



National Sustainable Agriculture Coalition

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Biotechnology Regulatory Services
Animal Plant Health Inspection Service
United States Department of Agriculture
4700 River Road Unit 146
Riverdale, MD 20737-1236

Docket No. APHIS-2008-0023
RIN 0579-AC31

Submitted electronically via www.regulations.gov

Re: NSAC Comments on the Withdrawal of the Proposed Rule Regarding the Importation, Interstate Movement, and Release Into the Environment of Certain Genetically Engineered Organisms.

On behalf of the represented member organizations of the National Sustainable Agriculture Coalition (NSAC),¹ we submit the following comments on the U.S. Department of Agriculture's (USDA) request for stakeholder input on the withdrawal of the biotechnology regulation proposed rule. NSAC is a grassroots alliance that advocates for federal policy reform that supports the long-term social, economic, and environmental sustainability of agriculture, natural resources, and rural communities. NSAC member organizations are leaders in the sustainable agriculture and food systems sector, and have worked with farmers and communities to pioneer practices, systems, and supply chains that support the multiple goals of sustainability. These include certified organic, sustainable, non-genetically engineered, and farm identity-preserved products, systems, and supply chains that are impacted by the regulation of genetically engineered (GE) organisms, or lack thereof.

Many of the farmers that NSAC works with and represents choose to grow only non-GE crop

¹ Agriculture and Land-Based Training Association - Salinas, CA; Alternative Energy Resources Organization - Helena, MT; California Certified Organic Farmers - Santa Cruz, CA; California FarmLink - Santa Cruz, CA; C.A.S.A. del Llano (Communities Assuring a Sustainable Agriculture) - Hereford, TX; Center for Rural Affairs - Lyons, NE; Claggett Farm/Chesapeake Bay Foundation - Upper Marlboro, MD; Community Alliance with Family Farmers - Davis, CA; Dakota Rural Action - Brookings, SD; Delta Land and Community, Inc. - Almyra, AR; Ecological Farming Association - Soquel, CA; Farmer-Veteran Coalition - Davis, CA; Flats Mentor Farm - Lancaster, MA; Florida Organic Growers - Gainesville, FL; GrassWorks - New Holstein, WI; Hmong National Development, Inc. - St. Paul, MN and Washington, DC; Illinois Stewardship Alliance - Springfield, IL; Institute for Agriculture and Trade Policy - Minneapolis, MN; Interfaith Sustainable Food Collaborative - Sebastopol, CA; Iowa Natural Heritage Foundation - Des Moines, IA; Izaak Walton League of America - St. Paul, MN/Gaithersburg, MD; Kansas Rural Center - Whiting, KS; The Kerr Center for Sustainable Agriculture - Poteau, OK; Land Stewardship Project - Minneapolis, MN; Michael Fields Agricultural Institute - East Troy, WI; Michigan Food & Farming Systems - East Lansing, MI; Michigan Organic Food and Farm Alliance - Lansing, MI; Midwest Organic and Sustainable Education Service - Spring Valley, WI; National Catholic Rural Life Conference - Des Moines, IA; The National Center for Appropriate Technology - Butte, MT; Nebraska Sustainable Agriculture Society - Ceresco, NE; Northeast Organic Dairy Producers Alliance - Deerfield, MA; Northern Plains Sustainable Agriculture Society - LaMoure, ND; Northwest Center for Alternatives to Pesticides - Eugene, OR; Ohio Ecological Food & Farm Association - Columbus, OH; Oregon Tilth - Corvallis, OR; Organic Farming Research Foundation - Santa Cruz, CA; Rural Advancement Foundation International - USA - Pittsboro, NC; Union of Concerned Scientists Food and Environment Program - Cambridge, MA; Virginia Association for Biological Farming - Lexington, VA; Wild Farm Alliance - Watsonville, CA.


varieties because the markets they serve demand GE-free products; because they have concerns about potential adverse health, environmental, or agronomic impacts of GE crop technologies; or because they are USDA certified organic and not allowed to grow GE crops. These producers sustain substantial economic losses when their products contain unintended GE material at levels exceeding market or organic certifier specifications.

