov) and enter APHIS-2020-0030 in the Search field.

crosses were derived from Darling 54, due to a labeling error in 2016. Since nearly all of the phenotypic information in the original petition was generated from Darling 54 offspring, a revised petition was submitted to correct the line name and provide updates on Darling 54 chestnuts based on data collected since the initial submission. As a result of the revised petition, APHIS evaluated the new information provided on Darling 54 and revised the draft EIS and draft PPRA.

The issues discussed in the draft EIS were developed by considering the public input from the *Federal Register* notice announcing the intention to draft an EIS. APHIS evaluated these issues to analyze the potential environmental impacts of a determination of nonregulated status for Darling 54 American chestnut and included a discussion of these issues in the draft EIS. In addition, although the comments on the original draft EIS were for plants thought to be Darling 58 American chestnut instead of Darling 54, the issues raised would apply to both lines. Therefore, APHIS used the comments on the notice of intent and integrated the concerns raised into the revised draft EIS.

APHIS is making available the revised petition, the revised draft EIS, and the draft PPRA, for a 45-day public review and comment period. The revised petition, the draft EIS, and the draft PPRA are available as indicated under **ADDRESSES** and **FOR FURTHER INFORMATION CONTACT** above.

The draft EIS was prepared in accordance with: (1) The National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. 4321 *et seq.*), (2) USDA regulations implementing NEPA (7 CFR part 1b), and (3) APHIS' NEPA Implementing Procedures (7 CFR part 372).

The EPA will publish a separate notice in the *Federal Register* that announces publication of the revised draft EIS for public review.

Authority: 7 U.S.C. 7701-7772 and 7781-7786; 31 U.S.C. 9701; 7 CFR 2.22, 2.80, and 371.3.

Done in Washington, DC, this 29th day of May 2025 .

**Michael Watson,**

*Administrator,*

*Animal and Plant Health Inspection Service.*

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