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May 5, 2015

United States Department of Agriculture (USDA)
Regulatory Analysis and Development, PPD, APHIS,
Station 3A-03.8, 4700 River Road Unit 118,
Riverdale, MD 20737-1238.

RE: Docket No. APHIS-2013-0047; Comments on Issues and Proposals Regarding Agricultural Coexistence

To Whom It May Concern:

Oregon Tilth appreciates the opportunity to comment on issues and proposals regarding agricultural coexistence. We emphasize the importance of the USDA's continued focus on the issues surrounding genetically engineered (GE) crops and potential contamination of non-GE crops, and its work to further define existing challenges and propose strategies and solutions.

Genetic contamination of seed and products is a top concern in the organic and non-GE farming and food sectors, presenting formidable challenges due to the way genetically engineered crops perpetuate and spread through the environment.

Background and context

Oregon Tilth is a leading certifier, educator and advocate for organic agriculture and products since 1974. Our mission to make our food system and agriculture biologically sound and socially equitable requires us to find practical ways to tackle big challenges. We advance this mission to balance the needs of people and planet through focus on core areas of certification, conservation, public health, policy and the marketplace.

Oregon Tilth is accredited by the USDA to offer organic certification services in accordance with the USDA National Organic Program. Our certification program currently certifies 725 farm operations throughout the United States and internationally, representing over 415,000 acres of certified organic land. In 2014, I served on the Oregon Governor's *Task Force on Genetically Engineered Seeds and Agricultural Products*. Our comments draw upon our extensive experience in organic certification and the information, dialogue and perspectives exchanged during my service on the Oregon Governor's Task Force.

Nationally, the organic industry has grown from \$3.6 billion in 1997 to \$39 billion in 2014, with an annual growth rate of 19% from 1997 -2008. Our certification data indicates a majority of this increase is happening as a result of currently certified farms adding new acreage into organic production – a sign of crop management success and increasing market demand. We are also witnessing a recent trend for transition to organic production practices by non-organic growers seeking new opportunities. As our country has been dramatically affected by the worst economic downturn in 80 years, the organic industry has remained in positive growth territory, and has come out of the recession hiring employees, adding farmers and increasing revenue.

While organic agriculture represents a bright spot in agriculture, it is increasingly threatened by the lack of any coherent or effective regulations around genetically engineered food and crops, and the failure of federal oversight in this arena. However, I want to emphasize that *this issue affects more than just organic agriculture*. Other agricultural segments are also at risk and have already experienced economic loss due to GE contamination, such as producers selling crops to export markets demanding GE-free product, the specialty seed industry and identity-preserved crop producers.

Successful Coexistence Requires Shared Strategies Against Contamination

Currently, much of the discussion regarding coexistence and contamination avoidance focuses attention on prevention strategies to be undertaken by producers and handlers of non-GE products – in effect discussing efforts to “fence out” GE crops. Oregon Tilth is committed to proactively monitoring the efficacy of prevention strategies in organic certification systems via GE testing as part of our residue-sampling initiatives. But really, all tests can give us are quantitative results that serve as indicators of contamination risks. Test results are not long-term solutions; they cannot protect hardworking people against losses and disadvantages when prevention strategies fail.

Oregon Tilth believes the current federal regulatory framework for genetically engineered (GE) crops falls short in protecting farmers, processors and consumers. Although issues surrounding this issue are polarizing and common ground is hard to find, we believe GE contamination needs to be addressed by *all agricultural stakeholders* to protect a well-regulated and growing organic sector. There are a couple reasons we hold this position:

- *Organic and non-GE farmers deserve the right of non-contamination:* While “fence out” prevention strategies provide best practices for protecting crop integrity, dependence on these strategies alone places undue burden on the organic and non-GE farmer. These farmers merit protection to grow in accordance with agro-ecological farming principles and their buyers’ quality specifications without risk to their crop management systems or markets.
- *GE contamination prevention is a two-way street:* In order for GE contamination prevention to be truly effective, these strategies cannot be one-sided. We believe that any policy must include a mandate for shared accountability between the non-GE and GE sectors of agriculture.

We recommend to the USDA that developers and users of GE crops also be instructed to adopt proactive strategies designed to contain, or “fence in,” crop genetics that pose a risk to their neighbors’ crops and markets.

