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Tee off with the Iowa Seed Association

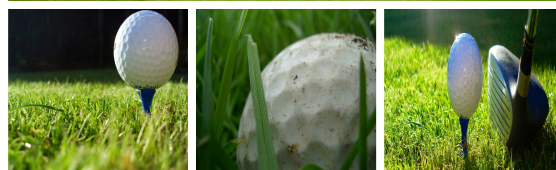
After the long, snowy winter everyone will be ready for summer's warm weather and to hit the greens. The Iowa Seed Association will be teeing off at the Annual Golf Tournament benefiting the ISA Scholarship Fund on Tuesday, June 28, 2011.

The ISA Golf Tournament will be held at Coldwater Golf Links in Ames, Iowa. The course is located at 6515 South 16th Street. This is a spikeless course. Awards and refreshments will wrap-up the event.

Mark your calendars now to attend this event that benefits a great cause!

Attached with the May ISA News Bulletin is a registration and sponsorship form for the Annual Golf Tournament. Please fill out the registration form and consider sponsoring the event. If you have any questions, call the ISA office at 515.262.8323 or 800.383.1682.

Hope to see you on the green!



Seed Count Rule for Agriculture Seeds

A little over a year ago Iowa's Attorney General interpreted that the National Institute of Standards and Technology (NIST) Handbook should be the basis for seed sales by count rather than the conventional standard of using the Association of Official Seed Analyst (AOSA) guidelines. This presented a dilemma for seed companies and the potential for inconsistencies between the state regulatory officials' enforcement efforts.

As a result of a collaborative industry effort, the National Conference of Weights and Measures (NCWM) adopted the seed count rule as part of the NIST Handbook 133 in July 2010. The amendment is now effective, having become operational on January 1, 2011. The following is a brief overview of the amendment and information about the rule that may be helpful to your members and seed control officials in your state:

Handbook 133, published by the National Institute of Standards and Technology (NIST), contains procedures for use by state weights and measures inspectors in checking the net contents of packaged goods. Before adoption of this rule, Handbook 133 contained no procedure specific to agricultural seeds and required that agricultural seed count be verified using a hand-counting method. This method was inconsistent with the procedure for verifying seed count in the Rules for Testing Seeds published by the Association of Official Seed Analysts (AOSA). The new seed count rule in Handbook 133 adopts AOSA's procedure, which uses a mechanical seed counter to determine the number of seeds contained in a sample of soybeans, corn, wheat, or field beans.

The AOSA rules are used by state seed control offi-

cials as a basis for enforcement and the NIST Handbook 133 rules are used by state weights and measures inspectors in their efforts. However, in some states, the laws are written such that the state seed control officials are required to apply the procedures in Handbook 133 when verifying seed count. Adoption of this change to Handbook 133 harmonized the laws, so that now the same procedure is applied whether agricultural seed count is inspected by weights and measures or seed control officials.

Notably, the change to Handbook 133 does not affect the jurisdiction of weights and measures or seed control officials, which remains subject to existing state law. The amendment also does not affect the appropriate method of sale for agricultural seeds (i.e., whether they are required to be labeled by weight, count, or both). We understand that NIST is in the process of updating the latest edition of Handbook 133, which incorporates the seed count rule and other unrelated changes adopted by NCWM in 2010. The revised Handbook is expected to be released soon.

As with any new procedure, NCWM and NIST anticipate a period of time will be needed to educate inspectors about the new rule. Based on the experiences that result from these implementation efforts, it is possible that NCWM may consider some minor changes to the language of the seed count rule in the future in order to provide clarification for inspectors applying the rule in the field. However, there are no actions related to seed count currently pending before the NCWM.

If you have any questions, please call the ASTA office at 703.837.8140.



EPA Seeks Public Comment on Proposed Guidance Clarifying the Scope of Clean Water Act Regulations

On April 27, 2011, EPA and the U.S. Army Corps of Engineers (COE) issued proposed guidance which will clarify whether particular waters are regulated under the Clean Water Act and provide certainty for farmers, developers and others. The new guidance does not expand federal jurisdiction beyond existing regulations of the waters of the U.S.

Over the past decade, interpretations of Supreme Court rulings removed some critical waters from Federal protection, and caused confusion about which waters and wetlands were protected under the CWA. The draft guidance provides clearer, more predictable guidelines for determining which water bodies are protected by the CWA. The draft guidance does not change any of the existing agriculture exemptions under the CWA. All of the exemptions from permitting requirements for normal agriculture, forestry and ranching practices continue to apply.

