



August 27, 2012

Dr. Catherine E. Woteki
Under Secretary, Research, Education and Economics
U. S. Department of Agriculture

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Re: Notice of Advisory Committee on Biotechnology and 21st Century Agriculture Meeting, Correction, Office of the Under Secretary, Research, Education, and Economics, Agricultural Research Service [Docket No. 2012-19652] 77 FR 48948. August 15, 2012.

Dear Dr. Woteki:

CropLife America (CLA) is pleased to provide comments for a second time to the **Advisory Committee on Biotechnology and 21st Century Agriculture (AC21)** of the U.S. Department of Agriculture (USDA), Research Education and Economics (REE) Mission Area on the occasion of the last meeting in which the Committee is discussing a draft report. We laud the objective of the USDA AC21 to advise the Secretary of Agriculture on development of practical recommendations on approaches for bolstering coexistence among different agricultural production methods that form the basis of food production and security for the American people and globally. We commend the AC21 for its work over the past year in response to the charge given by the Secretary of Agriculture.

CLA has significant concerns with the recommendations regarding a compensation mechanism found in the AC21 "Chairman's Draft" report. CLA is the premier national association for the crop protection industry. We represent the companies that develop, manufacture, formulate and distribute crop protection chemicals and plant science solutions for agriculture and pest management, including products used as and in conjunction with plant incorporated protectants. CLA's member companies produce, sell and distribute virtually all the crop protection and biotechnology products used by American producers. CLA and its predecessor organizations recently celebrated a 75th anniversary.

The outcome of the AC21 deliberations has the potential to have a significant impact on the crop protection industry. Our industry is committed to helping farmers produce an affordable and sustainable supply of food to help feed a hungry world. Crop protection is essential to modern agriculture that will feed the growing global population. And modern agriculture includes all methods of production, including use of agricultural biotechnology, conventional agriculture and organic production. The coexistence of these production methods is a vital part of American agriculture, providing growers and their families with livelihoods founded on stewardship of the land, through best management practices, integrated systems approaches and enhancement of the environment. Indeed the new crop traits being deregulated are successful because those seeds are planted and managed with the application of specific crop protection products. Further the rigorous science-based regulation of crop protection and agricultural biotechnology serves as the foundation for the safe use of these technologies. These regulatory processes, and subsequent policies, must continue to be grounded in science if we are to advance modern agriculture. For obvious reasons, CLA has a significant interest in the outcome of the AC21 deliberations because the use of crop protection products is essential to agricultural biotechnology and vice versa.

From CLA's observations and review of the AC21 minutes, we contend that the "Chairman's Draft" report has several important limitations regarding the recommendation focused on compensation. Secretary Vilsack presented the charge to the AC21 at the first meeting, stating as the first charge *"What types of compensation mechanisms, if any, would be appropriate to address economic losses by farmers in which the value of their crops is reduced by unintended presence of GE material(s)?"*

Recommendation I: Compensation mechanism options

The charge says "if any" for a reason. Based on the evidence presented, that no data on economic loss was presented, and on the principles of identity preserved agriculture, the most defensible recommendation is that no compensation mechanism is justified. **CLA strongly urges AC21 to recognize that the honest recommendation is that no compensation mechanism is needed.**

Notwithstanding our current view, if evidence of actual economic loss is provided in the future, and while we have reservations, Option 1 is clearly the more defensible recommendation based on the context outline in the report. Given that no data on economic loss was identified, Option 1 is a compromise recommendation. Option 1 gives the Secretary the ability to go to Congress and ask for a compensation mechanism, if evidence of actual economic losses and the size/scope of those losses shows that such action is warranted. As CLA stated in our previous comments, economic loss should be quantified accurately and equitably. Prior to seeking authority to implement the development of a compensation mechanism, it is critical that the Secretary take into account domestic and global policy implications, as well as the potential trade/economic implications of instituting such a mechanism. Our understanding is that any such compensation mechanism, if created, would be voluntary, and available to all identity-preserved producers.

- **CLA urges revision of Option 1 to state that “the Secretary, with agreement in interagency consultation,” may then make the request of Congress.**
- **With this addition, CLA strongly urges adoption of Option I, recognizing that this is a compromised position.**

It is disappointing that the additional options, Option 2 in particular, were included in the draft report and publicly posted on the AC21 website. The committee has never seriously considered these options and together the options do not reflect the range of views. Option 2 is entirely unacceptable, but the liability and enforcement provisions for GE growers are especially offensive. The evidence and discussion that the AC21 has considered does not justify establishing the “pilot” outlined in Option 3, or any pilot program for that matter.

- **CLA does not support Option 2 or Option 3.**

The concept of “compensation” contradicts the very principles of identity preserved agriculture. Costs and risk associated with identity preserved production are the responsibility of growers who make contractual commitments and are compensated in the market through price premiums. Option 1 maintains these principles by allowing a potential compensation mechanism to follow the model of crop insurance with the possibility of some public funding.

- While CLA is supportive of better tools for risk management, we see no role for public policy to transfer costs or insulate growers from risks associated with private contractual obligations.
- There simply has been no evidence presented to AC21 that would suggest the size or scope of risk justifies any “pilot program”.

In our previous comments, we questioned the legal limitations of the authority of USDA to create a compensation program. We noted that neither the Plant Protection Act (PPA), under which biotechnology-derived crops are regulated, nor the Organic Foods Production Act (OFPA), which authorizes the National Organic Program (NOP), authorizes the establishment of a compensation program that would apply to the presence of GE material from commercialized crops. Statutory changes would be needed to impose the Charge's compensation obligations under either of these laws. Furthermore, the OFPA is silent as to the use of biotechnology in organic agriculture, and the NOP does not require the absence of GE material from organic crops (the NOP's prohibition goes to the use of GE products, not the mere presence).

Recommendation I: Setting an “insurability trigger” and endorsing a 0.9% threshold

We oppose any endorsement of specific marketing standards in the report. The unintended regulatory, foreign trade and market consequences have been discussed at length. To our knowledge, AC21 does not have the technical expertise and has not done the due diligence that would justify establishing any single specific marketing standard. The process-based standards in the NOP serve to protect farmers and facilitate coexistence. Beyond that, the marketplace is the appropriate mechanism to establish a

range of appropriate thresholds based on what is ideal to meet market demands for different crops, technologies and production practices.

- **CLA strongly urges deletion of .9% or any other specific market standard from the report.**

CLA urges the AC21 to complete an honest analysis --and solutions must comport with regulatory processes, international trade and markets supporting U.S. and international food security. Option 1 of the Chairman's Draft Report is the best honest conclusion, which emphasizes that no compensation mechanism is needed at present; but allows for future evidence-based assessment.

We thank the AC21 for its work. We appreciate the opportunity to comment. If there are questions, please do not hesitate to contact me (202-833 4474; bglenn@croplifeamerica.org).

Sincerely,

A handwritten signature in cursive script that reads "Barbara P. Glenn".

Barbara P. Glenn, Ph.D.
Senior Vice President
Science & Regulatory Affairs