



November 8, 2013

To: Executive Office of the President of the United States, Office of Management and Budget.

Attn: RCC Secretariat and Government Agencies finalizing implementation of the current work plans and in establishing systemic structures to strengthen regulatory cooperation efforts.

Subject: U.S.-Canada Regulatory Cooperation Council Stakeholder Request for Comment Doc. 2013-21061

The North American Export Grain Association (NAEGA) appreciates this and other opportunities to work with the U.S.-Canada Regulatory Cooperation Council (RCC).

NAEGA, established in 1912, is comprised of private and publicly owned companies and farmer-owned cooperatives involved in and providing services to the bulk grain and oilseed exporting industry. NAEGA member companies ship virtually all of the bulk grains and oilseeds exported each year from the United States. Dedicated to engaging the entire value chain, NAEGA focuses on predictable, reliable and expanded international trade of grains, oilseeds and their primary products. NAEGA members, stakeholders and governments around the world are key beneficiaries of our work to provide leadership, experience and capacity providing global reach and influence supportive of international trade and investment.

NAEGA commends The U.S. and Canada for their work on regulatory cooperation and cohesiveness. Canada and the United States are two key trading partners and major suppliers to global markets with critically needed agricultural products. It is our priority to maintain and further expand a robust Canada-U.S. cross-border trading environment that serves consumers in North America and around the globe. NAEGA is pleased with the RCC's plan for cooperation on increased regulatory alignment and increased integration between U.S. and Canada. Like RCC, we especially are focused on regulatory measures that provide for the least-trade-distortive regulatory environment for the safe and efficient commerce in commodities and the animal feeds, food and other products originating from both Canadian and U.S. grain and oilseed farms. We strongly believe that free and open trade between the U.S. and Canada will encourage jobs and growth, while protecting health, safety, and the environment.



To help direct the RCC to achieve these goals, NAEGA submits the following comments specific to the suggestions in the U.S.-Canada Regulatory Cooperation Council Stakeholder Request for Comment Doc. 2013-21061:

**Appropriate Role of Stakeholders** - When a regulatory alignment decision is made between the two countries and stakeholders are affected or will potentially be affected, stakeholders should be involved in that decision from the beginning. In addition to direct involvement, NAEGA suggests input from Canada-U.S Grain and Seed Task Group should be sought and considered. Many Canadian and U.S. organizations formed the Canada-U.S. Task Group in early 2012, and have been working together and with both governments to communicate information about cross-border trading of commodities. As part of this effort, the task group launched a website – <http://canada-usgrainandseedtrade.info> – to provide answers to questions about cross-border trade for wheat, durum and barley producers in Canada and the United States. The Task Group now is collaborating to address regulatory coherence in several related venues, and hence can add value to the discussions.

**Recommendations on how to Augment Standards Cooperation** - Standards cooperation can be best augmented by identifying differences between U.S. and Canada's regulatory policies that create unnecessary financial and technical burdens and working to minimize or eliminate those differences. For example, a key concern of the industry sectors we represent are the unnecessarily trade-restrictive differences that exist between CFIA and APHIS approaches to providing for phytosanitary certification to meet third-country import requirements. Changes are much-needed to existing practices that include increased transparency and collaboration between the two competent governmental authorities.

**Recommendations on how to Institutionalize Regulatory Cooperation** - The RCC should establish a procedure, which would apply to all agencies of both countries, in which stakeholders can petition and comment on regulatory cooperation. Through this procedure stakeholders should be able to petition a particular agency, and its counterpart in the other country, to highlight and propose changes to regulatory policies. This should lead to better alignment or regulations between the two countries. For example, CFIA and APHIS could create a better regulatory approach to phytosanitary certification to meet third-country import requirements as described above.

**Next Phase of Canada-U.S. Regulatory Cooperation** - Each regulatory agency and its counterpart should make an effort to better understand the other's regulations. There should be a



constant conversation between the two agencies and stakeholders in search of areas that can be better aligned.

**Measurable Benefits** - The demand has never been greater on U.S. and Canadian agriculture to provide for global food security, food defense and energy security, while maintaining high-quality, safe products throughout the value chain. International trade in bulk agricultural products is expanding and increasingly complex, and in need of sound, responsible and predictable commercial and official measures. Deepening bilateral cooperation and increasing regulatory alignment in North America is essential, should serve all grain and oilseed stakeholders well and should provide for global leadership by providing for increased:

- System integrity, predictability and reliability.
- Consistent and notified requirements that enable markets to trade products and provide for proportionate and effective risk-mitigation and risk-management.
- Appropriate measures that allow grain systems to *maximize the value* of the grain product and *minimize cost inefficiencies and handling costs* associated with the supply chain, while meeting credible plant-protection needs.

**Particular Issue RCC Should Consider for Further Regulatory Alignment** - The efficiency and timeliness of food and agriculture imports and exports frequently are frustrated by official governmental actions related to sanitary and phytosanitary (SPS) measures. Appropriate efforts to eliminate unnecessary delays and actions that disrupt or prevent cross-border movement of critically important and perishable agricultural products for food, feed and further processing are needed, and we believe should be incorporated into the RCC work product. In this regard, NAEGA recommends Canada and the United States collaborate when and wherever possible to deploy a Rapid Response Mechanism (RRM) to provide for timely, transparent and commercially meaningful methods to help governments implement the least-trade-distortive measures possible related to plant protection.

A RRM should provide for two mandatory mechanisms that could provide for shipment acceptance: immediate detailed notification and expedited, transparent review. More specifically, this entails:

1. Implementation of a process involving immediate, detailed notification to the importer or exporter of record (shipper or consignee) of actions taken by the official governmental body regarding the detection, assessment and management measures related to a given shipment. Such notification by the competent governmental authority should detail the methodology used, the findings, the enabling authority under which the action has been

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taken, and the recourse or compliance measures available to the importer or exporter of record to resolve the matter. In addition, we believe such notification should be issued by the official governmental body within three days of receiving a request by either the importer or exporter of record. Further distribution of the notification should be at the option of the requesting party. In addition, the notification should potentially provide an opportunity for further review of the actions taken, as well as options available to the importer or exporter of record to take corrective actions acceptable to the relevant official body that may support or mitigate the action.

2. An expedited review of official actions taken at the request of the importer or exporter of record in response to the governmental notification. The expedited review would be conducted by neutral experts previously identified by parties to the trade agreement. The review, completed in 15 days, would result in a non-binding, public recommendation (business-confidential information redacted or deleted). A precedent for such action exists within the WTO. The immediate detailed notification (#1 cited above) may be provided as background for the expedited review (#2 cited previously).

NAEGA looks forward to continuing to work with the RCC to establish achieve increased regulatory alignment that protects the health, safety, and environment of both respective nation and creates jobs and growth. It is NAEGA's commitment to "work together to make trade work." If we can provide any further information, please feel free to contact us at your convenience.

Sincerely,

A handwritten signature in black ink that reads "Gary C. Martin". The signature is written in a cursive style with a large initial "G".

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