In addition, exposure of organic or non-GE fields to GE pollen, pesticides, and herbicides from neighboring farms utilizing GE crop technology packages can lead to adverse ecological and agronomic consequences for the non-GE producer, as well as tensions among farmers. Thus, the outcomes of biotechnology regulation directly impact the economic, environmental, and social sustainability of our nation's agriculture and rural communities, and are therefore of great concern for NSAC.

NSAC welcomes the opportunity to submit comments on the Animal Plant Health Inspection Service's (APHIS) questions regarding the regulation of GE organisms. NSAC believes that stronger regulations can and should be implemented pursuant to USDA's existing regulatory authority under the Plant Protection Act. This is a very important opportunity for APHIS to improve biotechnology regulations that advance the complementary goals of public health, environmental sustainability, and economic viability for farmers and rural communities.

Our comments focus on the four specific questions APHIS has raised for stakeholder engagement to identify solutions and offer input to the future regulatory activities of APHIS, as well as USDA's current regulatory authority to address this issue. We appreciate your consideration of our views.

Sincerely,


Sophia Kruszewski
Policy Specialist


Carla Curle
Policy Intern

GENERAL COMMENTS

To ensure a robust GE regulatory framework, NSAC recommends that USDA:

- Develop a regulatory process that is transparent and informed by independent science;
- Include farmers and other stakeholders throughout the regulatory and review process;
- Build into the process the authority to take into consideration the social, environmental, and economic risks that each new biotechnology product and process pose;
- Implement a rigorous post-commercialization monitoring system of biotechnology products that informs future regulatory decisions;
- Develop regulations that improve oversight and tracking on experimental field trials of biotechnology products;
- Require implementation of contamination prevention practices for GE crop producers and users to safeguard organic and non-GE producers;
- Create robust compensation mechanisms for farmers affected by GE contamination resulting in harm, including but not limited to economic losses; and
- Support non-regulatory actions that bolster research and education for non-GE seed and crop production.

With these considerations in mind, NSAC offers the following recommendations and responses to APHIS's questions regarding GE regulations.

Question 1: Should APHIS regulate based on the characteristics of biotechnology products and the potential risks they may pose, or by the process by which they were created? In either case, what criteria should be used to determine what APHIS regulates? Are there products and processes APHIS should not regulate?

NSAC supports a fully informed regulatory process driven by the identification of risk, the evaluation of products and processes through independent science and research, and the assessment of scientific uncertainty on various biotechnology issues. We therefore are not convinced that the question APHIS poses is a simple “either/or” question.

The current regulatory criteria developed under the Coordinated Framework of 1986 uses a solely product based approach and assumes that the process of biotechnology itself poses no unique risks.² However, a National Academy of Sciences report states that genetic engineering itself should be the trigger for regulatory review. They specifically write, “even if the risks of all conventionally bred crops are considered to be ‘acceptable,’ there is still a logical scientific justification for GE crops to enter into regulatory oversight.”³ The product-based approach to regulating biotechnology fails to address the higher rates of potentially harmful and unintended effects that genetic engineering poses when compared to conventional plant breeding.⁴

² The Pew Charitable Trust. *Guide to U.S. Regulation of Genetically Modified Food and Agricultural Biotechnology Products*. The Pew Initiative on Food and Biotechnology. Washington, DC. 2001.

³ National Academy of Sciences, Committee on Environmental Impacts Associated with Commercialization of Transgenic Plants, Board on Agriculture and Natural Resources. *Environmental Effects of Transgenic Plants: The Scope and Adequacy of Regulation* (2002), p. 79, 83.

⁴ National Academy of Sciences, National Research Council. *Safety of Genetically Engineered Foods: Approaches to Assessing Unintended Health Effects* (2004), p. 64.

Given the rapidly changing methods and processes used to create new biotechnology products, a process-based approach to regulation could present challenges as concerning as those posed by a product-based approach. We therefore believe that the decision to take any approach – whether product, process, or a hybrid approach– must be preceded by significant research, risk assessment, and public education on each of the options under consideration, and the various hazards and benefits associated with each.

