

September 16, 2011

The Honorable Thomas Vilsack  
Secretary of Agriculture  
U.S. Department of Agriculture  
1400 Independence Avenue, S.W.  
Washington, D.C. 20250

**Re: Responsible Regulation of Genetically Engineered Crops**

Dear Secretary Vilsack:

On behalf of the undersigned organizations that represent American farmers, consumers, and retailers, we ask you to implement your authority under the Plant Protection Act of 2000 (PPA) to fully protect the public health, the environment, and the economic interests of the United States. This authority should be implemented through responsible, fair, and comprehensive regulations to help prevent further damage to lucrative and important U.S. and international markets, to ensure farmer profitability and rural economic development, and to support environmental protection and consumer choice.

The USDA is currently relying on biotechnology regulations first established almost twenty-five years ago in 1987. Since then, the use of genetically engineered (GE) crops has become widespread, and GE crops and associated traits have become more complex. In 2000, Congress passed the PPA, recognizing the need for a more robust and modern regulatory framework governing the assessment and release of GE crops into the environment and the food supply. USDA's Animal and Plant Health Inspection Service (APHIS) has been working on regulations to implement the PPA since 2004. However, to date the Agency has yet to issue these critical regulations.

We support the promulgation of a comprehensive rule implementing the PPA that uses the statute's broad statutory authority in a responsible, balanced way. The needed rule must:

**1. Regulate all GE crops.**

APHIS must retain oversight of genetically engineered crops as the technology progresses. While not perfect, process-based regulations offer the best way to ensure responsible control of an ever-changing technology. There simply is not the knowledge to determine which crops are safe (and thus can be exempted from regulation) prior to a safety review. In addition, it has become clear that familiar GE crops once regarded as unobjectionable are having serious, unforeseen impacts that require proper assessment. As noted by the National Academy of Sciences in its 2002 report, *The Environmental Effects of Transgenic Plants: Scope and Adequacy of Regulation*, the use of genetic engineering as the trigger for regulation does not conflict with a commitment to a case-by-case, risk-based approach to regulation of this technology.

## **2. Broadly interpret USDA's "noxious weed" authority under the PPA.**

APHIS should broadly interpret the PPA's noxious weed authority to fully mitigate or prevent all adverse effects of GE crops on agriculture, the environment, and public health, with specific focus on the economic harms from GE contamination, herbicide-resistant weeds, threats to public health, and the protection of biodiversity.

## **3. Implement a two-tiered permitting system.**

APHIS should clarify that it retains authority to monitor and regulate GE crops throughout the field-testing phase and after commercialization so that it can address adverse impacts and contamination issues as they emerge. APHIS should require permits both for field trials and commercial cultivation of GE crops. Both kinds of permits should be conditioned on the appropriate compensation of growers whose crops are contaminated through violation of permit requirements.

## **4. Not incorporate the Low Level Presence policy.**

APHIS' Low Level Presence (LLP) policy is unscientific and fatally flawed. It allows unlimited levels of experimental GE crop material contaminating commercial food, feed, or seed to be deemed "non-actionable," rendering the "low-level" appellation meaningless. The policy would also undermine prospects for co-existence by reducing the incentives of GE crop field-trial operators to prevent contamination in the first place. For coexistence to be feasible, the regulations must "establish scientifically valid and proven isolation and containment distances," as mandated in the 2008 Farm Bill (Sec. 10204(C)(1)(c)). The regulations must also clarify that it is the responsibility of the developer and the grower of GE crops to establish and maintain appropriate isolation distances and other gene containment measures to minimize the potential for contamination.

## **5. Prohibit the introduction of pharmaceutical and industrial GE crops.**

APHIS should use its noxious weed authority to prohibit the outdoor cultivation of plants engineered as biofactories for the production of drugs or industrial chemicals, and all cultivation of any pharmaceutical or industrial food crops. These crops produce compounds that may pose risks to human health and the environment, and in the event of inadvertent contamination can lead to huge costs throughout the supply chain.

## **6. Apply sound science to the regulation of GE crops.**

In the past, APHIS has relied too heavily on applicant-provided research and unreliable information from biotech industry sources. In some cases, APHIS has given such information greater credence than conflicting data and analyses from its own sister agencies, such as the National Agricultural Statistics Service, the Natural Resources Conservation Service, and the Agricultural Research Service. Sound scientific assessment of the use, risks, and impacts of genetically engineered crops is impossible without solid, unbiased data. APHIS should not cherry-pick science but instead employ sound scientific principles, as required under the Plant Protection Act and the Obama Administration's Memorandum on Scientific Integrity. The

Memorandum stipulates that “[s]cience and the scientific process must inform and guide decisions of my Administration,” with the “highest level of integrity in all aspects of the executive branch’s involvement with scientific and technological issues.”

We respectfully urge you to implement our recommendations as you move to promulgate final comprehensive rules implementing the PPA. This is a pivotal moment. Unless these new rules are strong and protective, the coming generation of genetically engineered crops will put at risk our health, our environment, and some of the most promising sectors of our agricultural economy.

