

## *Report on Decree 177 from August 8, 2017 Outreach*

Despite ongoing uncertainty over the specific needs of China's General Administration on Quality Supervision, Inspection, and Quarantine (AQSIQ), we continue to support USDA efforts to provide for compliance with its Decree 177. Most urgent is the requirement from AQSIQ for USDA to provide a list of companies or facilities that export to China. While AQSIQ has indicated they intend to use the list to monitor compliance with entry requirements, AQSIQ has yet to indicate if or how the names on the list are to be specifically used. If the AQSIQ uses the USDA provided list for a comparison to names listed on the various and multiple forms required for entry, a serious problem arises. USDA does not have authority or capacity to collect all possible permutations of names used on the many (we count at least 8) documents that include official documents as well as commercial documents that accompany import consignments.

As we have been reporting, USDA has agreed to provide AQSIQ with a list of U.S. exporters of commodities covered by the U.S. Grain Standards Act. USDA's Federal Grain Inspection Service (FGIS) is working with the USDA Foreign Agriculture Service to update and maintain the list provided to AQSIQ. FGIS is relying on exporter registration and exemption from registration with the USDA Grain Inspection Packers and Stockyards Administration (GIPSA) to compile a list provided to AQSIQ by USDA. GIPSA registration is a requirement for international commerce from the U.S. of U.S. Grain Standards Act Commodities. To provide the list for AQSIQ, GIPSA is working to be sure the names provided for registration or exemption from registration are updated.

NEW DEVELOPMENT - Unfortunately, the FGIS process has recently been altered. It now appears that any entity that wants to be on the list provided to AQSIQ by USDA will have to complete registration or exemption from registration. This is despite the application for registration (form "OMB No. 0580 - 0013") including a section 6: "List names and locations where applicant is engaged in buying, handling, weighing, or transporting grain for sale in foreign commerce". FGIS has determined they do not have authority to share the information in section 6.

**AS A RESULT: IMMEDIATELY ANY entity who wants to be listed on the list provided to AQSIQ by USDA should complete registration or receive approval for an exemption from registration with GIPSA.**

The current Registered Grain Exporter's Directory can be found on the FGIS website [here](#), the list of those exempt from registration [here](#). They will be combined and updated every two weeks in a list USDA provides AQSIQ. AQSIQ is periodically posting to its website the lists it indicates apply to Decree 117 at this location [http://dzwjyjgs.aqsig.gov.cn/fwdh\\_n/qymd/zwjcp/gwqymd/201706/t20170623\\_491694.htm](http://dzwjyjgs.aqsig.gov.cn/fwdh_n/qymd/zwjcp/gwqymd/201706/t20170623_491694.htm)

AQSIQ has acknowledged that implementing Decree 177 will take several months. Changes are likely as we try to sort out and learn more. Just what the list provided to AQSIQ by USDA needs to contain or how it is to be used remains uncertain. For instance, USDA has just begun working with AQSIQ to provide for a list of exporters of commodities, including dry beans and pulses that are

not covered by the Grains Standards Act. Moreover, the lists that AQSIQ has accepted from other countries vary widely in their source and content.

To get to the bottom of how to best comply with Decree 177 implementation, plans are being made for an AQSIQ technical team to travel to the United States. On September 10-20, 2017 an AQSIQ team will be in the U.S. to conduct a survey of U.S. grain and oilseed production and export system demonstrating its safety and existing compliance with the Chinese government policy Decree 177. NAEGA will be highly engaged in the tour and hope to secure commercially viable solutions to complete the facility registration process.

--

#### *Report on Decree 177 from May 31, 2017 Outreach*

China's General Administration on Quality Supervision, Inspection, and Quarantine (AQSIQ) established Decree 177 as effective July 1, 2016. To support implementation of Decree 177, USDA has agreed to provide AQSIQ with a list of U.S. exporters of commodities covered by the U.S. Grain Standards Act. AQSIQ has indicated to USDA that it will use the list to monitor compliance with entry requirements

USDA is establishing a new process to update and maintain the list provided to AQSIQ. The process relies on exporter registration with GIPSA. GIPSA registration is one of the requirements for [exporting grain, oilseeds, or related commodities from the United States](#)

The application for registration (form "OMB No. 0580- 0013") includes a section 6: "List names and locations where applicant is engaged in buying, handling, weighing, or transporting grain for sale in foreign commerce".

