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SETH BRADSTREET
COMMISSIONER
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TO: Board Members
FROM: Lebelle Hicks PhD DABT
RE: Update on Requests to Register Bt Sweet Corn

December 8, 2008

In August, the Board agreed on a process for reviewing requests to register Bt sweet corn. The consensus was to convene the Bt corn technical committee to review resistance concerns and the Medical Advisory Committee (MAC) to review any human health concerns associated with Bt sweet corn consumption.

In October, the Bt corn technical committee met to discuss the registration requests from Monsanto and Syngenta and their report is attached. The MAC plans to meet in January and will include Bt sweet corn on their agenda.

The Bt corn technical committee review revealed two differences between Bt field corn and Bt sweet corn label requirements which may not be addressed by the current language in Chapter 41. These differences are:

- (1) No refuge of non-Bt corn is required on Bt sweet corn labels/grower agreements. Growers need only destroy any stalks remaining in the field within one month of harvest.
- (2) The Bt sweet corn labels require that it only be sold directly to processors or through commercial dealers to "large" growers; Bt sweet corn may not be sold to small roadside or home gardeners.

If the Board decides to register Bt sweet corn products, it will also need to decide whether changes must be made to Chapter 41. Currently Section 5E(I)(c) makes the assumption that there will be a 20% refuge of non-Bt corn and that it will be planted in such a manner that it provides maximum protection for adjacent non-Bt crops. Since there is no refuge requirement for the Bt sweet corn products there is no protection for adjacent non-Bt crops.

One way to address this label difference might be to amend Section 5E(I)(c) as follows:

"When non-Bt-corn crops are or will be located within 500 feet of a prospective Bt-corn planting site, ~~the any~~ refuge required by the grower agreement must be planted in a configuration that provides maximum protection from pollen drift onto the adjacent non-Bt-corn crop. If no refuge is required, the Bt- corn grower shall maintain at least a
???? foot buffer to non-Bt corn crops. Unless otherwise agreed, this standard shall apply:

:

- i. when the non-Bt-corn grower notifies the owner or lessee of the land to be planted with Bt corn;
- ii. the notice is given prior to planting of the Bt-corn crop; and
- iii. such notice identifies the non-Bt-corn crop to be protected."



To address the other label difference, the technical committee recommends limiting the use of Bt sweet corn to growers with no less than one acre in sweet corn. Should you decide to accept this recommendation it will also require amendment of Chapter 41.

The staff recognizes that the Board has not yet determined whether it plans to approve the Bt sweet corn registration requests. Because any rule changes intended to go into effect for the 2009 growing season will need legislative approval, we suggest initiating prospective rule changes now. In the event the Board elects not to approve the registration requests, we can simply abandon the rulemaking effort and keep the current standards.