

Biotech Riders Talking Points (CFS, PANNA, OCA, NFFC, WashBAC)

Congress Should Protect, Not Eliminate USDA's Biotech Regulations

Farm Bill and Agriculture Appropriations Riders Would Eliminate Meaningful USDA Oversight, Block Judicial Powers, Create Backdoor Approvals for Controversial 2,4-D Corn and Other GE Crops, and Legalize Levels of Transgenic Contamination

Over the past few years, courts and government reports have sharply criticized USDA's oversight of genetically engineered (GE) crops, and numerous courts have determined that the agency's approvals failed to comply with environmental laws. Rather than responsibly improving its oversight, the chemical-biotech industry and their allies in Congress are seeking to weaken the rules and fundamentally alter USDA's regulation through a number of policy riders. Specifically, Sec. 10011, 10013, and 10014 to the House Agriculture Committee's discussion draft of the 2012 Farm Bill and Section 733 in H.R. 5973 the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act of 2013.

Together, they seek to severely weaken the USDA's oversight and regulation of GE crops and fundamentally bypass science-based review, judicial review and liability. These policy riders will create serious risks to farmers, farm workers, the environment and public health by forcing the rushed commercialization of GE crops. This will eliminate meaningful review of their impacts and strip federal courts of their authority to halt the sale and planting of an illegal, potentially hazardous GE crop.

These riders have the potential to:

- eliminate the critical roles of our most important environmental laws;
- dramatically shrink the time USDA has to analyze biotech crops, while withholding funds for USDA to conduct environmental reviews;
- establish multiple backdoor approval mechanisms for GE crop applications;
- force USDA to adopt a national policy of allowable levels of GE contamination in crops and foods;
- limit the regulatory authority of the EPA and other agencies; and
- remove the legal brakes that prevent fraud and abuse

Deliberately buried in the voluminous House Farm Bill, these significant proposed changes to the Plant Protection Act (PPA) will create serious risks to farmers, the environment and public health, including:

Broken Promises: After 15 years of commercialization, three decades and millions of dollars in publicly funded research, **GE crops have repeatedly failed to deliver on promises to the public.**

- No yield increases attributable to the GE traits themselves (often yield drag), no noteworthy advances in drought- or salt-tolerance. The only commercially viable traits that industry has come up with are insect & herbicide resistance. (Roundup Ready crops account for about 92 percent of the soybeans and 70 percent of the corn and cotton grown in the US.)
- Rather than reducing the need for pesticides, GE crops have driven herbicide use up. Herbicide-resistant seeds require massive [increases in herbicide use](#) that have been linked to significant environmental and public health concerns. (e.g. between 1994 and 2005, glyphosate use on soybeans, corn and cotton increased 15 fold to 119 million pounds.)
- According to a [2009 report](#) by Charles Benbrook and the Organic Center, GE corn, soybeans and cotton have increased use of weed-killing herbicides — a type of pesticide — by 383 million pounds in the U.S. from 1996 to 2008.

Gutting Regulations with Undue Influence:

- **Apparent unconstitutional violation of the separation of powers.** Judicial review is an essential element of U.S. law, providing a critical and impartial check on government decisions that may negatively impact human

health, the environment or livelihoods. Maintaining the clear-cut boundary of a Constitutionally-guaranteed separation of powers is essential to our government. This provision will blur that line.