To provide the list for AQSIQ, GIPSA will call each applicant and those who are currently registered to receive approval for use of the information in Section 6 in compiling the list for AQSIQ.

The current Registered Grain Exporter's Directory can be found on the [FGIS website here](#).

IMPORTANTLY the form OMB No. 0580- 0013, is used to provide for mandatory registration as well as registration of exporters that are exempt from mandatory registration requirement. If you are exempted (under 15,000 metric tons exporter annually) you can voluntarily register at no fee. For those that fall under the registered category, there are fees associated.

Implementing Decree 177 will take several months. For instance, USDA has just begun working with AQSIQ to provide for a list of exporters of commodities, including dry beans and pulses that are not covered by the Grains Standards Act. Plans are being made for an AQSIQ technical team to travel to the United States during the first two weeks of September 2017 to tour U.S. grain handling facilities and identify commercially viable solutions to complete the facility registration process. Another next step is for AQSIQ to implement develop a standard practice for CIQ offices

on how these lists are used that does not place restrictions on shipping documents to minimize any issues upon arrival.

More complex elements of Decree 177, including concerning provisions related to traceability, biotechnology and phytosanitary measures will likely be subject to broad global consideration. Ultimately NAEGA has placed a high priority on working with all stakeholders, including governments of all supply countries, to minimize the impact of Decree 177 implementation on trade and insure that restrictions on imported commodities will not be a result. We are also working to establish acceptance of existing origin inspections and regulation as sufficient to meet AQSIQ needs

--

*Report on Gary's Trip to Beijing in March on Decree 177 in April 13, 2017 Outreach*

NAEGA President and CEO Gary Martin is back from Beijing, China where he engaged on multiple NAEGA and IGTC priorities with government and industry stakeholders. These priorities included the IPPC's ISPM for Grain and ePhyto system, the World Bank's *Enabling the Business of Agriculture Project*, production technology and Decree 177. Multiple meetings with Chinese officials and industry and representatives from the governments of Argentina, Australia, Brazil and the U.S. resulted in new and helpful findings to assist in achieving NAEGA's China related and many other objectives. Thanks to all NAEGA member personnel who attended the reception on Friday evening. We expect to call on you again soon for more advice!

The U.S. situation in China remains a challenging one. Ongoing WTO litigation, including China's U.S. DDGs and Sorghum trade remedy cases and the U.S. action over China's support for domestic wheat, rice and corn growers, coupled with the uncertainty about how to comply with a host regulatory mandates, are all of NAEGA concern. Our work related to Decree 177 continues as their remains a lot of confusion regarding compliance with the Decree 177.

The newest development is Notification No. 18. The Department for Supervision on Animal & Plant Quarantine, AQSIQ has titled the notification "**Further Strengthening Risk Early-warning of Entry Grains**". The notification falls under China's Decree 177 and states that it is needed effectively prevent and control the safety risk of entry grains into China. With the Notification, AQSIQ is apparently instituting an **early-warning system focused on corn and corn substitutes such as sorghum, barley, dried cassava, DDGS and other products.** The early warning system is broken down by Type A and Type B violations. Type A applies to pesticides, biological toxins and pollutants, and other harmful substances in excess of existing residue levels. It includes products containing unapproved transgenic ingredients. Type B applies to grain found with quarantined live pests, toxic plant seeds, quarantine disease, treated seeds, mold, FM exceeding the contract agreement by 50 percent and shipments contaminated by rodents, birds and other serious quality problems. In the event of a Type A violation the enterprise would be subject to testing for three consecutive consignments. Two Type A violations would lead to the suspension of permit approval and registration. If Type B is detected field inspection will be strengthened and China will conduct laboratory testing and identification of the risk. The entry grain cannot be transferred out of the port before testing and identification is completed. For Type

B, three violations would lead to suspension of permit approval and registration. For both type A and B of violations, resumption of approval of registration will only restart after the investigation and the relevant corrective measures have been enforced. Further, **AQSIQ has stated they will reward custom officials with a high rate of detection and “set them up as good examples”.**

The U.S. government is currently organizing meetings in Beijing the week of April 24 with AQSIQ and other related parties. Gary is planning on returning to Beijing at the request of USDA FAS to support those during their meetings with AQSIQ.

