

SWEETENER USERS ASSOCIATION

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December 6, 2010

Regulatory Analysis and Development, PPD
Animal and Plant Health Inspection Service
Station 3A-03.8
4700 River Road Unit 118
Riverdale, MD 20737-1238

Docket No. APHIS-2010-0047

Dear Sir or Madam:

These comments are submitted on behalf of the Sweetener Users Association (SUA) with respect to the draft environmental assessment of event H7-1 sugar beets prepared by the Animal and Plant Health Inspection Service (APHIS). H7-1 beets are genetically engineered to tolerate the herbicide glyphosate (Roundup).

Our members urgently request that APHIS act promptly on a pending request for partial deregulation of H7-1 sugar beets in a manner that will enable farmers to fully plant the 2011 and future crops of sugar beets. There is not enough conventional seed to supply U.S. sugar market needs adequately without sugar derived from H7-1 beets. Therefore, APHIS's Alternative 1 would severely disrupt markets, hurt farmers, eliminate good food manufacturing jobs and punish consumers by condemning the sugar market to an indeterminate period of shortage, unreliable supplies and excessively high prices. SUA strongly opposes Alternative 1.

By contrast, either Alternative 2 or Alternative 3 would be consistent with continued availability of H7-1 sugar beets to farmers, and of adequate sugar supplies for industrial users and consumers. We urge APHIS, in evaluating these alternatives, to take carefully into account the comments of sugar beet growers, technology companies and others with a direct stake in the outcome, as well as the need to choose the soundest legal path that will withstand scrutiny and avoid prolonged litigation.

We will not comment on such matters as the environmental impact of H7-1 sugar beets. Rather, what we hope to contribute to APHIS's considerations is a sense of the extreme economic hardship that the abrupt and arbitrary withdrawal of H7-1 sugar beets from the marketplace would have on businesses, consumers and workers.

The Sweetener Users Association represents the interests of companies that purchase sugar and use it in the manufacture of consumer products. Our members are food, beverage and

ingredient companies that make finished products for sale to consumers, or play closely related roles in the supply chain such as supplying ingredients to other companies. Our membership also includes trade associations representing the confectionery, dairy and beverage industries. Companies that use sugar and other nutritive sweeteners in making other products, as opposed to selling sugar directly to consumers, are often called “industrial users” of sugar.

Industrial users account for most purchases of sugar in the United States. In fiscal year (FY) 2009, total deliveries (consumption) of sugar in the U.S. market were 9,188,598 short tons, actual weight. Of this quantity, 5,280,700 short tons or 57% was purchased by industrial users in the following categories: (1) bakery, cereal and related products; (2) confectionery and related products; (3) ice cream and dairy products; (4) beverages; (5) canned, bottled and frozen foods; and (6) multiple and all other food uses.

Beet sugar accounts for most domestically-produced sugar. In FY 2009, beet sugar accounted for 56% of all sugar produced in the United States. Output of beet sugar exceeded that of cane sugar during 10 of the 12 months of the year.

Industrial users primarily rely upon domestic sugar production for their needs. This reliance emphasizes the importance of a dependable, geographically dispersed sugar production base. Of the total new sugar supply available for consumption in the United States during fiscal year (FY) 2009 (not counting stocks on hand at the beginning of the fiscal year), 7,530,929 short tons, raw value (STRV), or 71%, were produced domestically, while 3,082,715 STRV, or 29%, were imported. (It is common practice to convert quantities of refined sugar to their equivalent in raw sugar for purposes of comparison.) Of the domestic new sugar supply, as already noted, beet sugar accounted for well over half.

The vast majority of beet sugar now in the U.S. market is derived from H7-1 sugar beets. APHIS’s environmental assessment estimates that 95% of U.S. sugar beet acres are planted with H7-1 seed. The rapid adoption of genetically engineered seed by farmers over the past several years reflects the significant cost savings reportedly available through the use of this seed, as well as the willingness of farmer-owned cooperative sugar beet factories to accept it.

This means that a decision – whether through regulation or in the courts – that foreclosed the planting of H7-1 beet seed for the 2011 and perhaps subsequent crops would have an immediate and dramatic effect: Farmers would have to scramble to obtain enough seed to plant 95% of their acreage, when the seed they had planned to sow on that acreage suddenly became restricted. As noted below, it seems unlikely that they could obtain sufficient seed.

A host of problems would flow from such an abrupt action. If H7-1 seed could not be planted in 2011, farmers and their cooperatives would be severely affected, as comments filed by the production sector will amply demonstrate. However, the impact on the farmers’ and cooperatives’ customers would be equally negative. The lack of alternative strategies for securing adequate supplies would create shortages, place large numbers of manufacturing jobs at risk, drive some already-struggling small businesses into bankruptcy, and raise consumer prices. These harmful effects would occur for several reasons.

The ability to substitute cane for beet sugar is limited in the short run. Functionally, cane and beet sugar are readily substitutable for each other. Both are sucrose. However, in the event of a major shortfall in beet sugar availability, it would not be feasible to rely on increased availability of cane sugar.

First, U.S. cane refiners could not simply increase their raw sugar imports and produce more refined sugar, even assuming the federal government granted them unlimited access to offshore supplies. There simply is not enough capacity at domestic refineries to refine the U.S. sugarcane crop, normal imports *and* additional imports to make up for lost beet sugar output. Thus, there are physical constraints on the cane refining industry's ability to compensate for a decline in beet sugar production.

For the same reason, even if farmers could expand sugarcane acreage in the United States, it could not be refined in a timely manner because of the same refining capacity constraints. The consolidation of sugarcane mills over time has placed a limit on the quantity of suitable acreage in proximity to the remaining mills, since sugarcane must be processed soon after it is harvested.

