



National Grain and Feed
Association



North American Export
Grain Association

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April 27, 2012

Regulatory Analysis and Development
Plant Protection Division
Animal and Plant Health Inspection Service
U.S. Department of Agriculture
Station 3A-03.8
4700 River Road, Unit 118
Riverdale, MD 20737-1238

Re: *Docket No. APHIS-2010-0103*
Determination of Nonregulated Status of Corn Genetically Engineered
for Herbicide Tolerance (DAS-40278-9)

Dear Sir/Madam:

The North American Export Grain Association (NAEGA) National Grain and Feed Association (NGFA) and submit this joint statement in response to the notice published in the December 27, 2011 and February 22, 2012 editions of the *Federal Register* by the U.S. Department of Agriculture's Animal and Plant Health Inspection Service (APHIS). The notices request comments on the petition from Dow AgroScience LLC for nonregulated status of its biotechnology-enhanced corn event (DAS-40278-9) that has been genetically engineered for increased resistance to broadleaf herbicides in the phenoxy auxin group, such as the herbicide 2,4-D.

NAEGA, a not-for-profit trade association established in 1912, consists of private and publicly owned companies and farmer-owned cooperatives that are involved in and provide services to the bulk grain and oilseed exporting industry. NAEGA's mission is to promote and sustain the development of commercial export of grain and oilseeds and their primary products. Through a reliance on member action and support, NAEGA acts to accomplish its mission from its office in Washington D.C., and in markets throughout the world. NAEGA members are engaged in the vast majority of U.S. grain and oilseed exports, whose value exceeds \$50 billion annually.

The NGFA is comprised of 1,050 member companies that operate more than 7,000 facilities and handle more than 70 percent of the U.S. grain and oilseed crop. NGFA membership encompasses all sectors of the industry, including country, terminal and export grain elevators; commercial feed operations; biofuel producers; cash grain and feed merchants; end-users of grain and grain products, including processors, flour millers, and livestock and poultry integrators; commodity futures brokers and commission merchants; and allied industries.

Our organizations support agricultural biotechnology and other scientific and technological innovations that contribute to increased, sustainable production of an abundant, safe and high-quality food and feed supply for U.S. and world consumers responsive to customer needs. Within the U.S. grain and oilseed handling and marketing system, each company makes its own determinations as to whether to accept various commodity crops – including those containing biotech-enhanced events – driven by customer preferences, regulatory regimes, contractual commitments and the respective markets they serve. This fundamental freedom of our industry to operate fosters coexistence of the diverse interests involved in the production, marketing and consumption of U.S. agricultural products.

To achieve this objective, however, the NGFA and NAEGA believe biotechnology providers have several corporate responsibilities associated with the commercial introduction of biotechnology events they intend to introduce into the U.S. commodity system. One of the most important of those is to voluntarily restrict commercialization (marketing of seeds) under corporate stewardship plans until such time as the technology provider has obtained sufficient authorizations from key foreign governments. It is imperative that such import authorizations are in place to provide U.S. grains and oilseeds with competitive, reliable and efficient access to international markets.

The reality is that bulk grain and oilseeds “may contain” a biotech-enhanced event that has been made available to producers for commercial production. Any biotechnology trait that lacks approval in a country of import will confront an impossible-to-achieve zero tolerance in that country. The consequences are dire, including impeding the ability of importing countries to provide for food security, imperiling present and future market opportunities for U.S. farmers, and unrecoverable and extensive product and shipment-rejection costs to the U.S. production and marketing system.

These international authorizations need to be in place at the time seed containing the event first is purchased by producers. U.S. corn producers often make their initial seed purchase decisions in the fall prior to spring planting – about the same time as international buyers begin substantial contracting for delivery of the next year’s corn harvest. Given that such contracts are contingent upon receiving authorizations for all biotech-enhanced events that may be present in the commodity shipment, import authorizations need to be in place at least one year prior to harvest-time deliveries from U.S. farms.

Technology providers may find the economic opportunity attractive enough to avoid completing key international approvals prior to product launch. However, appropriate restraints and responsibility for risks imposed on downstream stakeholders when and after a crop biotechnology product is in production must be part of all technology provider product

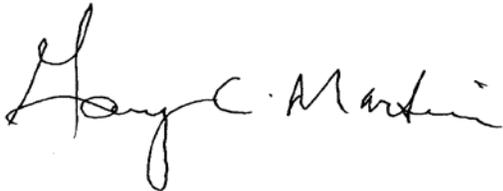
stewardship. Such restraint and risk responsibility is critically important when crop biotechnology is deployed under regulatory systems like the science-based U.S. coordinated regulatory framework that does not apply an international merchantability or marketability test prior to commercialization of the genetically engineered event. Under no circumstances can or should the grain handling or processing industry sectors in the United States or abroad be expected to shoulder the risks of such market disruptions over which they have little, if any, ability to control or manage. Rather, the technology providers who do have the ability to control such exposure must be responsible. Doing otherwise creates market risk, and undermines the ability of U.S. agriculture to contribute to global food security, as well as to U.S. economic growth and job creation.

To our knowledge, Dow AgroScience as of this date has not been successful in obtaining sufficient international authorizations for import of DAS-40278-9. Failing to do so prior to commercialization of DAS-40278-9 in such key grain and oilseed importing markets as Canada, China, the European Union, Japan, Mexico, Philippines, South Korea and Taiwan would create a risk of significant economic losses to U.S. grain and oilseed producers and markets if this event becomes present in shipments intended for such countries.

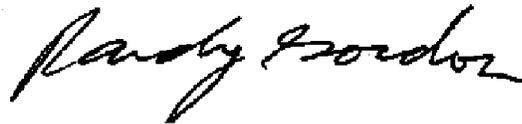
We encourage APHIS to take into full account Dow AgroScience's commercialization plans for DAS-40278-9 prior to granting deregulation of this event. Doing so is consistent with APHIS's mission of to "protect the health and value of American agriculture and natural resources."

The NGFA and NAEGA appreciate APHIS's consideration of these viewpoints on DAS-40278-9, and would be pleased to respond to any questions the agency may have.

Sincerely,



Gary C. Martin
President and Chief Executive Officer
North American Export Grain Association



Randall C. Gordon
Acting President
National Grain and Feed Association