



News & Views

A Monthly Publication Dedicated to the Feed, Seed, Grain and Farm Supply Industries of Wisconsin

Annual Dues Notices■

Dues notices will be sent out for the 2007-2008 year beginning the first week of June. We appreciate your continued support of YOUR association.

Communications by Email■

We're asking again, if you have an email address at which you'd like to receive communications from the Association instead of regular USPS mail, WASA has that capability. We have the ability to send everything, including *News & Views* inserts, via email in .pdf format, so you'll get them in the exact format you see here.

One of the biggest advantages for you to receiving all communications via email is that it is sent to you the day it goes to the printers; that means that you will receive it two to three days ahead of everyone else. In addition, with postage rates going up what seems to be every year, email communication is a substantial savings for your association. Just FYI, some other state's associations have already gone to *all* email and fax for their membership communications.

To let staff know of your decision, please email your request to us at info@wasa.org and we'll do the rest. But, please consider this alternative.

Sample Biotech Clauses■

Because of Syngenta's decision to commercialize Agrisure RW™ corn containing the MIR604 protein event which has been approved for use in the United States, but currently not in any U.S. export markets, WASA members are facing the possibility of some very real challenges during the upcoming harvest. Currently four rail carriers including the Burlington Northern Santa Fe Railway (BNSF) have issued policies effectively banning the transportation of any carloads of corn or corn products containing Agrisure RW™ (MIR 604) corn. The Canadian

Pacific (CP) Railway, whose policy took effect earlier this month, stated that "[a]ny customer shipping corn or corn products containing any amount of Agrisure RW™ (MIR 604) corn shall be responsible for any damages to CP and applicable penalties resulting from the shipment of the carload containing that product." Meanwhile, the DM&E and IC&E Railroads said their bans on carloads containing "any amount" of Agrisure RW™ (MIR 604) corn cover both direct and indirect shipments handled by the carriers. Note the phrase in the BNSF statement "or corn products;" that means it includes distiller's grain from ethanol plants.

So if your facility plans on shipping any corn or feed using rail or delivering to an ethanol plant and/or barge loading facility this coming harvest, please check and see what your buyers' or rail shippers' policy regarding Agrisure RW™ corn might be. Of course, the entire situation could be rendered moot in case the importing nations approve this new protein event, but the way some buyers and shippers are lining up already, it would pay for you to play it safe. To put this in terms you might relate to; the acreage that Syngenta is estimating that will be planted nationally is approximately the same amount of acreage on which Star Link corn was planted. We're not drawing a parallel to Star Link, because that situation was different, but just to let you know how much Agrisure RW™ will be around.

Syngenta, to their credit, is requiring producers to sign a "comprehensive grain use/marketing commitment" agreement before obtaining Agrisure RW™ seed. Under the agreement, producers pledge to deliver Agrisure RW™ corn only to non-export locations and to sign a stewardship agreement "confirming that they understand their obligations to market the grain appropriately."

National trade organizations representing both commercial grain processors and elevators, as well

as corn producers, have urged any grower signing such agreements with Syngenta to be fully cognizant of potential legal liabilities and market implications. Producers should be very aware of subsequently delivering corn that may test positive for the Agrisure RW™ trait in general market channels used to supply commodity corn for export or to produce corn-based products destined for export. The potential for extremely costly rejections at export destinations is very real, if producers growing this variety don't take the proper precautions in both buffer zones around the planted fields or segregation of the harvested crop.

To that end, the National Grain and Feed Association (NGFA) reissued a series of sample clauses that can be considered for inclusion in grain-purchase contracts to address biotechnology-enhanced commodity issues, including those arising from the current situation. The sample contract clauses have been updated to reflect the introduction of new biotech-enhanced events in recent years, but are not substantially different from the version initially released by the NGFA several years ago.

These sample boilerplate contract language options, presented below in no particular order or preference, should be read and considered carefully before being used. Companies may wish to consider whether one or more of these sample, boilerplate biotech contract clauses are appropriate and applicable to their specific business situations. These sample clauses can be adapted and incorporated into existing grain-purchase contracts, or structured as a separate addendum to existing grain-purchase contracts with sellers. But review and evaluate them carefully, as every contract should be tailored to the particular commodities addressed in the contract and reflect member companies' specific business operations, local practices, applicable laws and other considerations.

Further, and very importantly, as with all contractual matters, it is recommended strongly that companies consult with competent legal counsel before adopting and using one or more of the sample boilerplate contract clauses.