In order for the public to properly consider and provide feedback on a product- vs. process-based approach, we believe there must be significant and comprehensive research and public education on the topic to allow for informed public input into this incredibly complex topic. Given the significant impacts any approach will have on the farming community – particularly those that choose not to use biotechnology or products produced with biotechnology – we believe that there is a strong need for more information and independent studies evaluating the environmental and socio-economic risks associated with biotechnology products and processes before we can provide adequate input.

NSAC is very concerned with the secondary risks to farmers that accompany the usage of GE crops on neighboring farms. Therefore, it is crucial that the regulatory method APHIS utilizes fully assesses and takes into consideration the risks – including environmental, social, and economic – and impacts of genetic contamination.

Recommendation: USDA should research and evaluate the various options under consideration for the regulation of biotechnology – including product, process, hybrid, or alternative approaches – and should provide the public with clear, objective information assessing the relative risks and benefits of each approach, followed by another opportunity to weigh in. This research and analysis should be conducted without delay, as the current product-based regulatory system has many shortcomings; unintended effects from existing GE products are well documented. USDA should also ensure that the approach to biotechnology regulation under consideration at APHIS takes into account the need for a comprehensive regulatory framework that addresses not only the regulation of the technology and products, but also the secondary environmental and socioeconomic impacts of the full technology package’s use in the field.

Question 2: The Plant Protection Act gives APHIS the authority to protect plant health through regulatory programs. APHIS has implemented the plant pest authority as part of their biotechnology regulations. Should APHIS add noxious weed provisions to their to biotechnology regulations and if so, how? What protection goals should APHIS consider?

We support the application of APHIS’ noxious weed authority to the regulation of biotechnology under the Plant Protection Act. It is crucial to organic and other non-GE producers, including specialty crop producers, that this broad noxious weed authority be applied to biotechnology products because of the inherent risks of contamination.

The term “noxious weed” refers to any plant or plant product that can directly or indirectly cause damage to crops and other interests of agriculture, natural resources, the public health, or the environment.⁵ Applying the noxious weed provision to the regulation of biotechnology is crucial

⁵ Public Law 106-224. Plant Protection Act. Commerce and trade. Exports and imports. *Title IV-Plant Protection Act*. 2000.

under APHIS authority, as the Plant Protection Act gives USDA the responsibility of preventing the spread of noxious weeds.

By incorporating the noxious weed authority in its biotechnology regulations, APHIS should consider developing provisions that will prevent against:

- Crop and seed contamination through gene flow, pollen drift, and other modes;
- Increased pesticide and herbicide usage and the associated development of pest and weed resistance;
- Increased weediness of GE crops already being grown;
- Economic harm to farmers and producers in other agricultural markets (non-GE, organic); and
- Impacts on non-target organisms and on the biodiversity of a region.

It is crucial that the biotechnology regulatory system addresses the full technology package that comprise new products (i.e. Enlist™ Corn and Soybeans and Enlist Duo™ herbicide), as the unintended effects may not be as powerful in isolation. This has been well documented with the case of Roundup Ready® soybeans, cotton, and corn and the widespread reliance on Roundup® resulting in weed resistance.⁶ Not only has this created herbicide-resistant weeds that infest fields, reduce crop productivity, and cause farmers millions of dollars in losses, it has continued the pesticide treadmill by creating markets for new GE technologies that rely on applications of more noxious herbicides and mixtures of herbicides. The use of these new herbicides will have harmful effects on ecological systems, human health, and farmers' livelihoods.

Recommendation: Herbicide resistance in weeds can cause real and lasting problems for farmers, whether they use the technology or not. APHIS must use its authority under the Plant Protection Act to protect the livelihoods of farmers, public health, and our natural resources from the spread of noxious weeds and the associated damages from these GE crop-herbicide technology packages.

