



NGFA



NAEGA

North American Export Grain Association

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Via Regulations.gov

August 17, 2021

Michael Watson,
Acting Administrator
Animal and Plant Health Inspection Service
U.S. Department of Agriculture
4700 River Road Unit 118,
Riverdale, MD 20737-1238

RE: Docket No. APHIS-2020-0072 - Exemption: Movement of Organisms Modified or Produced through Genetic Engineering

Dear Acting Administrator Watson,

The National Grain and Feed Association (NGFA) and the North American Export Grain Association (NAEGA) appreciate the opportunity to submit this joint statement in response to the Animal and Plant Health Inspection Service (APHIS) request for comments on the proposed Exemption: Movement of Organisms Modified or Produced through Genetic Engineering Standards published in the July 19, 2021, edition of the *Federal Register*.

NGFA, established in 1896, comprises more than 1,000 member companies that operate more than 7,000 facilities and handle more than 75 percent of the U.S. grain and oilseed crop. NGFA's membership encompasses all sectors of the industry, including country, terminal, and export grain elevators; commercial feed and feed ingredient manufacturers; biofuels 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. The NGFA also has strategic alliances with NAEGA and the Pet Food Institute. In addition, affiliated with the NGFA are 33 state and regional grain and feed trade associations.

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 agri-bulk products international trading industry. NAEGA members are exporters of and serve the vast majority of all U.S. grain and oilseeds in international markets. NAEGA's mission is to promote and sustain the development of commercial export. Through a reliance on member action

and support, NAEGA acts throughout the world to promote policies, rules and commercial practices that support international trade in grains, oilseeds, and their derived products. Providing for competitive, informed, robust, responsive, responsible, reliable, resilient, safe, and secure supply chains for agricultural commodities and food products is the core value of the North American Export Grain Association (www.naega.org).

NGFA and NAEGA Support Biotechnology, its Responsible Commercialization and Marketability of Grains and Oilseeds.

We support utilization of plant breeding innovation and other safe technologies and modern agricultural practices that enhance the production of safe, affordable, and sustainable food and energy for U.S. and world consumers. Commercial seed products currently on the market have enabled growers to increase yields of safe crops for use as food, feed and for further processing, while at the same time protecting the environment by decreasing the use of crop inputs and expanding the use of conservation tillage. These technological advances also have been successful in enhancing the productivity and competitiveness of U.S. growers, grain handlers, processors, and exporters, and resulted in substantial benefits for consumers.

However, achieving the objective of feeding a growing world population and providing an abundant supply of competitively priced agricultural products also *necessitates* that the grain handling and marketing be competitive, cost-effective in seamlessly sourcing and marketing agricultural products in domestic and foreign markets. This is particularly important for preserving U.S. export markets, where foreign government authorities may have different approaches for providing regulatory oversight of all gene-edited, as well as transgenic, seeds that are created with biotechnology that rightfully should affect technology providers' plans and schedules for seeking trait approvals/authorizations, as well as decisions about whether and when to release the seed for such traits for planting in the United States. Today buyers and consumers at each step of the value chain often require information, including the technology used in seed breeding, on how the grains and oilseeds they use are produced. Providing for reliable information and trade documentation is a critical element in compliance with both official and commercial requirements to support trade.

The proposed exemptions under consideration fall under 7 CFR Part 340, the so-called "SECURE" rule. We believe the framework used for the SECURE rule does not fit within the obligation of APHIS to protect the health and economic value of U.S. agriculture. To fit within this obligation, USDA and APHIS should protect and advance access to markets. To the contrary, the regulatory framework adopted under SECURE has resulted in significant criticism of APHIS and genetic engineering technologies and reduced marketability for U.S. grains and oilseeds.

The SECURE rule puts the U.S. at odds with many regulatory approaches for genetic engineering technologies and products around the world. Foreign government authorities have different approaches for providing regulatory oversight of all gene-edited, as well as transgenic, seeds that are created with biotechnology that rightfully should affect technology providers' plans and schedules for seeking trait approvals/authorizations, as well as decisions about whether and when to release the seed for such traits for planting in the United States. Asymmetrical regulatory approaches have and continue to result in significant market and trade disruption. A lack of

regulation of certain genetically engineered plants risks access to many, including international, markets. Adding additional exemptions only increases that risk.

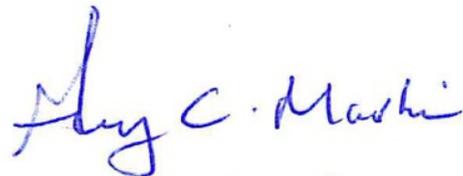
Unfortunately, APHIS does not require pre-market notification to the agency of a genetically engineered/gene-edited plant that the developer has determined meets one or more of the rule's exemptions prior to introduction into the marketplace – contrary to the wide support for such notification from more than a dozen trade associations representing technology providers, bakers, food companies, processors, grain handlers, millers and consumers, which would have helped alleviate trade concerns and promoted consumer trust. As it now stands technology providers have the unilateral authority to “self-determine” whether their plants are exempt from APHIS regulatory oversight. This regulatory decision comes without any obligation for the technology provider to notify the agency, the marketplace or consumers about the event(s) being commercialized. While a developer making a self-determination may request confirmation from APHIS that the plant does not pose a plant pest risk, under the SECURE rule there is no requirement to notify APHIS when making a self-determination. Therefore, it is quite possible there could be genetically engineered plants in the market that are not recognized by USDA or the remainder of the food value chain. This lack of recognition of what is in the market continues to pose a significant risk for consumer transparency and trust, undermining the health and economic value of U.S. agriculture.

We respectfully recommend that the proposed exemptions not be adopted. Additionally, we continue to believe that APHIS notification of use of genetic engineering should be mandatory, and the SECURE rule should be changed to avoid trade disruption resulting from asymmetrical approvals. We appreciate APHIS's consideration of our comments and would be pleased to respond to any questions you may have.

Sincerely,



Michael J. Seyfert
President and Chief Executive Officer
National Grain and Feed Association



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