- **Minimal assessment of novel crops.** According to the National Sustainable Agriculture Coalition, Sections 10011, 10013 and 10014 of the House version of the Farm bill would significantly weaken the U.S. Department of Agriculture's ability to regulate the use of genetically modified organisms. The provision would greatly narrow the scope of the environmental assessment for genetically engineered crop approvals and limit the amount of time that USDA has to review genetically engineered crop applications.
- **Impossible Deadlines.** The bill establishes purposely impossible deadlines for USDA to respond to GE crop approval applications. A new one-year deadline to approve or deny an application (with an optional 180-day extension) will put unreasonable pressure on the Department and will undoubtedly impact its willingness to even attempt rigorous risk assessments.
- **Backdoor Approval for Any GE Crop.** Multiple backdoor approvals have been written into this bill that could allow potentially dangerous GE crops to be commercialized without the necessary safety assessments, let alone any limitations, if USDA is unable to respond to a petition within the timeframe required. This backdoor approval will take effect even if USDA has not yet completed the environmental analysis required.
- **"Agent Orange" Corn Gets a Waiver.** A second backdoor approval exists for applications that are currently under review by the USDA and have gone through an initial public comment period – such as Dow's 2,4-D corn – if USDA is unable to approve or deny a crop application within 90 days of the Farm Bill passage. Such a deadline would be impossible to meet given the volume of public and scientific comments the Department receives (for the Dow corn, over 350,000) and the number of applications currently being considered.
- **Rigging EPA Review.** While some GE crops are overseen by EPA (those engineered to produce or contain a pesticide), the riders would also severely damage EPA's review of those GE pesticide crops by forcing the agency to choose the least burdensome choice for industry, regardless of environmental consequences.
- **Creating Allowable Limits of Transgenic Pollution.** One rider compels USDA to establish an extremely controversial national policy for the "low-level" presence of GE material in crops and foods. This policy would for the first time set an acceptable level of GE contamination in non-GE crops in the U.S. without recourse, risking loss of GE-sensitive domestic and export markets and loss of biodiversity.
 - This policy is *not* required by the WTO or any other trade agreements. Indeed, the UN agency that sets guidelines for the food trade (and which the WTO follows) allows countries to *refuse* "low-level" contaminants in food shipments, whether these have been assessed and approved or not. In addition, the UN's Protocol governing international shipment of GM organisms provides for requirements that shipments be clearly identified and documented as to all components.
- **Allows for loopholes and exceptions.** It would also authorize USDA to study the possible exemption of certain genetically engineered crops from the already weak regulatory review process and to make recommendations for the development of a national policy for the presence of biotechnology material in crops.
- **The Ag biotech industry has actively suppressed independent science** seeking to establish the safety or efficacy of their products through a combination of direct intimidation and tight patent control.
 - These suppression tactics have been so effective that 26 scientists were compelled to write an anonymous [letter](#) to EPA decrying both our dearth of knowledge about the safety or efficacy of GE seeds, and the "chilling effect" on free inquiry.
 - Statistical analysis shows that Industry-affiliated scientists are more likely to publish articles finding that GE technologies are safe. These issues were addressed in a recent [Scientific American editorial](#).
- **Now more than ever is the time for government oversight and thorough regulation of these novel crops. The new deadlines and diminished reviews make a mockery of USDA's safety reviews, transforming it into a 'rubber stamp' approval process.**

Destroying the Environment:

- **Gutting environmental reviews of GE crops.** The riders outlaw any review of GE crops' impacts under the National Environmental Policy Act (NEPA), the Endangered Species Act (ESA) or any other environmental law, or by any other agency other than USDA. For example, harm to protected species could occur without any input from our expert wildlife agencies.
- **Undermining experts.** One section reverses a court decision re-affirming Environmental Protection Agency (EPA) authority to regulate pesticide pollution under the Clean Water Act. It also stops EPA from modifying pesticide registrations based on the opinions of the National Marine Fisheries Services or the U.S. Fish and Wildlife Service.
- **Increased potential for “chemical cocktails”.** The products biotech companies are pushing through the approval pipeline are plant varieties engineered to withstand increased amounts and varieties of pesticides. But without proper, rigorous, and long-term analysis, we have no idea how these chemicals will react with other and the environment.
- **Destruction of habitat and wildlife.** The majority of GE crops are designed to withstand intense applications of pesticides, which have a number of ramifications for the environment. The unregulated, widespread proliferation of GE crops will lead to an almost immeasurable loss of biodiversity and [risks to the health of the environment](#).

Undermining Consumers:

- **Allowing GM in all crops and foods.** One rider compels USDA to establish an extremely controversial national policy for the “low-level” presence of GE material in crops and foods. This policy would for the first time set an acceptable level of GE contamination in non-GE crops, leaving consumers in the dark about what's in their food.
- **Effectively prevents GM labeling.** The United States remains one of the only developed countries that does not label GE foods. The contamination allowance would make this labeling even harder to achieve, despite the fact that an overwhelming majority of Americans want to know what's in their food.
- **“Agent Orange” Corn gets a waiver.** These riders allow applications that are currently under review by the USDA and have gone through an initial public comment period – such as Dow's 2,4-D corn – to be automatically approved if USDA is unable to approve or deny a crop application within 90 days of the Farm Bill passage. Such a deadline would be impossible to meet given the volume of public and scientific comments the Department receives (for the Dow corn, over 350,000) and the number of applications currently being considered. Consumers, including **Vietnam Veterans of America**, have voiced strong opposition to this crop, but this House Bill would silence them.