Question 3: Are there legal authorities given to USDA outside the Plant Protection Act that APHIS should examine to regulate or oversee the products of biotechnology? What are they, and how would they be used?

Aside from the Plant Protection Act, there are several authorities that we recommend USDA examine as it considers its authority to regulate biotechnology.

First, the 2008 Farm Bill directed USDA to take actions on “regulations to improve management and oversight” of biotechnology crop production that would augment the agency’s existing authority under the Plant Protection Act.⁷ Specifically, section 10204(a)(1) directed USDA to take action on each of the “lessons learned” from the Liberty Link rice contamination event in 2006. A critical lesson learned from the Liberty Link event was that GE researchers and developers had to submit a corrective action plan to address contamination. Clearly, USDA found value in and had authority to require GE researchers and developers to establish plans related to contamination. Therefore,

⁶ Owen, Micheal DK, and Ian A. Zelaya. "Herbicide resistant crops and weed resistance to herbicides." *Pest Management Science* 61.3 (2005): 301-311.

⁷ Food, Conservation, and Energy Act of 2008, Pub. L. 110-234, section 10204.

USDA should require prevention plans as well as require corrective action plans to be in place before a GE research and development project is underway.⁸

Second, USDA has authority to protect the USDA Organic Seal and implement the National Organic Program (NOP). NOP's mission is "ensuring the integrity of USDA organic products in the U.S. and throughout the world." NOP standards prohibit the use of GE inputs in products sold or labeled as organic. Consumers and foreign buyers look to the organic seal as an indicator of GE-free production methods. Therefore, to ensure the integrity of organic production, USDA must develop regulations that minimize the likelihood that organic products are inadvertently contaminated by GE inputs. APHIS should review NSAC and our member organizations' numerous comments to USDA regarding steps to prevent contamination of organic products. Any new APHIS regulation should include elements of contamination prevention – focusing on the actions that must be taken by GE users to prevent contamination.

Third, USDA has authority over the purity and quality of seed that is sold and over germplasm resources in this country. The National Plant Germplasm System is a cooperative effort by State and Federal agencies and private organizations to safeguard the genetic diversity of agricultural and other plant varieties. APHIS should consider programs such as this and others that promote diversity within our agricultural system when overseeing products of biotechnology.

Finally, it is important to remember that the existing Coordinated Framework of 1986 gives regulatory authority to three different agencies: USDA, FDA, and EPA. NSAC stresses the significance of a coordinated and comprehensive regulatory process for biotechnology with transparent communications between all agencies and stakeholders. FDA and EPA should adopt this opportunity for stakeholder engagement to improve their own biotechnology regulations to ensure human, environmental, and economic viability.

Question 4: What non-regulatory solutions or policy alternatives could or should be considered to complement APHIS's regulatory program?

While non-regulatory approaches are important complementary actions to regulation, NSAC strongly believes that those efforts should not replace any existing or future biotechnology regulatory program. As we stated in our comments on the "coexistence" docket: a robust federal regulatory program that considers and addresses the risks GE crops present to farmers' choices and socioeconomic and environmental health is of the utmost importance to ensuring all sectors of agriculture can thrive. Accordingly, the agencies involved in biotechnology regulation must be comprehensive and coordinated in their efforts, and any non-regulatory actions must complement, and not supplant, regulatory requirements and oversight.

There are a number of non-regulatory or policy approaches that can complement a more rigorous framework for GE regulation.

1. Increasing funding for public sector, non-GE breeding and research efforts to increase biodiversity and resiliency within our agricultural system.

⁸ See Lessons Learned and Revisions Under Consideration for APHIS' Biotechnology Framework, *available at* <http://www.aphis.usda.gov/newsroom/content/2007/10/content/printable/LessonsLearned10-2007.pdf>

2. There is also a need to educate all agricultural sectors on the risks surrounding biotechnology products and the actions required to continue on a path towards coexistence. The new regulatory authority should mandate contamination prevention and ensure that benefits exceed the risks presented by these new biotechnology products. We raised this issue in our comments on the “coexistence” docket, and believe they are equally relevant here:⁹

We are supportive of the reestablishment of the National Genetic Resources Advisory Council (NGRAC) and its charge to develop a plan for how USDA should work with industry and other stakeholders to evaluate the pool of commercially available non-GE and organic seed varieties and identify market needs for producers serving GE-sensitive markets.

