

June 18, 2003

By Fax and Regular Mail

Ms. Christine T. Whitman
Administrator
United States Environmental Protection Agency
1101A
USEPA Headquarters
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

Dear Administrator Whitman:

On October 15, 2001, the United States Environmental Protection Agency (EPA) Office of Pesticides Programs re-registered four different varieties of corn that were genetically engineered (GE) with a gene from a *Bacillus thuringiensis* (“*Bt*”) microorganism expressing a toxin that kills European Corn Borer pests. Although EPA found those *Bt* corn varieties would not pose unreasonable risks, EPA did conclude that those crops raised “concerns with respect to insect resistance management.” To “adequately mitigate” insect resistance, EPA determined that farmers needed to: (1) plant a 20 percent non-*Bt* corn refuge in the Corn-Belt states, and (2) plant their refuge within one-half mile of the *Bt* corn. The attached report, “Planting Trouble: Are Farmers Squandering *Bt* Corn Technology?”, addresses farmer noncompliance with EPA’s 20 percent refuge requirement and proposes recommendations for EPA to implement in order to eliminate that noncompliance.

To determine whether *Bt*-corn farmers are complying with the 20 percent refuge obligation, the Center for Science in the Public Interest (“CSPI”)¹ obtained data from the United States Department of Agriculture (USDA) about the amount of *Bt* and non-*Bt* corn grown in 2002 by farms located in the states of Iowa, Minnesota, and Nebraska. Farmers in those three states account for more than half of all *Bt* corn grown in the United States in 2002. The USDA data show that 19 percent of all farms growing *Bt* corn in those states (or almost 10,000 farms) violated EPA’s requirement in 2002. Thirteen percent of all *Bt* corn farms (6,600 farms) planted 100 percent of their corn with *Bt* varieties (i.e., planting no refuge at all) while almost 23 percent of small *Bt*-corn farms (those farms planting less than 200 acres of corn) planted 100 percent of their corn with *Bt* varieties. Noncompliance was highest in Nebraska, with 22 percent of all *Bt* farms and 37 percent of small farms not planting the required 20 percent refuge.

¹ CSPI is a nonprofit education and advocacy organization that focuses on improving the safety and nutritional quality of our food supply and on reducing the damage caused by alcoholic beverages. CSPI seeks to promote health through educating the public about nutrition and alcohol; it represents citizens’ interests before legislative, regulatory, and judicial bodies; and it works to ensure that advances in science are used for the public good. CSPI is supported by the 800,000 member-subscribers to its *Nutrition Action Healthletter* and by foundation grants. CSPI receives no funding from industry or the federal government.

To address the significant noncompliance identified by the USDA data, CSPI's report proposes a multi-prong strategy of actions to be carried out by both EPA and the *Bt*-corn registrants. To better assess compliance levels with refuge requirements, EPA should get from USDA its national data for the amount of *Bt* and non-*Bt* corn planted by individual farmers. EPA should require the registrants to conduct regular on-farm inspections to assess grower compliance and require that farmers submit to the registrants field maps identifying *Bt* and non-*Bt* corn plants and seed purchase records. To address noncompliance found by the registrants, EPA should require the registrants to use all available tools and technologies that might help a farmer comply, such as incentive programs and geographic information technology. Finally, if significant noncompliance continues, EPA must hold the registrants accountable and limit the number of *Bt* seeds that they can sell in geographic areas with high noncompliance.

Although CSPI believes the currently registered GE crops are safe to eat and provide benefits to farmers and the environment, those benefits will disappear if the biotechnology companies cannot compel farmers to comply with refuge requirements. CSPI agrees with EPA that adherence to refuge requirements is a good way to delay development of resistant pests and protect the current and future benefits of *Bt* products. Therefore, CSPI hopes that EPA will implement all the recommendations set forth in the attached report. EPA needs to make refuge compliance a priority and devote sufficient enforcement and compliance resources to ensure the safe growing of GE crops.

Sincerely,

Gregory Jaffe
Director, Biotechnology Project

Attachment

cc: Stephen Johnson