



Rice-taint dead end dismays growers

BY NANCY COLE ARKANSAS DEMOCRAT-GAZETTE

More than 14 months after the U.S. Department of Agriculture began investigating how traces of an unapproved genetically engineered rice entered the U.S. commercial long-grain rice supply, the government said Friday that it cannot explain how the contamination occurred and has no plans to take any enforcement actions.

Cindy Smith, the administrator of USDA's Animal and Plant Health Inspection Service, said Friday that the agency is considering some changes, including a requirement for better record keeping by researchers and developers.

That was hardly enough to satisfy the rice industry, members of which, as well as others, condemned the effort.

"Once again USDA has let the American farmer down," said Ray Vester, a Stuttgart rice farmer who served on the state Plant Board last winter when the agency banned the planting this year of two rice varieties, Cheniere and Clearfield 131. Both tested positive for trace amounts of the protein that makes Bayer CropScience's LibertyLink rice varieties resistant to the herbicide Liberty, also known as glufosinate.

"[USDA] didn't have the protocols in place to keep this from happening or to find out how it happened," Vester said. "It appears to me they just whitewashed over [the problem] and went on.

"They spent all these months trying to find reasons not to blame anybody or make a decision, and I think that's what they accomplished," Vester said.

The Center for Food Safety, a nonprofit public interest and environmental advocacy organization based in Washington, D.C., said in a prepared statement that it was "shameful that USDA refuses to hold [Bayer CropScience] responsible" for contaminating the U.S. rice supply.

Bayer CropScience is a subsidiary of Leverkusen, Germany-based Bayer AG, a multinational chemical and health-care corporation, whose list of products includes Bayer aspirin and Alka-Seltzer.

Although the USDA and the Food and Drug Administration have said that LibertyLink rice varieties pose no health, foodsafety or environmental risks, many foreign countries shun all genetically engineered foods.

About half of all U.S. rice is exported, and news last year of the contamination negatively affected almost half of all U.S. rice export markets. U.S. rice sales in the 27 member nations of the European Union have nearly halted, and increased testing of U.S. rice shipments has been required in many foreign markets.

The fallout from the LibertyLink problem has been particularly acute in Arkansas, where the state's farmers produce about half of all U.S. rice. In 2006, Arkansas' rice harvest was worth \$892 million, making it the state's single most valuable crop.

News of the contamination cut demand, which many in the industry say lowered prices, though no one claims to be able to measure that damage.

"Once again we find out too late that the government is uninterested in protecting farmers, consumers or the environment from genetic crop experiments," said Joseph Mendelson III, legal director for the Center for Food Safety.

“Remarkably, the USDA report also reveals that the agency has no formal rules requiring biotech companies to retain records of their experimental field trials or to require companies to keep seed samples for genetic tests that are essential to detect and track potential sources of contamination,” the center said.

NOT MUCH ENLIGHTENMENT

Darryl Little, director of the state Plant Board, said, “[USDA] really didn’t tell us a whole lot.”

Preventing future transgenic contamination is the most important goal to keep in mind, said Kenneth Graves, president of the Arkansas Rice Growers Association.

“We obviously need more stringent regulations with some tough penalties and accountability,” Graves said.

Both U.S. rice industry trade groups, USA Rice Federation in Washington, D.C. and US Rice Producers Association in Houston, Texas, expressed disappointment with the government investigation.

John Alter, a DeWitt rice farmer and member of the Arkansas Rice Research and Promotion Board, said Friday’s report “underscores the extreme importance to us here in Arkansas of keeping our right to further regulate something that is as potentially damaging to our No. 1 cash crop.”

In the past year, the USA Rice Federation has taken a leading role in trying to restore the competitiveness and marketability of U.S. long-grain rice in export markets around the world, particularly the European Union. The federation said Friday that testing of this year’s U.S. long-grain rice crop “show the overwhelming absence of genetically engineered LibertyLink traits.”

The lack of significant findings by the USDA indicates the need for increased corporate responsibility and stewardship by the biotechnology industry, the federation said.