Harming Farmer Livelihoods:

- **Unintended consequences for domestic and export markets.** The National Grain and Feed Association [cautions](#) that the bill fails “to encompass the concerns of grain handlers, grain millers and processors, and the food industry over appropriate stewardship practices and other concerns related to premature commercialization of biotech traits.” Along with the Grocery Manufacturers Association and other industry organizations, NGFA fears the bill's “language will have unintended consequences in domestic and export markets,” which could pose a threat to the economy and job security.
 - The Value Added Biotech Coalition, composed of conventional agriculture heavyweights such as the Corn Refiners Association, Grocery Manufacturers' Association, National Grain and Feed Association and North American Millers Association has also come out in opposition to the riders.
 - They have officially [stated](#), “The current language does not address absolutely necessary improvements concerning how crop biotechnology is managed to avoid the costly and far-reaching disruption of the

integrity of the domestic and export supply chain if biotech-enhanced events are commingled with their traditional plant or plant product counterparts in instances where: 1) such biotech events have not been approved or authorized in export markets; and/or 2) express unique functional characteristics that make their presence in either the domestic or export supply chains inappropriate above specified threshold levels.”

- **Props up chemical companies, not farmers.** Contrary to what the biotech industry says, genetically engineered crops are not the only way to help farmers and feed the world. There are a number of alternative, sustainable methods that bring greater long-term benefits to farmers and consumers alike. The biotech industry has not lived up to these promises, and the vast majority of their proposed crops simply promote greater pesticide use, helping only themselves and countries' biggest farms.
 - Genetically engineered, herbicide-resistant seeds are the growth engines of the pesticide industry's sales and marketing strategy. These seeds are part of a technology package explicitly designed to facilitate increased, indiscriminate herbicide use and pump up chemical sales.
 - Pesticide and biotech company profits continue to rise. For instance, Monsanto's net income doubled from \$993 million in 2007 to \$2 billion in 2008.
- **Removing farmer protections.** With these biotech riders in place, USDA will be potentially unable to prevent costly contamination episodes, like Starlink corn or Liberty Link rice, which have cost farmers hundreds of millions of dollars in losses.
- **Simply put, pesticide resistant crops are bad for our nation's farms.** They will drive a massive increase in pesticide use, placing the burden of increased costs and health risks on farmers, workers, their families and local communities. The big winners will be the pesticide/biotech companies. They stand to benefit the most from the sustained increase in herbicide sales that will coincide with the widespread adoption of these new herbicide-tolerant GE crops.
 - Over the last twenty years, GE seeds have facilitated a fast-forwarding of the **pesticide treadmill**. As a direct result, farmers now face a disastrous epidemic of Roundup-resistant “superweeds” that have taken over entire fields and cover over 14 million acres of U.S. countryside.
 - **Superpests** and **superweeds** have evolved as the direct — and inevitable — consequence of the biotech industry's aggressive promotion of its genetically engineered insecticidal seed packages over the past 15 years.
 - **Pesticides drift off of target crops** – both through spray drift and volatilization. This will devastate adjacent ecosystems and **poses a very real threat to rural economies and farmers growing conventional crops**. Conventional farmers will lose crops while organic farmers will lose both crops and certification, resulting in an economic unraveling of already-stressed rural communities.
- **Less choice for farmers.** The lack of non-GMO seed choice and required use of costly, toxic herbicides and patented seeds puts farmers in a difficult position and forces their hand. The resulting loss of biodiversity, including food and timber crops, and risks to health will eventually lead to the further demise of our rural communities and landscapes.
- **A handful of corporations own the world's seed, pesticide and biotech industries.** Between them, Monsanto, Dow, BASF, Bayer, Syngenta and DuPont – known as the Big 6 – control the fate of food and farming.
 - According to a [report](#) by the Action Group on Erosion, Technology and Concentration, “The top six chemical companies control 75% of the global pesticide industry. One corporation—Monsanto—controls 60% of the U.S. corn & soybean seed market and 1/4th of global seed markets. This kind of consolidation is unprecedented and it is dangerous.”
 - According to [USDA data](#), in the U.S., biotech seeds are grown on nearly nine out of ten acres of corn, soybeans and cotton — 85% of corn, 92% of soybean and 88% of cotton.