More information on these developments and this mission will be available in a forthcoming trip report. Your advice and questions are welcome. Please contact Gary to discuss.

--

#### *Report on Decree 177 in December 14, 2016 Outreach*

Over the last few months NAEGA has been working closely with industry and government stakeholders, including the U.S. Animal and Plant Health Inspection Service, USDA’s Foreign Agriculture Service (FAS), the Farm Service Agency (FSA) and the U.S. Grain Inspectors, Packers and Stockyards Administration (GIPSA) regarding Chinese facility registration requirements under Decree 177.

In October, USDA FAS sent a letter and a copy of the [GIPSA list of registered U.S. grain export facilities](#) to Chinese counterparts at the General Administration of Quality Supervision, Inspection and Quarantine (AQSIQ). The letter, and registration list, seeks to comply with AQSIQ requests for registration of U.S. facilities exporting to the Chinese market as laid out in Decree 177. The list of GIPSA registered facilities includes all grain export facilities that handle more than 15,000 metric tons of grain in a given calendar year.

Last week, USDA FAS received a response to this letter. A copy of the response can be found [here](#). In the response, ASQIQ has again reiterated that U.S. facilities shipping to China register and provide basic information according to the AQSIQ format of “List of Grain Exporting Facilities for Registration.” In addition, AQSIQ has requested that, per Decree 177, all U.S. facilities exporting to China must register with AQSIQ, including facilities that export less than 15,000 metric tons in a calendar year. In short, the GIPSA registration list is not an acceptable form of registration for U.S. facilities shipping to China.

In light of this rejection of the GIPSA export facility registration list, NAEGA will be participating in further discussions with USDA FAS and other industry and government stakeholders regarding U.S. industry compliance with Decree 177. The first follow up meeting is planned for this week.

NAEGA will have additional information for members following this meeting, and will keep members informed of any new information as it becomes available. Please contact Gary or Ryan if you have any questions.

--

*Letter to USDA FAS Bruce Zanin in response to October 12, 2016 letter*

Mr. Zanin Bruce  
Ag Minister Counselor of American Embassy to China

Re: Letter on Registration of US Grain Production and Processing Facilities

Respected Mr. Zanin Bruce,

Thank you for your letter dated October 12, 2016 on the List of U.S. Grain Facilities that Exports Grain to China. I would like to reply to and exchange ideas with you on the relevant issues.

1. Submit list of facilities for registration according to AQSIQ regulations and format. The list of facilities for registration shall include the basic information such as name of products, registration number, address, telephone number and fax number etc. Attached is the AQSIQ format of List of Grain Exporting Facilities for Registration for your reference. Please provide the information of grain exporting facilities based on the format so that AQSIQ can publish this information on AQSIQ website.
2. Registration of all grain facilities that export grains to China. Currently the list you provided covers elevators with exporting volume of over 15,000 tons of grain yearly. According to AQSIQ Decree No.177, please provide a full list of U.S. grain facilities exporting grain to China. If the list you provided is incomplete, in the case of any inspection and quarantine related incident happens, AQSIQ will have difficulties in tracing it back, thus will have to take measures to all enterprises that export grain from the export grain elevator.

The supervision of safety and quality of export grain is related to quarantine inspection, quality control and safety and hygienic issues, we would like to suggest APHIS and FGIS and other relevant agencies to jointly administrate the facility registration. AQSIQ wish to enhance technical exchange and cooperation with you and hope to send an expert team to the United States at convenient time in 2017 for the implementation of the measures for registration of grain export facilities. AQSIQ hopes to increasingly upgrade the quality and safety of grains exported to China through our joint efforts and intensified bilateral cooperation.