In addition, USDA should commit to increasing departmental resource prioritization to ensure more organic, non-GE, and public cultivar development more generally. NSAC has long advocated for increased federal support for public plant and animal breeding programs in order to reverse the dangerous trends of diminishing numbers of public plant breeders, loss of biodiversity, and the narrowing of crop and livestock genetic resources. Reprioritizing USDA resources to support this type of research is critical to ensure a diverse stock of plant and animal genetics in order to meet future challenges related to food security and resiliency to the impacts of a changing climate.

We also strongly support independent risk assessment of current and proposed biotech crops for economic and environmental harms through the Biotechnology Risk Assessment Grant (BRAG) program.

3. USDA should level the playing field so that the burden of preventing contamination is not solely placed on organic and other non-GMO operations. Responsibility must be tied to ownership. Those who patent, promote, and profit from GE products should be responsible for preventing contamination and covering damage in cases where prevention fails.

USDA should more fully analyze the specific environmental implications of GE contamination and the implications of managing GE crops, including the increased risk of pesticide drift or development of pest resistances. For example, Roundup Ready crops entail a greatly increased use of glyphosate, which could potentially increase risk of herbicide drift as well as the documented evolution of weeds resistant to glyphosate. While the spread of glyphosate-resistant weeds onto organic farms may have little impact (since USDA certified organic does not allow this herbicide), other non-GE identity preserved producers who rely on judicious use of glyphosate as part of their management systems may be forced to switch to older, more toxic herbicides.

Recommendation: USDA should continue to pursue non-regulatory actions, such as research and education, but these actions should be complementary to, and should not supplant, a robust regulatory framework. We have included our comments to the coexistence docket, which provide more detail on what such a robust regulatory framework should look like as an appendix to these comments.

⁹ See the attached Appendix for our full comments to the coexistence dockets in both 2014 and 2015.

CONCLUSION

In closing, we believe that the current regulatory process and authority given to APHIS under the Plant Protection Act is severely lacking and actions must be taken to protect the viability and vitality of farmers and the environment from the impacts that can result from poorly- or under-regulated agricultural biotechnology. The various agencies involved in biotechnology regulation must be comprehensive and coordinated in their efforts, and any non-regulatory actions must serve as complementary, and not supplant, regulatory action in order to most effectively protect all stakeholders.

NSAC and the farm, food, and rural organizations we represent wish to remain engaged in the conversation as APHIS continues this process. We thank you for giving serious consideration to our recommendations, and we look forward to working with you to establish a transparent and robust regulatory framework for biotechnology that allows the diverse sectors of American agriculture to thrive.



May 11, 2015

Regulatory Analysis and Development
USDA, PPD, APHIS, Station 3A-03.8
4700 River Road, Unit 118
Riverdale, MD 20737-1238

Submitted electronically via www.regulations.gov

Re: Public Comments on Docket No. APHIS-2013-0047

On behalf of the represented member organizations¹ of the National Sustainable Agriculture Coalition (NSAC), we submit the following comments on the U.S. Department of Agriculture's (USDA) request for public input on enhancing agricultural coexistence (Docket No. APHIS-2013-0047).

NSAC is a grassroots alliance that advocates for federal policy reform that supports the long-term social, economic, and environmental sustainability of agriculture, natural resources, and rural communities. NSAC member organizations are leaders in the sustainable agriculture and food systems sector, and have worked with farmers and communities to pioneer practices, systems, and supply chains that support the multiple goals of sustainability. These include certified organic, sustainable, non-genetically engineered (GE), and identity-preserved systems and supply chains that are impacted by a coexistence framework.

