



Supporting the ethical development and stewardship of seed

Comments by Kristina Hubbard, Director of Advocacy, Organic Seed Alliance

**U.S. Department of Agriculture
Advisory Committee on Biotechnology and 21st Century Agriculture**

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Good afternoon. My name is Kristina Hubbard and I'm the director of advocacy for Organic Seed Alliance. We are a national organization that advances the ethical development and stewardship of the genetic resources of agricultural seed.

Many of us in the seed community have spent years confronting the consequences of what is essentially a living technology. We have worked to understand and avoid the unwanted presence of transgenic material to avoid impacts to the integrity of our plant genetic resources and the livelihoods tied to them. To date, these efforts have been one-sided. The current regulatory framework for transgenic crops does not require manufacturers or farmers using these crops to implement preventative measures to mitigate risk and harm, and instead relies on industry-led stewardship standards, a self-regulating approach that has no legal and regulatory teeth.

The framework also lacks post-market monitoring and reviews – including testing, data collection on contamination, and general oversight – which has only made it more difficult to understand the challenges that you all are charged with addressing.

The burden unfairly falls on organic and other non-GMO farmers. Organic farmers are required to follow a strict production plan that includes mitigating the risk of excluded methods and prohibited substances, including transgenic crops.

To frame the negative consequences of transgenic crops as simply a marketing problem is a disservice to American farmers. Court opinions have forcefully argued that USDA must consider how the unwanted spread of transgenic material might eliminate a farmer's choice to grow non-transgenic crops and, by extension, consumers' right to know how their food was produced. The court has essentially argued for policies that provide reliable protections that support the right of farmers to operate and choose seed free of transgenic contamination.

This committee is discussing whether there is even a problem to address. In your August 2011 meeting, the Starlink corn and Liberty Link rice contamination events were described as "legal and regulatory issues" different from the issues the Secretary has charged this group with addressing. Yet, these cases represent a fundamental truth: that U.S. policy currently lacks any coherent contamination prevention measures, and that the courts are the only recourse at this time for those harmed or left vulnerable to harm, whether the product at hand is regulated *or* deregulated. I don't think anyone in this room believes that repeated litigation will result in meaningful policy changes.



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Organic Seed Alliance has been speaking with seed companies that provide for the organic and non-GMO farming community to better understand the burdens and costs associated with the avoidance of – and repercussions resulting from – transgenic material in our seed lines. Our preliminary findings show that:

Companies shoulder expensive testing costs each year, at times in the tens of thousands of dollars, to meet customer expectations. These costs add up even in absence of an industry-wide tolerance level for transgenic content. Testing costs are a burden to companies and a barrier to further investments in the organic and non-GMO seed sector.

Companies are losing revenue. When contamination occurs, companies routinely sell organically produced seed to the non-organic market at lower prices because transgenic levels are unacceptable to their customers. These companies are committed to protecting the integrity of organic because consumers reasonably assume organic represents a non-GMO standard, beginning at the seed level. And farmers demand it. In response to a nationwide survey we conducted with certified organic crop farmers, more than 70 percent agreed companies should test for transgenic material. There are risks, though, to routine testing and making the results public.

Companies do not believe that a mechanism is currently available for recouping losses incurred by unwanted transgenic material. Courts may offer recourse, but companies say they cannot afford to go to court to recover losses, especially if they are up against multi-billion dollar firms.

Companies also face barriers to eradicating unwanted transgenic material. For companies buying seed stock through licensing agreements, these agreements often forbid activities that would allow companies to identify transgenic material in seed used to produce organic and non-transgenic varieties. Furthermore, access to untreated germplasm is highly restricted in an increasingly consolidated marketplace.

Finally, no dollar amount can be placed on companies' reputations in cases where seed routinely tests positive for transgenic material through no fault of their own, and customers demand levels that companies cannot meet.

In the interest of fairness, those who profit from these technologies – the patent holders and manufacturers – should bear the costs. These costs include mitigating the spread of transgenic material, testing and eradicating unwanted transgenic material, lost premiums and sales of non-transgenic products, among other perpetual costs absorbed by the organic and non-GMO community. We believe it is most appropriate to establish a compensation plan that patent holders pay into as part of a strengthened regulatory framework. The mechanism that covers and corrects economic and other forms of harm should be far simpler and more accessible than lawsuits.

Thank you for the opportunity to provide comments.