With best regards,

Mr. ZHANG Chaohua

Deputy Director General  
For Department of Supervision of Animal and Plant Quarantine  
AQSIQ

Copy to Murali Bandla/APHIS Asian and the Pacific Director

Appendix:

| <b>Grain Exporting Facilities</b> |                   |              |                |         |         |
|-----------------------------------|-------------------|--------------|----------------|---------|---------|
| No.                               | Registered Number | Company Name | Type of Grains | Address | Tel/Fax |
| 1                                 |                   |              |                |         |         |
| 2                                 |                   |              |                |         |         |
| 3                                 |                   |              |                |         |         |
| .                                 |                   |              |                |         |         |
| Notes:                            |                   |              |                |         |         |

| <b>Grain Exporting Elevators</b> |                   |              |                |         |         |
|----------------------------------|-------------------|--------------|----------------|---------|---------|
| No.                              | Registered Number | Company Name | Type of Grains | Address | Tel/Fax |
| 1                                |                   |              |                |         |         |
| 2                                |                   |              |                |         |         |
| 3                                |                   |              |                |         |         |
| .                                |                   |              |                |         |         |
| Notes:                           |                   |              |                |         |         |

--

*October 2017 Letter to from USDA FAS to AQSIQ Providing List of U.S. Grain facilities*

In response to AQSIQ’s request for registration information on grain export facilities relating to Decree 177 – Administrative Measures for Inspection, Quarantine and Supervision of Inbound and Outbound Grains, I am providing a list of U.S. grain facilities handling U.S. grain exports. This list, which is publicly available, is compiled and administered by USDA’s Grain Inspection, Packers and Stockyards Administration (GIPSA). All U.S. grain exporters who intend to export more than 15,000 metric tons of grain in a given calendar year must register annually with GIPSA. The list captures all major U.S. export grain facilities. The United States believes this will meet your August 5, 2016 request for information.

The United States remains committed to cooperation with AQSIQ as it implements Decree 177. We are confident that U.S. official measures and commercial practices are sufficient to provide for the implementation of Decree 177. We look forward to broadening our understanding of the needs of AQSIQ as it relates to Decree 177. We greatly appreciate AQSIQ’s willingness and interest to learn about the U.S. supply system for products covered by Decree 177 and in providing flexibility to incorporate U.S. measures and practices into your compliance regime. We acknowledge that timely and successful cooperation in implementing Decree 177 may require additional communication between U.S. experts and AQSIQ followed by outreach to the U.S. grain export system.

I propose that a U.S. team of experts on grain trade including the Animal Plant Health Inspection Service (APHIS), GIPSA, FAS and U.S. grain industry representatives meet AQSIQ to provide relevant details on the U.S. official measures and commercial practices as they apply to AQSIQ’s implementation of Decree 177. Dialog between AQSIQ and a U.S. team will provide an

understanding of AQSIQ's needs for implementation of Decree 177 that will be subsequently communicated to the U.S. grain export system.

The export of U.S. grain and oilseeds to China is immensely important to the United States with grain exports to China amounting to nearly \$13 billion in 2015. The United States would like to ensure that the requirements of Decree 177 will allow trade to continue according to existing bilateral agreements. In closing, I thank you for China's ongoing assistance in enacting this measure in a way that allows for dialogue and collaboration in order to minimize disruptions to trade.

Sincerely,

Bruce Zanin  
Minister Counselor  
U.S. Embassy, Beijing

--

*Report on October 2017 Letter from USDA FAS to AQSIQ in October 10, 2016 Outreach*

The USDA's Foreign Agriculture Service has finalized the drafting of a letter and list of U.S. grain export facilities for submission to AQSIQ officials regarding U.S. industry compliance with Decree 177. The letter and facility list was drafted in close coordination with U.S. government agencies and industry through the Decree 177 Working Group, of which NAEGA is a member. The list of U.S. export grain facilities is the U.S. Grain Inspection, Packers and Stockyards Administration's (GIPSA) publicly available list of grain export facilities compiled by GIPSA on a yearly basis. Registration on this list is required by U.S. law for all U.S. export grain facilities that export more than 15,000 metric tons of grain per year.

