



August 6, 2019

U.S. Department of Agriculture
Regulatory Analysis and Development, PPD, APHIS
Station 3A-03.8
4700 River Road Unit 118,
Riverdale, MD 20737-1238

Re: Importation, Interstate Movement, and Environmental Release of Certain Genetically Engineered Organisms Proposed Rule (Docket No. APHIS-2018-0034-0037)

Dear Secretary Perdue:

The undersigned 47 farmer, consumer, public health, environmental, public interest, and otherwise affected organizations and businesses submit this letter on the U.S. Department of Agriculture's (USDA) proposed new regulations for genetically engineered (GE) organisms (also commonly referred to as GMOs).

USDA first established GMO regulations in 1987. Both the kinds of GMOs developed and the risks they pose have proven to be quite different than what was anticipated at that time. The use of new genetic engineering techniques has meant that an increasing number of GMOs are evading regulation altogether. Reform is thus long overdue and urgently needed. Instead of fixing long-standing deficiencies and strengthening the system to address new challenges, USDA has proposed to dramatically scale back regulation, leaving most GMOs virtually unregulated.

We urge USDA to change course, and develop new rules along the following lines.

First: Regulate ALL genetically engineered organisms—including those developed with newer techniques—as recommended by the National Academy of Sciences in 2002. USDA's proposed rules would give companies the authority to "self-determine" whether their GMOs are even subject to USDA regulations to begin with. As for those few GMOs that are nominally regulated, USDA would rubber-stamp approve them on the basis of a cursory and entirely inadequate assessment that involves no data from field testing. USDA has ample statutory authority to regulate all GMOs, and need only choose to apply that authority responsibly.

Second: Strengthen regulations to prevent GMO contamination to the greatest extent possible. Pollen and seed dispersal from GMOs has frequently resulted in transgenic contamination of organic and conventional crops. Many international markets and domestic food companies reject GMOs due to strong consumer demand for non-GE foods. Past GE contamination episodes and subsequent market rejection of the contaminated products have cost U.S. agriculture literally billions of dollars in lost sales and markets. These episodes include the StarLink corn affair and the LibertyLink rice debacle. Farmers seeking to grow non-GE crops also find it difficult to access uncontaminated seed stocks. Here too, USDA should use its broad authority under the federal Plant Protection Act to minimize GE contamination and so protect the interests of U.S. agriculture.

Third: Regulate herbicide-resistant GE crop systems to address noxious weed risks as well as herbicidal drift injury to neighboring crops and wild plants. The vast majority of GE crops are engineered to withstand direct application of certain weed-killing pesticides. These herbicide-resistant (HR) crop systems increase farmers'

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dependence on and use of herbicides. This threatens the health of farmers and the general public; causes massive damage to neighboring crops due to herbicide drift; and harms the environment, including threatened and endangered species.

The intensification of herbicide use with HR crops also fosters rapid emergence of herbicide-resistant weeds. This spurs a toxic spiral of increasing herbicide use, introduction of new GE crops resistant to additional herbicides, and further resistance. Once again, USDA has ample authority under the noxious weed provisions of federal law to tackle the harms of this number one class of GMOs, but has steadfastly refused to exercise that authority. That must change.

Fourth: Prohibit the outdoor planting of plants genetically engineered to produce experimental pharmaceuticals and industrial compounds, particularly in food crops. This experimental application of biotechnology seeks to transform crops into “biofactories” for drug production, with the drug extracted from grain or leaves of the mature “biopharm” crop. Past episodes in which drug-bearing plant material has contaminated the food supply shows how foolhardy this endeavor is. USDA currently has authority over most GE biopharm crops, but under the proposed rules most of them would escape regulation by USDA or any other federal agency, which would lead to frequent episodes of drugs contaminating the food supply. The only sure solution is to prohibit outdoor planting of these potentially hazardous crops, which USDA has the legal authority to do.

Other more recently developed GMOs—such as GE trees and grasses, GE crops grown for biofuels use, and cosmetically-modified GE apples and potatoes—also deserve more stringent regulation—particularly to guard against GE contamination—which is practically irreversible in the case of trees and grasses, and poses risks to the environment as well as farmers.

We also urge USDA to level the playing field for farmers who choose not to grow GMOs. GE crop developers should be held liable for the economic costs of GE contamination that their products impose on non-GE farmers, and also bear the cost of preventing such contamination in the first place. USDA should protect the rights of all farmers to grow without the risks of GMO contamination, through measures such as the creation of commercial zones for non-GMO production and programs for monitoring GMO gene flow to detect and prevent contamination.

In sum, we urge USDA to proactively use its ample authority under federal law to address the broad classes of agricultural and environmental harms caused by GE crops and their cultivation, as outlined above. We call on USDA to formulate a new alternative that incorporates the recommendations made in this letter.

Thank you for your consideration.

Sincerely,

Center for Food Safety
Bitterroot Wildlife Rehabilitation Center
Californians for Pesticide Reform
Cedar Circle Farm and Education Center
Center for Biological Diversity
Earth Open Source

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Michigan Organic Food and Farm Alliance, Inc.
Midwest Organic Farmers Cooperative
Moms Across America
National Family Farm Coalition
National Organic Coalition
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Northeast Organic Farming Association of Massachusetts (NOFA – Mass)
Northeast Organic Farming Association of Vermont (NOFA – VT)
Northeast Organic Dairy Producers Alliance
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PCC Community Markets
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The Organic & Non-GMO Report
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