EPA believes that protection of Midwest wetlands and streams is more important than ever as we experience more pronounced effects from flooding, climate change, and habitat loss.

A 60-day public comment period on the proposed guidance begins April 27, 2011. EPA will consider written public comments in reaching its final decision on the guidance. The EPA and Corps of Engineers will follow up the final guidance with rule-making to provide additional opportunity for comment on the scope of clean water protections, and to clarify CWA regulations. Stakeholders are encouraged to comment on the draft guidance during the public comment period.

This new guidance does not change any of the existing agriculture exemptions under the Clean Water Act. All of the Act's exemp-

tions from permitting requirements for normal agriculture, forestry and ranching practices continue to apply.

- Agricultural stormwater discharges and return flows from irrigated agriculture.
- Normal, ongoing agricultural, silvicultural and ranching activities.
- Normal activities related to construction and maintenance of irrigation ditches, and maintenance of drainage ditches.
- Normal activities associated with construction or maintenance of farm, forest, and temporary mining roads.

The guidance also clearly describes waters not regulated under the Act, including the following water bodies, which often are associated with agricultural activities:

- Non-tidal drainage and irrigation ditches not connected to a jurisdictional water.
- Artificially irrigated areas that would revert to upland if irrigation stops.
- Artificial lakes or ponds used for purposes such as stock watering.
- Artificial ornamental waters created for primarily aesthetic reasons.
- Water-filled depressions created as a result of construction activity.

For more information go to:

<http://water.epa.gov/lawsregs/guidance/wetlands/CWAwaters.cfm>.

A Clean Water Act fact sheet is attached to this edition of the Iowa Seed Association News Bulletin.

Sound Protocol Needed in Defining Jurisdictional Waters in U.S.

CropLife America (CLA) calls for a sound protocol in defining jurisdictional water under the Clean Water Act (CWA), as well as sensible definition of these bodies of water, in response to the release of the U.S. Environmental Protection Agency's (EPA) guidance laying out the Agency's view on what is considered a "water of the U.S." EPA released the new guidance on Wednesday, April 27, and it was developed in conjunction with the U.S. Army Corps of Engineers. Unfortunately, the Agency has chosen to issue this policy without entering into formal rulemaking procedures, despite the vast potential negative impact of this regulatory definition. The determination of the breadth of what is and is not jurisdictional water directly impacts whether pesticide users, such as U.S. growers, will be subjected to the National Pollutant Discharge Elimination System (NPDES) pesticide general permit, soon to be required for certain pesticide uses "over or to" jurisdictional waters of the U.S.

"Protecting our U.S. waterways and water quality is of the utmost importance for today's farmers and ranchers, yet the guidance issued by the EPA follows a recent history of unnecessary regulatory burdens, all while circumventing our established rulemaking process," said Jay Vroom, president and CEO of CLA. "As the agricultural industry stands to be impacted by enforcement of the 6th Circuit Court's ruling on NPDES permitting, this guidance broadens the impact that will be felt by America's growers with its broader definition of jurisdictional waters."

In developing the guidance, EPA has not consulted with the states, which are important partners in implementing the Clean Water Act, or followed the rulemaking principles of the Administrative Procedure Act. The Agency is only now seeking comment on the policy. Congress and the U.S. Supreme Court have both decided against expansion of the CWA in past votes and rulings, and 170 members of Congress recently sent a letter to the EPA expressing concern with the Agency's attempt to excessively broaden the scope of jurisdictional waters while also bypassing established rulemaking processes.

The guidance allows for new bodies of water to be protected under the CWA if they are determined to have a "significant nexus" to a traditional navigable or interstate water. This would also require additional NPDES permitting applications for growers, all with negligible environmental benefit. As growers already stand to face fines of up to \$37,500 per day for pesticide applications not covered by an NPDES permit, this expansion poses additional burdensome costs for U.S. agriculture.

The guidance stands as EPA's attempt to interpret the Supreme Court's plurality opinion in *Rapanos v. U.S.* which stated that, to be jurisdictional, waters that are not traditionally navigable must have a sufficient nexus to navigable waters.

Expiration of Biotech Crop Patents – Issues for Growers

Written by: Roger McEowen, Center for Agricultural Law and Taxation

In the near future, the last of the Roundup Ready soybean patents will expire. That expiration will be followed by the expiration of other patents on biotech crops and expiring approvals in overseas markets like the European Union and China.