In addition to the submission of this list, FAS has requested consultations with AQSIQ by a team of U.S. experts on the grain trade, including the U.S. Animal and Plant Health Inspection Service (APHIS), GIPSA, FAS and U.S. grain industry representatives. Opening up of this dialog will further understanding of the requirements of Decree 177 on the U.S. grain export system.

Submission of the facility list and request for consultations with AQSIQ are the first steps in broadening industry and U.S. government's understanding AQSIQ's requirements under Decree 177 in order to ensure U.S. industry compliance.

A copy of the letter and facility list can be found [here](#) and [here](#). For more information about Decree 177 and the efforts of the working group please visit the members only section of the NAEGA website, [www.naega.org](http://www.naega.org), or contact Gary or Ryan.

--

*Report on Decree 177 in August 3, 2016 Outreach*

On Tuesday, August 2 NAEGA hosted a meeting of the Decree 177 Working Group. Following NAEGA encouragement USDA's Foreign Agricultural Service (FAS) has agreed to lead the working group which is seeking to provide messaging, broad based coordination and response to AQSIQ to address Decree 177. NAEGA is also working to share information on Decree 177 with colleagues in Argentina, Australia, Brazil and Canada.

NAEGA is in the process of articulation of objectives for industry and multilateral response to AQSIQ's requirements under Decree 177. According to NAEGA, any response to China should:

- Preserve and enhance the competitiveness and provide for a global supply response.
- Strive to improve the relationships with AQSIQ and Chinese buyers.
- Provide for a response that is consistent with best commercial practices.
- Support the responsiveness, resilience and responsibility to the supply chain.
- Prevent the extension of liability or financial guarantees for compliance with Chinese law to exporters. Exclusively address actions to manage legitimate health and safety risks, thereby allowing for other product parameters to be addressed by appropriate party. For example: commercial parties address logistics including quality
- Provide for prompt, transparent official action that preserves adequate fungibility of supply and does not include imposition of unjust or unnecessary measures that restrict grain trade.
- The use of sound and best available science for risk assessment, identification and management and mitigation

NAEGA will continue to keep membership up to date as more information becomes available. Please contact Gary or Ryan if you have any questions.

--

*Report on Decree 177 in July 26, 2017 Outreach*

Following up on a July meeting, the USDA's Animal and Plant Health Inspection Service (APHIS) is leading a newly developed working group to address industry concerns regarding implementation of Chinese Decree 177, which came into effect on July 1. Decree 177 lays out a regulatory framework for import to China of grains for food and feed and strengthens existing food safety laws on imported foods, including implementation of a facility registration process. The newly created working group will develop an advocacy and engagement strategy related to industry interest regarding implementation of Decree 177. Included in the working group are government personnel including the Grain Inspection, Packers, and Stockyards Administration (GIPSA), the Farm Service Agency (FSA), and APHIS, as well as private sector stakeholders including NAEGA, the National Oilseed Processors Association (NOPA), the U.S. Grains



Council, U.S. Wheat Associates and the U.S. Soybean Export Council (USSEC). More information on the activities of the working group will be shared as information becomes available.

For more information on China's Decree 177, please click [here](#). Please contact Gary or Ryan with any questions.