“Imagine if we had waited for the [Animal and Plant Health Inspection Service] report before taking decisive action,” Chairman Al Montna said.

Last week the federation said a comprehensive investigative report by the USDA was essential for the U.S. rice industry to be able to renew exports to the European Union.

Smith said Rebecca Bech, deputy administrator for biotechnology regulatory services, was in Brussels, Belgium on Friday “briefing representatives from the European Commission about the investigation and what we learned.”

US Rice Producers said in a prepared statement that it lamented that “current record keeping and related regulatory requirements did not provide investigators the tools they needed to reconstruct the complete picture of what caused this expensive episode.

“But most of all, we are concerned about the lack of corporate responsibility demonstrated by certain industry players throughout this entire episode. Their irresponsibility and determination to avoid any liability for their actions has — and continues to — cost U.S. rice farmers hundreds of millions of dollars,” the association said.

INVESTIGATION RESULTS

Smith said the Animal and Plant Health Inspection Service’s 8,500-hour investigation, which began Aug. 1, 2006, determined that the Cheniere rice variety had been contaminated by only LibertyLink 601 or LLRICE601, while Clearfield 131 had been contaminated by only LLRICE604.

“We had hoped to identify how each [genetically engineered] rice line entered the commercial rice supply, but the exact mechanism for introduction could not be determined in either instance,” she said.

The one common denominator in both cases was Louisiana State University AgCenter’s Rice Research Station near Crowley, Smith said. From 1999 to 2001, LLRICE601 and Cheniere were both grown at the

same time at the LSU station, “which was working under a Bayer CropScience contract,” she said. In addition, LLRICE604 and Clearfield 131 were also grown at the station, but not grown at the same time.

“This means ... that the most likely entry point for LLRICE604 into Clearfield 131 was through a means other than direct cross-pollination,” leaving only mixing or other means, Smith said.

Ruling out cross-pollination as the source of contamination for Clearfield 131 was the only real news in the report, Plant Board Director Little said.

Nevertheless, the agency is considering increasing the isolation distances required between seed-breeding fields and transgenic varieties to reduce the likelihood of cross-pollination, Smith said. In the case of so-called self-pollinating plants like rice, that distance now is 10 feet.

Smith said that the USDA never “negotiated” with Bayer during the course of the investigation.

“We invited Bayer in this morning and we shared with them the documents that are going to be posted on our Web site,” she said.

Those documents are available at: www.aphis.usda.gov. One eight-page document, “Report of LibertyLink rice incidents,” reviews the contamination of the two rice varieties. Another four-page document, titled “Lessons learned and revisions under consideration for APHIS’ biotechnology framework,” summarizes the actions that the agency may take to strengthen its regulations regarding genetically engineered crops.

HUNDREDS OF LAWSUITS

The LibertyLink contamination has spawned hundreds of lawsuits during the past year. Most of the cases have been brought by farmers who are suing Bayer CropScience. To date, 184 of those cases have been consolidated in U.S. District Court for the Eastern District of Missouri.

Adam Levitt, a partner in the Chicago office of Wolf Haldenstein Adler Freeman & Herz LLP, who serves as co-lead counsel for the farmer plaintiffs, said the USDA report got one thing correct.

“[The Animal and Plant Health Inspection Service] very correctly and repeatedly pointed out that whatever happened happened on Bayer’s watch, under contract from Bayer,” Levitt said.

“It confirms our belief that the damages caused to U.S. farmers with respect to the LLRICE601 and 604 issues lays at the feet of Bayer, and we’re confident that in litigation and through our discovery process we’ll be able to establish that on a class-wide basis,” he said.

Paul Byrd, Little Rock managing counsel for Birmingham, Ala.-based Hare, Wynn, Newell and Newton LLP, who filed one of the first lawsuits on behalf of Arkansas farmers, said the USDA report points out the importance of the U.S. civil justice system.

Government regulation alone is inadequate, “especially when you have a multibilliondollar corporation,” Byrd said. “They’re not scared of government regulation and here’s an example why.”