Many of the farmers that NSAC works with and represents choose to grow only non-GE crop varieties because the markets they serve demand GE-free products; because they have concerns about potential adverse health, environmental, or agronomic impacts of GE crop technologies; or because they are USDA certified organic. These producers sustain substantial economic losses

¹ Agriculture and Land-Based Training Association - Salinas, CA; Alternative Energy Resources Organization - Helena, MT; California Certified Organic Farmers - Santa Cruz, CA; California FarmLink - Santa Cruz, CA; C.A.S.A. del Llano (Communities Assuring a Sustainable Agriculture) - Hereford, TX; Center for Rural Affairs - Lyons, NE; Clagett Farm/Chesapeake Bay Foundation - Upper Marlboro, MD; Community Alliance with Family Farmers - Davis, CA; Dakota Rural Action - Brookings, SD; Delta Land and Community, Inc. - Almyra, AR; Ecological Farming Association - Soquel, CA; Farmer-Veteran Coalition - Davis, CA; Fay-Penn Economic Development Council - Lemont Furnace, PA; Flats Mentor Farm - Lancaster, MA; Florida Organic Growers - Gainesville, FL; GrassWorks - New Holstein, WI; Hmong National Development, Inc. - St. Paul, MN and Washington, DC; Illinois Stewardship Alliance - Springfield, IL; Institute for Agriculture and Trade Policy - Minneapolis, MN; Iowa Natural Heritage Foundation - Des Moines, IA; Izaak Walton League of America - St. Paul, MN/Gaithersburg, MD; Kansas Rural Center - Whiting, KS; The Kerr Center for Sustainable Agriculture - Poteau, OK; Land Stewardship Project - Minneapolis, MN; Michael Fields Agricultural Institute - East Troy, WI; Michigan Food & Farming Systems (MIFFS) - East Lansing, MI; Michigan Organic Food and Farm Alliance - Lansing, MI; Midwest Organic and Sustainable Education Service - Spring Valley, WI; National Catholic Rural Life Conference - Des Moines, IA; The National Center for Appropriate Technology - Butte, MT; Nebraska Sustainable Agriculture Society - Ceresco, NE; Northeast Organic Dairy Producers Alliance - Deerfield, MA; Northern Plains Sustainable Agriculture Society - LaMoure, ND; Northwest Center for Alternatives to Pesticides - Eugene, OR; Ohio Ecological Food & Farm Association - Columbus, OH; Organic Farming Research Foundation - Santa Cruz, CA; Rural Advancement Foundation International - USA - Pittsboro, NC; Union of Concerned Scientists Food and Environment Program - Cambridge, MA; Virginia Association for Biological Farming - Lexington, VA; Wild Farm Alliance - Watsonville, CA.

when their products contain unintended GE material at levels exceeding market or organic certifier specifications. In addition, exposure of organic or non-GE fields to GE pollen, pesticides, and herbicides from neighboring farms utilizing GE crop technology packages can lead to adverse ecological and agronomic consequences for the non-GE producer, as well as tensions among farmers. Thus, the challenges of coexistence among contrasting farming systems directly impact the economic, environmental, and social sustainability of our nation's agriculture and rural communities, and are therefore of great concern for NSAC.

To our disappointment, NSAC was not invited to attend the USDA Stakeholder Workshop held in Raleigh, NC on March 12 and 13th. Therefore our comments here are formed based on feedback we received from some of our members who were in attendance, and from our review of the documents that followed the workshop. Particularly, the documents detailing USDA's actions already underway and new or proposed actions related to the topic, which we address below.

Our comments focus on the specific questions raised in the Federal Register notice regarding the stakeholder meeting and next steps in bringing stakeholders together to identify solutions, as well as USDA's proposed and current activities to address this issue.