--

### *Report on China Decree 177 in June 27, 2016 Outreach*

On Tuesday, June 28 NAEGA hosted a successful meeting with industry and government stakeholders in order to develop a coordinated response and advocacy strategy regarding the upcoming July 1 implementation deadline of Chinese Decree 177. Decree 177 lays out a regulatory framework for import to China of grains for food and feed and strengthens existing food safety laws on imported foods. Attendance at the meeting included the U.S. Grains Council, U.S. Wheat Associates, the National Grain and Feed Association (NGFA), the U.S. Soybean Export Council (USSEC), the Foreign Agriculture Service (FAS), the Farm Service Agency (FSA), the Grain Inspection, Packers and Stockyards Administrations (GIPSA), the Animal Plan Health Inspection Service (APHIS) and the U.S. State Department. Prior to this meetings NAEGA learned from FAS-Beijing that:

1. July 1, 2016 will be the start of the facility registration process not the date by which the registration process needs to be completed.
2. AQSIQ's registration of foreign grain facilities will be implemented gradually. The time for completion is not expressed.
3. Given the complexities of the industry chain, AQSIQ wants to work with the governments of exporting countries to understand their systems and come up with an appropriate registration system.
4. As a first step, the exporting country's competent authority may choose to conduct an audit/check of exporting elevators and provide the list of exporting elevators to AQSIQ.
5. In combination with the grain facility registration system, the exporting country should set up a safety and quality traceability system for grains being exported to China.

The meeting was chaired and hosted by Gary Martin at NAEGA's Washington, D.C. headquarters. Discussion included relevant updates from all participating organizations and potential responses to Decree 177, including ways to handle the facility registration requirements of the decree. It was noted that a number of grain and oilseed exporting countries, including Australia, Argentina, Mexico and Canada, have provided to some degree compliance with Decree 177 through bilateral protocols with AQSIQ authorities. At NAEGA's request, and supported by consensus at the meeting, priorities and terms of reference for the Working Group will be developed in July.

NAEGA's Grades and Inspection Committee has taken the lead in addressing Decree 177. For more information on Decree 177, please see the USDA GAIN report, found [here](#). Updates will be shared as soon as they become available.

--

*Report on China Decree 177 in March 28, 3017 Outreach*

On Wednesday, March 23 NAEGA hosted an in-person meeting in the NAEGA/NGFA conference room with government, association, and industry stakeholders to discuss China's Decree 177 of Administrative Measures of Inspection and Quarantine for the Entry and Exit Grain and related national regulations on the import of grain including and Korea's Special Act on Imported Food Safety Management. Joining the discussion were representatives of the U.S. Animal and Plant Health Inspection Service (APHIS), the Agricultural Marketing Service (AMS), the Foreign Agriculture Service (FAS), NAEGA Washington DC based Members Representatives and invited attendees from U.S. Wheat Associates, U.S. Grains Council, NGFA, the National Oilseed Processors Association (NOPA).

Decree 177, which is set to be implemented beginning July 1, 2016, lays out a regulatory framework for import to China of grains for food and feed and strengthens existing food safety laws on imported foods. We have received several inquiries regarding the specifics of implementation of Draft Administrative Measures and are seeking more information

These Chinese regulatory changes are occurring alongside significant changes to food safety laws in Korea, which is currently implementing its Special Act on Imported Food Safety Management.

During the meeting participants were updated on U.S. regulations relating to imported food safety under the Food Safety Modernization Act, called the Foreign Supplier Verification Program. These regulations differ from the Chinese and Korean laws in that they place the regulatory burden on U.S. based importers to verify the safety of foods from foreign suppliers. Randy also briefed the group on the Food and Drug Administration's (FDA) System Recognition Program, which recognizes certain countries as having food safety systems that are comparable (although not necessarily equivalent) to the U.S. system, in which case many of the FSVP requirements would be waived for importers sourcing products from those countries. FDA reported at a Monday, March 21 meeting that Canada and Australia are in the final stage of securing recognition – stage 4, at which the actual language of the Systems Agreement is being drafted and agreed to.

With July 1 quickly approaching, participants in the meeting agreed on the urgency of the situation. Moving forward FAS is continuing dialogue with China, as well as Korea. NAEGA is planning to host this ad-hoc group again in late April or early May. You can find a translated version of the Draft Measures [here](#). A copy of the GAINS report on Korea's Special Act can be found [here](#). For more information, please visit the member only section of the NAEGA website [www.naega.org](http://www.naega.org) or contact Gary.