



National Organic Coalition

House Farm Bill: Opposition to Chairman's Mark, Title I. Section 123

Many sectors of agriculture are highly dependent on markets that are sensitive to the presence of genetically engineered crops (GMO). In some cases, U.S. farmers have lost significant export markets as a result of the unintended presence of genetically engineered crops (e.g. Liberty Link rice, StarLink corn). In other situations, such as the USDA's organic regulations, *intentional use* of any genetically engineered technology in the growing, handling or processing an organic crop or product is prohibited and markets will reject organic products with any GMO presence. As result, farmers and processors seeking not to use GMOs are increasingly bearing the costs of expensive testing and lost markets and suffering financial losses because of products "contaminated" by GMOs.

The National Organic Coalition seeks the establishment of a federal liability regime so that farmers suffering economic and other losses from GMO "contamination" can recoup their losses from the manufacturers and introducers of GMO products. Absent such a liability regime, NOC believes that state and local legislation designed to protect non-GMO growers and to preserve their market access must be maintained. Section 123 of the House Subcommittee on Livestock, Dairy and Poultry's Farm Bill (Chairman's Mark) would preempt many proactive state and local protections enacted to address GMO issues. The Chairman's Mark includes the following language that should be removed:

SEC. 123. EFFECT OF USDA INSPECTION AND DETERMINATION OF NON-REGULATED STATUS. Notwithstanding any other provision of law, no State or locality shall make any law prohibiting the use in commerce of an article that the Secretary of Agriculture has—(1) inspected and passed; or (2) determined to be of non-regulated status.

As written, section 123 would specifically curtail and alter numerous state provisions that have been enacted over the past several years to protect conventional and organic growers from the unwanted and unintended presence of USDA "approved" GMOs (i.e. crops granted non-regulated status under USDA regulations found at 7 CFR Part 340).

More specifically, the state-level laws that will be pre-empted or compromised if the proposed section 123 language is adopted include:

- **Legislation in California, Arkansas and Missouri that gives these states the power to regulate the introduction of GMO rice varieties.** The major rice growing states are particularly concerned about GMOs after last fall's discoveries that several non-commercialized varieties of GMO rice had contaminated conventional rice and resulted in massive losses for U.S. farmers and rice exporters. Despite these losses, USDA later granted the GMO rice varieties (Liberty Link) non-regulated status. Several states have laws in place that allow state rice certification committees to protect their rice exports through the regulation of GMO rice introductions even though the varieties have been granted non-regulated status by USDA.

- **Legislation adopted this year in the state of Washington, which prohibits planting of GMO canola in areas near the State's large non-GMO seed production.** Brassica (cabbage, broccoli, and other such crops) seed producers pushed for this legislation since GMO canola can cross-pollinate with and contaminate natural cabbage seed. The Skagit Valley area in Washington produces \$20 million in vegetable seed annually and is home to half of the world's cabbage seed production. The law grants power to the State to restrict the area in which GMO canola (already granted non-regulated status by USDA) can be grown.
- **Legislation enacted by Minnesota requires companies to receive state permit before commercial release of a GMO.** The state of Minnesota has enacted a state-based permitting system that requires anyone releasing a GMO, including GMOs granted non-regulated status by USDA, to obtain a permit from the state before any release may occur. The state system was created to protect humans and the environment from the potential of significant adverse effects from such releases. Recently, the state temporarily stopped the sale and distribution of a controversial GMO corn variety until the company that had manufactured the corn obtained a state permit. The GMO corn variety in question had already been granted non-regulated status by the USDA.
- **County bans on planting of GE crops in four California counties.** To protect their organic and non-GMO food producers, four California counties have adopted bans or moratoriums on planting of GE crops.

To view a compendium of these and other state- level laws and regulations on GMO crops and foods that may be affected by Section 123 view the Center for Food Safety's "A New View of U.S. Agriculture" report at: http://www.centerforfoodsafety.org/pubs/US_Ag_Report.pdf.

For more information:

Joseph Mendelson, Center for Food Safety (202) 547-9359
Steve Etko, National Organic Coalition (703) 519-7772