Sincerely,

**Center for Food Safety**, *Andrew Kimbrell*  
**Clif Bar & Company**, *Gary Erickson and Kit Crawford*  
**Clif Bar Family Foundation**, *Thao Pham*  
**CROPP Cooperative/Organic Valley**, *George Siemon*  
**National Organic Coalition**, *Liana Hoodes*  
**Organic Farming Research Foundation**, *Ariane Lotti*  
**Organic Trade Association**, *Laura Batcha*  
**Rural Advancement Foundation International – USA**, *Michael Sligh*  
**Seed Matters**, *Matthew Dillon*  
**Union of Concerned Scientists**, *Doug Gurian-Sherman*

**Abundance Cooperative Market**, *Jim DeLuca*  
**AggregateND.com**, *Kirsten Moseng*  
**Albert's Organics**, *Melody Meyer*  
**Alternative Energy Resources Organization (AERO)**, *Kevin Moore*  
**Angelic Organics Learning Center**, *Tom Spaulding*  
**Ashland Food Co-op**, *Annie Hoy*  
**Bees' Needs**, *Mary G. Woltz*  
**Beyond Pesticides**, *Jay Feldman*  
**BriarPatch Co-op**, *Chris Maher*  
**Bundy Creek Farm LLC**, *Cecelia Murray*  
**California Farmers Union**, *Lynne McBride*  
**Californians for GE-Free Agriculture**, *Renata Brillinger*  
**Californians for Pesticide Reform**, *Tracey Brieger*  
**Carolina Farm Stewardship Association**, *Roland McReynolds*  
**CCOF**, *Claudia Reid*  
**Center for Environmental Health**, *Charles Margulis*  
**Central Co-op**, *Capel Melton*  
**Chico Natural Foods Cooperative**, *Liz Tedesco*  
**Church Women United of New York State**, *Mary M. Smith*  
**Comeback Farm**, *Amy Hansen & Mark Canright*  
**Consumers Union**, *Michael Hansen, Phd.*  
**Co-op Partners Warehouse**, *Rick Christianson*  
**Cornucopia Institute**, *Mark A. Kastel*  
**Cuatro Puertas**, *Isaura Andaluz*  
**Cumberland Countians for Peace & Justice and Network for Environmental & Economic Responsibility of United Church of Christ**, *Donald B. Clark*  
**Dr. Bronner's Magic Soaps**, *David Bronner*

**Dakota Resource Council**, *Mark Trechock*  
**Demeter Association/Stellar Certification Services**, *Jim Fullmer*  
**Devin Gardens LLC**, *Christina A. Jacobs*  
**Durango Natural Foods Co-op**, *Joshua Jackson*  
**Eden Foods, Inc.**, *Michael Potter*  
**Equal Exchange**, *Keith Olcott*  
**Family Farm Defenders**, *John Peck*  
**Family Farmers Seed Cooperative**, *Don Tipping*  
**Farm to Table Food Services**, *Jenny Huston*  
**Farm, Forest, and Fiddlehead Consulting**, *Karl W. Hallen*  
**Flatbush Food Cooperative**, *Barry Smith*  
**Florida Organic Growers - FOG**, *Marty Mesh*  
**Food & Water Watch**, *Patty Lovera*  
**Food Democracy Now!**, *Dave Murphy*  
**Foundation for Agricultural & Rural Resource Management & Sustainability - (FARRMS)**, *Sue Balcom*  
**Fresh Ideas Group**, *Sylvia Tawse*  
**Friends of the Earth**, *Eric Hoffman*  
**Global River, Inc.**, *Susan White*  
**Grassroots International**, *Nikhil Aziz*  
**Growing Home**, *Harry Rhodes*  
**Hoosier Organic Marketing Education (HOME)**, *Cissy Bowman*  
**iEat Green, LLC.**, *Bhavani Jaroff*  
**Illinois Stewardship Alliance**, *Wes King*  
**Kirschenmann Family Farms, Inc.**, *Fred Kirschenmann*  
**Klamath Basin Fresh Direct, LLC.**, *Hollis Baley*  
**La Montanita Coop**, *Robin Seydel*  
**Lee Thomas Farm Inc.**, *Lee Thomas*  
**LocalHarvers.org**, *Erin Barnett*  
**Maine Organic Farmers and Gardeners Association - MOFGA**, *Russell Libby*  
**McGrath Family Farms**, *Phil McGrath*  
**Michigan Organic Food and Farm Alliance**, *Taylor*  
**Midwest Organic Sustainable Education Service -(MOSES)**, *Harriet Behar*  
**Misty Mountain Farm**, *Daninne Egizio*  
**Montana Organic Association**, *Daryl Lassila*  
**Mountain Rose Herbs**, *Bryan Burnette*  
**National Cooperative Grocers Association**, *Robynn Shrader*  
**National Family Farm Coalition**, *Kathy Ozer*  
**National Sustainable Agriculture Coalition - NSAC**, *Susan Prolman*  
**Nature's Pace Organics**, *Katie Mullance & Jacob Back*  
**Nature's Path Foods Inc.**, *Dag Falck*  
**Nebraska Sustainable Agriculture Society**, *William A. Powers*  
**Neighboring Food Co-op Association**, *Erbin Crowell*  
**New England Small Farm Institute**, *Judith Gillan*  
**Northeast Organic Farming Association (NOFA) - CT**, *Bill Duesing*  
**Northeast Organic Farming Association (NOFA) - NY**, *Lea Kone*  
**Northeast Organic Farming Association (NOFA) - RI**, *Michelle Rosenberg*  
**Northeast Organic Farming Association (NOFA) - VT**, *David L. Rogers*  
**Northeast Organic Farming Association (NOFA) - Interstate Council**, *Steve Gilman*  
**Northeast Organic Farming Association (NOFA) - MA**, *Jack Kittredge*  
**Northeast Organic Dairy Producers Alliance (NODPA)**, *Ed Maltby*  
**Northern Plains Sustainable Agriculture Society (NPSAS)**, *Karri Stroh*  
**Northwest Center for Alternatives to Pesticides (NCAP)**, *Kim Leval*  
**Ocean Beech People's Organic Food Co-op**, *Nancy L. Casady*  
**Ohio Ecological Food and Farm Association**, *Carol Goland*