Sincerely,



Juli Obudzinski, Senior Policy Specialist
National Sustainable Agriculture Coalition



Sophia Kruszewski, Policy Specialist
National Sustainable Agriculture Coalition

I. General Coexistence Comments

In March 2014, NSAC submitted comments to the coexistence docket APHIS-2013-0047, attached as an Appendix below. Our comments today continue to draw from that same foundational premise: that any attempts to discuss or advance notions of “coexistence” across all sectors of agriculture first requires a robust framework to ensure that the diverse sectors of American agriculture can thrive. This framework must include:

- Sound, science-based information that empowers farmers to make good decisions regarding their production systems and to implement stewardship practices that enhance coexistence;
- Effective measures to prevent contamination of organic and other non-GE farm products and crop seed with unintended GE content;
- A fair and workable system of compensation in the event that GE contamination leads to economic losses for organic and non-GE producers; and
- Mechanisms for preventing and responding to problems associated with drift of agricultural chemicals associated with GE crops onto neighboring farms, including concerns related to damage to crops and natural resources such as pollinator and beneficial insect habitat.

A viable coexistence framework must also include the following critical aspects:

- The need to use existing authority to update and revise the existing regulatory framework on GE crop technologies;
- The need to establish a strong contamination prevention framework;
- The need for a fair compensation mechanism when contamination occurs; and
- The need for addressing pressing research needs related to coexistence and the use of GE products.

We note that some of these aspects were present in the coexistence stakeholder meeting, but not all. For example, from what we have seen and heard, discussions did not adequately address compensation for loss; mechanisms to prevent and respond to problems with chemical drift (in addition to genetic drift); and the need to update agency authority and revise the existing regulatory framework on GE crop technologies.

We appreciate the Administration moving forward with convening a stakeholder meeting on the topic of coexistence. However, we are troubled by the shortage of stakeholder representation from the sustainable agriculture community, including organic and non-GE representation.

USDA needs broad feedback on its activities related to coexistence, and hence this comment period is particularly important. We hope that it leads to constructive discussion at USDA and in future stakeholder and advisory committee meetings.

NSAC is generally supportive of many of the current and proposed new actions by the Department to take some critical, but practical next steps, such as a dedicated focus on our national germplasm collection, research on economic harm from GE contamination on non-GE markets, and the development of a baseline for the availability of suitable improved cultivars for organic and non GE markets.

However, we still believe that these recommendations and proposed activities fall short on proposing a long-term solution to this serious issue facing our nation's agricultural sector. We therefore submit the following recommendations on the current activities already underway or completed by the Department.

II. Comments on USDA's Activities Already Underway or Completed

1. Establish a Fair Compensation Proposal and Level Playing Field

While we are supportive of strengthening crop insurance options for organic and diversified farming systems -- including the development of additional organic price elections and the refinement and promotion of the whole-farm revenue protection (WFRP) policy -- we continue to oppose the use of crop insurance as the mechanism to compensate producers who suffer economic losses due to GMO contamination. Crop insurance is not a workable model for compensation, as outlined in our previous comments (see Appendix A). We would instead urge USDA to establish a fair compensation proposal, in which the patent holder is responsible for segregation and traceability from seed to plate and is held responsible for the economic and market harm their products cause.

Additionally, USDA should level the playing field so that the burden of preventing contamination is not solely placed on organic and other non-GMO operations. Responsibility must be tied to ownership. Those who patent, promote, and profit from GE products should be responsible for preventing contamination and covering damage in cases where prevention fails.

2. Increase Seed Availability for Organic and Diversified Producers

We support the development of the Organic Seed Finder to better understand the availability and accessibility of organic seeds throughout the county, and identify gaps in seed diversity, quality, or appropriateness for specific production systems. We are also supportive of the reestablishment of the National Genetic Resources Advisory Council (NGRAC) and its charge to develop a plan for how USDA should work with industry and other stakeholders to evaluate the pool of commercially available non-GE and organic seed varieties and identify market needs for producers serving GE-sensitive markets.

In addition, USDA should commit to increasing departmental resource prioritization to ensure more organic, non-GE, and public cultivar development more generally. NSAC has long advocated for increased federal support for public plant and animal breeding programs in order to reverse the dangerous trends of diminishing numbers of public plant breeders, loss of biodiversity, and the narrowing of crop and livestock genetic resources. Reprioritizing USDA resources to support this type of research is critical to ensure a diverse stock of plant and animal genetics in order to meet future challenges related to food security and resiliency to the impacts of a changing climate.