Option 1:

Seller's Variety Warranty: The Seller agrees and acknowledges that commodities grown from certain transgenically enhanced seed shall not be deliverable under this contract. Specifically, the Seller shall not deliver, and the Buyer has the right to reject delivery of, a commodity containing transgenic genes/traits that are not approved for sale in Japan, Mexico, the European Union, or other U.S. export markets.

Option 2:

Disclosure of Varieties and Applicable Discounts for Certain Varieties: The Seller has an affirmative obligation to disclose to the buyer the variety of any commodity delivered under this contract including the specific transgenic event (*e.g.*, MIR 604, Mon 88017, DAS 591227, etc.) as well as the product registrant trade name (*e.g.*, Syngenta Agrisure RW Corn, YieldGard VT Rootworm/RR2, Dow Agro Science Pioneer Hi-Bred Herculex RW, etc.). The Seller acknowledges that the marketability of a commodity delivered under this contract could be impaired because of restrictions on the sale of commodities produced from certain varieties (*e.g.*, crops produced from seeds containing transgenically enhanced genes/traits) from time to time in various domestic and world markets. In such a case, the Seller delivering commodities under this contract is subject to the then-prevailing market discounts at the facility where the commodity is delivered.

Option 3:

Variety-Specific Warranty: Seller and Buyer agree that only the following varieties of transgenically enhanced seed varieties are deliverable under this contract. *[List specific varieties, including the specific transgenic event and the product registrant trade name.]*

Option 4:

Seller's Warranty of Compliance With Seed Licensing Agreements: The Seller represents to the Buyer that any commodity delivered under this

contract has been grown and handled in accordance with any and all requirements stipulated by the biotechnology provider/seed dealer and/or variety-specific recommendations for *[insert the transgenic event and product registrant trade name]*. If the Seller is the grower of the commodity being delivered under this contract, the Seller represents that the sale of the commodity is not in violation of any agreement or license the Seller has with any seed company or other party.

Option 5:

Biotech Premiums/Discounts: Seller acknowledges that premiums and/or discounts may apply to certain transgenically enhanced varieties delivered against this contract, even if the commodity meets all other grade and quality specifications set forth in this contract. The Seller acknowledges that the Buyer has the right to apply the Buyer's variety-specific premiums and/or discounts in effect at the time and place of delivery.

Option 6:

Biotech Testing: Seller agrees that Buyer shall have the right to test commodities delivered under this contract for the presence of transgenically enhanced genes/traits using tests selected by the Buyer. These tests shall be in addition to, and do not substitute for or waive, any warranties or representations made by the Seller regarding varieties delivered under this contract.

The preceding sample biotech contract language and portions of the article text were provided courtesy of NGFA, with which WASA is affiliated. We encourage you to consider membership in NGFA.

Farmers' Cooperative Insurance■

We've heard from numerous members over the past several years that health insurance costs for their employees have become a major business concern for both management and employees alike. Each conversation ends with a plea to us regarding where can they turn.

Earlier this year, the Wisconsin Federation of Cooperatives (WFC), with which numerous WASA

coop members share membership, worked to develop a health insurance program. Many coop and non-coop members have asked us about the program and we're now able to provide some information.

The program is open to both farmers and employees of agribusinesses. Eligible agribusinesses are any business providing direct services to production agriculture in Wisconsin, either a coop or an independent. To that end, the program plans offer:

- coverage for work-related injuries,
- multiple plan, provider and network options and choices,
- predictable, stabilized rates,
- prescription drug coverage, and
- a 24-hour nurse hotline.

We have been told that this is not a least cost program, but rather a program that uses group buying power to leverage access to hopefully less expensive rates. It is also our understanding that no member of the plan will be denied coverage, that doesn't mean it will be cheap, instead coverage is available.

For more information, please contact 800-539-9370 and ask about Farmers' Health Cooperative.

This information is provided for information purposes only and is not an endorsement. Neither WASA nor WFC profit from this program.

Looking Down the Road■

**June 13 - 14 4-State Dairy Nutrition & Management Conference
Grand River Center, Dubuque**

**June 28 WASA Golf Outing
Trappers Turn, Wisconsin Dells**

**July 31 & Aug. 1 Grain Quality Management School
presented jointly by NGFA & GEAPS
Marriott St. Louis Airport Hotel**

**Sept. 11 WASA Golf Outing
SentryWorld, Stevens Point**