Compensation

Currently, there is no safety net to aid seed producers, farmers or handlers who experience losses due to GE contamination of seed or product. In many cases, the courts would be their only recourse, and there is no legal precedent for providing such compensation through that avenue. Litigation is costly and time intensive, so it is unlikely that a farmer could go through the trouble and expense for such an uncertain outcome.

Organic and non-GE farmers deserve restitution for GE contamination losses. This is not about placing blame or pointing fingers, but rather about supporting non-GE farmers who are proactive and still get contaminated. Those who take all the necessary steps should not incur losses for contamination that occurs outside of their control.

We recommend the USDA establish a reasonably accessible and financially equitable recourse for farmers who implement appropriate prevention strategies, but experience GE contamination despite efforts.

Fill the Data Gap

There is a notable lack of public data regarding levels of unintentional GE contamination in non-organic or organic agriculture, whether at the seed stage, pollination stage, harvest or post-harvest handling. In 2012, the [Organic Seed Alliance \(OSA\) conducted a survey](#) of both field crop and vegetable seed companies, and found that all of the companies surveyed were already conducting some testing on non-GE and organic seed supply for at-risk crops. Eighty percent of participants stated that they have found contamination that exceeds their internal thresholds (which ranged from 0.1 – 2%). Eighty percent also stated that their seed is “frequently” contaminated. Testing is being done of both organic and non-GE seed and products throughout the industry, but individual companies have not made this data publicly available. Some private standards and single-attribute verification programs, such as The Non-GMO Project, have incorporated GE testing and tolerance levels into their programs.

If private companies and private verification programs were presented with a mechanism to voluntarily provide their existing data to a credible third-party, able to guarantee confidentiality and anonymity, then the USDA could have a more informed picture of the scale and scope of GE contamination to better guide our policy approaches.

We support plans for the USDA Economic Research Service (ERS) to publish a report studying the economic implications of coexistence. We also support the collaborative effort between the USDA’s National Agricultural Statistics Service (NASS) and the Risk Management Agency (RMA) to gather information from farmers about actual economic losses incurred as a result of unintended GE presence.

Currently, the extent of the problem is difficult to ascertain because of the market risks to a farmer’s reputation when they self-identify that contamination has occurred. This is especially true in the absence of any certainty regarding compensation for losses. Some affected growers refrain from participating in dialogue about contamination issues for fear of additional losses without recourse. Accordingly, keep in mind that collecting this data in a manner that protects confidentiality will ensure the most accurate and complete information is obtained.

Collecting this data will help the USDA to adequately track GE crop production, assess contamination risks and make well-informed decisions regarding control areas and other management approaches to minimize contamination risks.

We recommend a strong financial and outreach commitment to fill the data gap, enabling the USDA to better ‘measure’ GE crop production and contamination, so that it can better ‘manage’ it.

Voluntary v. Mandatory Approaches

The USDA proposes collecting and distributing information describing voluntary and outcome-based strategies for facilitating production of all types of identity preserved crops. We agree that encouraging resolution between neighbors without outside intervention is the best course of action. When conflicts persist between neighbors, then policies with strong incentives to engage with existing programs, like mediation services, to resolve conflicts can help. While the mediation pathway may resolve issues, it can’t always ensure resolution. So we see this approach as one tool and a step in a multi-step approach towards resolution.

When resolution is elusive, then voluntary strategies to protect crops against GE contamination face significant challenges for success due to a lack of incentives for non-GE growers to actively participate. In the case of specialty seed growers, the risk of cross-contamination is shared between growers. However, in the

case of GE, the risk is primarily to the non-GE grower and, in this sense, risk is not “shared” and therefore an entirely voluntary system is unlikely to succeed.

We must ensure consistency and avoid a “patchwork approach” of practices designed to mitigate risks of GE contamination. The status quo, voluntary approach increases uncertainty and inconsistency, both of which elevate the risks farmers face.

We recommend the USDA establish a mandatory, cohesive and proactive federal policy on GE crops that protects all sectors of U.S. agriculture.

The USDA’s lack of initiative to proactively address GE issues has led to a regulatory and marketplace reality that has placed different sectors of U.S. agriculture in opposition with one another. Now is the time for the USDA to show leadership and take federal action to protect all sectors of our nation’s vibrant, valued and diverse agriculture.

Thanks in advance for your consideration.

A handwritten signature in cursive script that reads "Chris Schreiner".

Chris Schreiner
Executive Director
Oregon Tilth