Those expirations could lead to the planting of so-called "generic" versions of Roundup Ready seeds that lack approval in overseas markets, complicating the export process and potentially disrupting billions in trade. Whether the expirations will lead to lower seed prices and more choices for farmers is an open question and greater use of the historic practice of saving some seed and re-planting it in the next crop season remains to be seen. But, as patents expire and regulatory approvals for overseas markets become uncertain, a significant question exists as to whether farmers will continue to have access to these markets.

Certainly, as patents begin to expire on various biotech crops, those crops will remain for a period of time in the commercial grain supply chain. That means that steps will likely be necessary to ensure that the crops will still meet requirements imposed by certain buyers such as the European Union and China. Without those steps, U.S. farmers could face problems in maintaining access to those markets. Another potential problem could arise if the holder

of the expired patent develops and markets a new product that could potentially compete with the product for which the patent has expired (the so-called generic product).

The patent expiration of the first generation of RR soybean trait in 2014 will be the first time that a major biotech trait will become potentially subject to competition with generic traits. That could result in lower prices and more choices for farmers. That will most likely be the case if Monsanto sticks to its pledges to maintain and extend current licensing agreements and regulatory approval for overseas markets.

Certainly, Monsanto has legal options that it can utilize to extend its existing monopoly and prevent competition among generic seed products. It appears at the present time that Monsanto does not plan to utilize those options to the extent of diminishing competition in the seed market. But, this entire matter is one that is developing.

A complete brief on this topic is posted on the Center for Agricultural Law and Taxation website as an April 8, 2011 – Expiration of Biotech Crop Patents – Issues for Growers. This article looks at the laws governing seed sales and the current landscape. The brief can be found at: <http://tinyurl.com/3mnugkx>.

Kress Named Vice President for Extension and Outreach at Iowa State



Cathann Kress, senior policy analyst and program lead for Military Community and Family Policy at the U.S. Department of Defense, Washington, D.C., will become Iowa State's next vice president for extension and outreach. Kress will begin her new role on July 1.

In her role as vice president, Kress will serve as director of ISU Extension, which connects Iowans with Iowa State resources through educational opportunities that promote healthy people, support healthy environments and advance

healthy economies. ISU Extension program areas include 4-H/youth development, community and economic development, agriculture and natural resources, families, and the Center for Industrial Research and Service.

Kress succeeds Jack Payne, who accepted a position at the University of Florida, Gainesville, last May. Gerald "Jerry" Miller, long-time faculty member and administrator at Iowa State, has served as interim vice president for extension and outreach since June 1, 2010.

"I am very excited that Cathann will be joining us," said Executive Vice President and Provost Elizabeth Hoffman. "Her experience and vision make her just the right person to lead ISU Extension during these challenging economic times and well into the future. I also want to extend a special thank you to Jerry Miller, who has led Extension as interim vice president over the past year. Following the extensive reorganization, his steady hand, kindness, and deep

understanding of Extension have been invaluable."

Iowa State University President Gregory Geoffroy noted, "Cathann has tremendous experience with Extension and in working with people."

Prior to joining the Department of Defense in 2008, Kress was director of youth development for the U.S. Department of Agriculture's Cooperative State Research, Education and Extension Service (CSREES) in Washington, D.C., for six years. There, she provided national leadership for youth programs administered through cooperative extension and land-grant universities, including 4-H, USDA-military partnerships, rural youth opportunity programs and Children, Youth and Families at-Risk (CYFAR). She also established the mission and role of the National 4-H headquarters.

From 2000 to 2002, Kress was assistant director of Cornell University's (Ithaca, N.Y.) cooperative extension and the state program leader for 4-H Youth Development. She also served as an adjunct faculty member in the Department of Education, College of Agriculture and Life Sciences at Cornell; and as acting executive director (in 2002) of the New York State 4-H Foundation.

A native of Sharon Center, Iowa, Kress taught psychology at Kirkwood Community College in the late 1980s and served as a youth development specialist and a youth and family violence specialist for Iowa State University Extension from 1992 to 2000. She earned a bachelor of science in social work from Iowa State (1983), and a master's in counseling (1986) and a Ph.D. in education (1990) from the University of Iowa.

ASTA is Moving: Please Update Contact Information

Beginning May 16, 2011, the American Seed Trade Association (ASTA) will be at a new location. Please take note of our new address, 1701 Duke Street, Ste. 275; Alexandria, VA 22314. The

office phone number (703.837.8140), fax number (703.837.9365), and all email addresses will remain the same.