Second, the world market for raw sugar has recently been trading at historically high levels that reflect supply shortfalls over the past few years, especially in India. To suddenly introduce a major, unexpected new demand on limited world sugar supplies would be to risk supply disruptions and rapid cost increases in many countries, not least those developing countries that are net importers of sugar.

Third, importing additional refined cane (or beet) sugar would not be a total solution either, because quantities of refined sugar traded on the world market are substantially smaller than traded quantities of raw sugar. (This is especially the case since the European Union, traditionally an exporter of refined sugar, has drastically reduced its presence in the world export market.) Additional costs would likely be incurred on any refined imports because of the probable need for re-packaging and, in some cases, other further processing operations.

Finally, it seems unlikely that beet processors could make up much of their production shortfall by importing raw sugar and refining it in their factories. It is technologically possible for beet sugar factories to refine raw cane sugar, and has occasionally happened. However, the logistical hurdles would be severe. Beet factories are almost all located far inland, requiring raw sugar to be transported by truck or rail from ports of arrival for hundreds of miles. Factories would have to coordinate refining the hypothetical raw sugar and their own members' sugar beets. Among other obvious issues are the availability of appropriate transportation modes, as well as the fact that beet factories are generally not set up to receive and store the raw sugar.

Conventional seed would not supply the shortfall, at least in the near term. U.S. beet producers would not be able simply to return to planting conventional seed varieties; supplies are evidently insufficient. USDA's Environmental Assessment estimates that for 2011, there would only be sufficient conventional seed available to plant 63% of normal sugarbeet acres, resulting in an acreage shortfall of 37% and a shortfall in eventual beet sugar production of at least that much. (Anecdotally, H7-1 sugar beets are believed to be higher-yielding; if that is true, the production shortfall would exceed the acreage shortfall, other things being equal.)

The problems in returning to reliance on conventional seed go beyond the simple shortfall in available quantities. This problem is compounded because particular varieties are adapted for use in particular geographic and climatic regions, and may not perform adequately in other regions. Neither is importing seed a viable option, since imported seed (probably from Europe) would not be adapted to U.S. conditions, particularly in terms of disease resistance; reduced yields would be likely. The potential introduction of invasive species could also be a concern.

The impact on both industrial users and retail consumers would be substantial and negative. USDA has estimated that users and consumers of sugar would pay an extra \$1.6 billion if H7-1 sugar beet seed cannot be planted in 2011. The average price paid by industrial users at wholesale would rise 24%, according to USDA. (Prices are already at record-high levels, largely for other reasons, so this further price rise would look even more dramatic when compared to normal price ranges.)

Industrial sugar users account for hundreds of thousands of jobs. In 2008, according to the U.S. Department of Commerce, the food and beverage industry employed 1,590,727 Americans. Of these, 626,809 were employed in sectors that use significant amounts of sugar or other caloric sweeteners in making their products. These 626,809 employees were considerably more numerous than the 12,526 jobs in sugar production and processing in 2008.

Many of these jobs would be placed at risk in the event H7-1 sugar beets cannot be planted in 2011. Industrial users experienced significant supply disruptions in the fall of 2005, when two major refineries were shut down by Hurricane Katrina. Experience then suggests that when supplies are abruptly and significantly curtailed, the impacts are more severe than would be implied by the amount of the supply shortfall by itself. Supplies that were anticipated to be delivered from a given location may only be available in a different place, and must be transported, with delays in availability and consequent disruption to production lines. Supplies available from one seller may not be of the quality or condition required by a buyer, or may only be available in a form that requires further processing, repackaging or other operations. Increased demand on the transportation system, and changes in the nature and timing of that demand, may cause bottlenecks. All these impacts put jobs at risk.

Should normal supplies of sugar be disrupted by a planting ban, it is likely that in a number of cases, production lines would be temporarily halted; some workers would be laid off; in certain cases, facilities that were already of marginal profitability would close; small companies that are already stressed by current high sugar prices could be forced out of business altogether; and consumers would see reduced availability of many popular products. Contrary to popular stereotypes, these products are not just candy and snacks. The baking and cereal industries cumulatively constitute the largest industrial sugar-using sector. Sugar is used in a wide variety of products, including canned and frozen vegetables, condiments and soups.

Economic damage would not be limited to the private sector. As higher prices and tighter supplies rippled through the food production and distribution system, federal outlays would also increase. Taxpayers would incur additional costs for programs like school meals and the

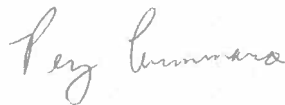
Supplemental Nutrition Assistance Program (SNAP, formerly known as Food Stamps) whose benefit levels are tied to food price indices.

All of this would occur because sugar supplies would simply be inadequate to meet normal market demand, and there would be very limited options for adding to these supplies in the short term. USDA has stated its belief – and SUA strongly concurs – that an inability to plant H7-1 sugar beets in 2011 would be far more disruptive to markets, and have more far-reaching effects, than the aftermath of two hurricanes in 2005 or a refinery explosion in 2008.

APHIS should move quickly to provide regulatory clarity and order to the marketplace.

SUA reiterates its support for action that will ensure that not only the 2011 crop but also subsequent crops can be planted. Otherwise, the result is likely to be market turmoil, unnecessarily high costs and the loss of jobs and small businesses at the worst possible time in an already-stressed U.S. economy. A nation in a painfully slow recovery from the worst economic crisis since the Great Depression can ill afford to sacrifice manufacturing workers and small business operators, nor are consumers well-positioned to absorb higher food costs at such a time. SUA strongly urges APHIS to act quickly and decisively in this matter.

Sincerely,



Perry Cerminara
Chairman