**Oregon Organic Coalition**, *Connie Karr*  
**Oregon Tilth**, *Chris Schreiner*  
**Organic Ag Advisors/Heaven & Earth Farm/Felix Gillet Institute (The FGI)**, *Amigo Cantisano*  
**Organic Consumers Association**, *Alexis Baden-Mayer*  
**Organic Farmers' Agency for Relationship Marketing Inc. - OFARM**, *John Bobbe*  
**Organic Producers Iowa, Nebraska, S. Dakota (OPINS Co-op)**, *Mike Williams*  
**Organic Seed Alliance**, *Kristina Hubbard*  
**Organic Seed Growers and Trade Assoc.**, *Jim Gerritsen*  
**Organically Grown Company**, *Josh Hinerfeld*  
**Pastures of Plenty Farm**, *Sylvia Tawse*  
**Pennypack Farm & Education Center**, *Pat Druhan*  
**Phoenix Community Garden**, *Andrew Werthmann*  
**Planet Community-Educational Advocacy**, *Janet Elaine Ebaugh*  
**Preston of Dry Creek/Organic Farmer/CROPP Cooperative Shareholder**, *Lou Preston*  
**Provender Alliance**, *Susan Schechter*  
**River's Blessings LLC.**, *Marilyn Pratt*  
**Sierra Club Genetic Engineering Action Team**, *Laurel Hopwood*  
**Small Planet Institute**, *Anna Lappé*  
**Southeastern African-American Farmers Organic Network - (SAAFON)**, *Cynthia Hayes*  
**Southern Sustainable Agriculture Working Group - (Southern SAWG)**, *Jim Lukens*  
**Stephens Family For Safe Food**, *Michelle Wietek-Stephens*  
**Stonyfield Farm, Inc.**, *Gary Hirshberg*  
**Sustainable Agriculture of Louisville**, *Andrew Kang Bartlett*  
**Sustainable Living Systems**, *Jill Davies*  
**Sylvester Manor Educational Farm**, *Nate Kraus-Malett*  
**Tasting Awareness**, *Natalie A. Soleil*  
**The Oakland Institute**, *Frederic Mousseau*  
**Organic & Non-GMO Report**, *Will Davis*  
**Three Sisters Farm & Cooperative/Cooperative American Indian Mothers Inc.**, *Beverly Collins-Hall*  
**Tilth Producers of Washington**, *Nancy Allen*  
**Truth in Labeling Coalition**, *Anne Dietrich*  
**Up Right Farms**, *Owen & Michele Trangsrud*  
**Urban Organicz Inc.**, *Ashley Powell & DeCinces Martin*  
**Veritable Vegetable**, *Bu Nygrens*  
**Verley's Trace East**, *The Rev. Roger W. Verley*  
**Virginia Association for Biological Farming**, *Kevin Damian*  
**Viroqua Food Co-op**, *Jan Rasikas*  
**Washington Biotechnology Action Council/49th Parallel Biotechnology Consortium**, *Philip L. Bereano*  
**Washington Sustainable Food & Farming Network**, *Ellen Gray*  
**WhiteWave Foods**, *Kelly Shea*  
**Whole Foods Cooperative**, *Bob Sonnenberg*  
**Wild Garden Seed**, *Frank Morton*  
**Wildflower Springs Farm**, *Douglas Delling*  
**Williamson Street Grocery Cooperative**, *Lynn Olson*  
**Winter Sun Farms**, *Mary Woodburn*  
**Wood Prairie Farm**, *Jim & Megan Gerritsen*