Illinois Foundation Seeds, Inc. is qualified by Monsanto to blend Genuity® SmartStax® RIB Complete™

Illinois Foundation Seeds facility in Tolono, Illinois has been qualified by Monsanto to blend Genuity® SmartStax® RIB Complete™. This allows IFSI to provide their customers with the opportunity to package and demonstrate their products this spring.

This is just another step Illinois Foundation Seeds has taken to prepare and deliver solutions to seed corn companies. "Our main focus is to bring genetics and technology to the seed industry." Tim Johnson President of SGI Field Crops Division.

IFSI will be able to support the planting of seed corn with the first single-bag solution for insect refuge management. This new option fol-

lows EPA's registration of Genuity® SmartStax® RIB Complete™, which will be available in limited quantities across the Corn Belt for planting this spring.

"We will continue to provide our customers with choices for refuge options that will simplify refuge management. We are driven to offer the best products that deliver success for our customers." John Hiser CEO of Illinois Foundation Seeds, Inc.

For more information about Illinois Foundation Seeds, Inc., please visit the website at www.IFSI.com.

Milken Institute: Industrial Biotech Needs Policy Support, Advocacy, and Sustained Capitalization

Industrial biotechnology can turn plants into plastics, chemicals and other products that are usually made with petroleum.

Although industrial biotech is environmentally friendly and could play a significant role in helping to wean the U.S. off foreign oil, the industry faces an uphill battle because of petroleum's price advantage.

A new report from the Milken Institute, "Turning Plants Into Products: Delivering on the Potential of Industrial Biotechnology," released today at the Global Conference, examines the challenges facing the industrial biotechnology sector and identifies market- and policy-based responses.

The report captures the results of the Institute's Financial Innovations Lab™ in which stakeholders and experts in the field discussed how the United States could facilitate the flow of private capital into the production of bio-based products.

"There is much appeal for policymakers to invest in expanding the biotech-derived chemical industry. In the long term, it has environmental advantages and offers an alternative to foreign oil," said Joel Kurtzman, executive director of the Milken Institute Center for a Sustainable Energy Future.

"In the short term, it offers the immediate benefit of rural employment opportunity."

Unlike industrial biotechnology, the petrochemicals industry is well-established, with fully amortized facilities, economies of scale, and entrenched processes for operating efficiently.

Currently, the complexity of the industry and the immense investment required to commercialize bio-based products, aside a small number of joint-venture successes, have resulted in low investment participation and large attrition rates, particularly for underfunded biofuels start-up companies.

Among the approaches suggested in "Turning Plants Into Products":

- Establish concrete, long-term government policies. Some policies designed to help the industry have time frames that are too short for industrial biotech's long investment horizon, a shortcoming that dissuades private investment and decreases the odds of commercial success.
- Create prize forums. The industry is young and rich in opportunity for innovative technology and processes, and prize forums are an effective way to collect and share expertise.
- Utilize established resources. Beyond strategic partnerships, the industrial biotechnology industry can take advantage of existing pilot plants and encourage the development of more pilot and demonstration plants to test (and thus de-risk) technology and reduce the capital expenditures.
- Create innovative securitization. Start-ups that have already developed intellectual property can obtain financing by bundling their idea for the purpose of portfolio valuation and patent securitization. Investors can buy into bundled intellectual property once it is put up as collateral.

"The industry needs to find the momentum to get companies past the funding gaps and on to commercial-scale production," Kurtzman added.

"This will require continued investment in R&D, supported by the government and public-private partnerships, to make the investment less risky and to increase the efficacy of the technology. We believe the results will be greatly worth the effort."

The Financial Innovations Lab that led to the development of the Institute report was funded in part by the Office of Energy Policy and New Uses at the U.S. Department of Agriculture. Participants included leading scientists and technologists, bio-based product producers, banks, institutional investors, venture capitalists, public officials, and representatives from think tanks and industry associations.

The full report is available at www.milkeninstitute.org. For more information, call 310-570-4623.

To read this article in its entirety, please go to: <http://tinyurl.com/65rwwf>.



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Further contributing to biotechnology's price disadvantage is that petroleum prices don't take into account increased defense spending to secure petroleum shipping lines, potential climate change effects, disturbances from unfriendly oil-producing countries, and imbalance of international trade.

Using domestic biomass feedstocks largely avoids these negative effects of fossil energy-based industrial product production.

Accelerating the Economic Case

According to "Turning Plants Into Products," developing the bio-based products industry will require the organized cooperation of local, state, and federal governments, the investment community, trade organizations, and academia.