We also strongly support independent risk assessment of current and proposed biotech crops for economic and environmental harms through the Biotechnology Risk Assessment Grant (BRAG) program.

III. Comments on USDA's Planned or New Activities

In addition to the activities that USDA is currently pursuing, we also recommend that stronger steps be taken in the future to reach a viable and long-term strategy to ensure that farmers of all kinds are able to pursue a diversity of production methods without fear of economic loss from contamination. We therefore propose the following recommendations on future activities of the Department:

1. Improved Data Collection and Analysis on Environmental and Economic Implications

We are supportive of the proposed new initiatives to better understand the economic implications of coexistence, including the Economic Research Service report examining these issues and the collection of data on economic losses faced by organic farmers related to GE contamination.

However, USDA should more fully analyze the specific environmental implications of GE contamination and the implications of managing GE crops, including the increased risk of pesticide drift or development of pest resistances. For example, Roundup Ready crops entail a greatly increased use of glyphosate, which could potentially increase risk of herbicide drift as well as the documented evolution of weeds resistant to glyphosate. While the spread of glyphosate-resistant weeds onto organic farms may have little impact (since USDA certified organic does not allow this herbicide), other non-GE identity preserved producers who rely on judicious use of glyphosate as part of their management systems may be forced to switch to older, more toxic herbicides.

These economic and environmental impacts are of critical importance to the ideas underpinning “coexistence” – how one system of agriculture can directly and indirectly impact the viability of the other.

2. USDA Outreach and Education Strategy

We have previously commented on the proposed USDA Coexistence Education and Outreach Strategy, and maintain that while this strategy may prove useful, in order to be effective it must be based on sound scientific evidence, and communicate prevention strategies that include actions and accountability on behalf of technology providers and users, and not solely the producer who suffers losses due to contamination. For example, USDA should work with seed companies in order to educate farmers at the point of sale on best production practices to avoid contamination and drift.

In addition, USDA cannot rely solely on communication and outreach to farmers – this isn't enough to prevent contamination. USDA proposes to increase education, collaboration, and outreach on the topic of coexistence. Communication between neighboring farmers is a good thing, but communication alone is not a viable solution to preventing and dealing with contamination. The last thing we need is to pit farmers against each other when communication and prevention fails. To avoid this result, we again emphasize the need for a comprehensive, meaningful coexistence framework that includes, as just one example, the much-needed mechanism to provide fair compensation for contamination-related loss.

3. Update GMO Regulations and Establish Mandatory Measures that Prevent GE Contamination

Finally, as USDA begins the process of updating regulations that govern its oversight of GE crops, we urge the agency to develop stronger GMO regulations that ensure shared responsibility for contamination prevention. Updated regulations should mandate prevention practices on the part of both owners and users of GE crops, establish a fair compensation mechanism for those harmed by contamination events, and address the broader economic and environmental issues related to GMOs.

USDA should establish mandatory measures that prevent GE contamination. Voluntary solutions to contamination are insufficient – it's what we have now and it isn't working. USDA must mandate best practices to prevent GE contamination by farmers who use GE seed and require concrete contamination prevention measures on those farms to supplement measures already used by organic and other non-GMO producers. It costs more money to clean up contamination than it does to prevent it, and USDA should be leading the way in support of this common-sense maxim.

V. Conclusion

In closing, while we support the efforts currently underway or proposed by the Administration as it relates to coexistence, we believe that, in sum, these activities do not provide the necessary comprehensive framework to protect all farmers from economic losses due to unintended presence of GE material in farm products. The proposed measures fail to include robust regulatory improvements for preventing contamination to begin with and placing responsibility where it belongs: with the patent holders.

NSAC and the farm, food, and rural organizations we represent wish to remain engaged in the conversation as the Department works to find a way forward on this pressing issue. We thank you for giving serious consideration to our recommendations, and we look forward to working with you to establish a workable and robust coexistence framework that allows for the diverse sectors of American agriculture to thrive.