

March 11, 2014

By Electronic Submission

APHIS
USDA
4700 River Road
Riverside, MD 20737-1238

Re: Comment on Draft Environmental Impact Statement for Corn and Soybeans Engineered to be Resistant to 2,4-D and several other herbicides (Docket No. APHIS – 2013-0042).

The Center for Science in the Public Interest (CSPI)¹ hereby submits this letter to the United States Department of Agriculture (USDA) in response to its request for comments on its Draft Environmental Impact Statement (DEIS) for corn and soybeans engineered to be resistant to 2,4-D and several other herbicides dated January 10, 2014 (79 FR 1861).

In the DEIS, USDA identifies the current prevalence of glyphosate-resistant weeds that are a direct result of farmers using glyphosate-tolerant seeds with glyphosate herbicide, and the likely development of 2,4-D-resistant weeds when farmers use 2,4-D-tolerant corn and soybean in conjunction with Dow's Enlist herbicide. The DEIS states that USDA cannot prevent or delay development of those resistant weeds, which have significant negative agricultural and environmental impacts, because it can only address "plant pest" concerns. CSPI believes, however, that USDA does have legal authority to prevent or delay development of resistant weeds that are the result of farmers using engineered herbicide-tolerant seeds using the "noxious weed" authority in the Plant Protection Act.

USDA should finalize the proposed rules for 7 C.F.R. Part 340 (73 FR 60008, Oct. 9, 2008) that incorporated the Plant Protection Act's "noxious weed" authority into its regulation of GE organisms and then use that authority to manage and address herbicide-resistant weeds. In the Plant Protection Act, the term "noxious weed" means

any plant or plant product that can directly or indirectly injure or cause damage to crops (including nursery stock or plant products), livestock,

¹ CSPI is a nonprofit education and advocacy organization that focuses on improving the safety and nutritional quality of our food supply. CSPI seeks to promote health through educating the public about nutrition; it represents citizens' interests before legislative, regulatory, and judicial bodies; and it works to ensure advances in science are used for the public good. CSPI is supported by the 900,000 member-subscribers to its Nutrition Action Healthletter and by foundation grants. CSPI receives no funding from industry or the federal government.

poultry, or other interests of agriculture, irrigation, navigation, the natural resources of the United States, the public health, or the environment.

Including that definition in the 7 CFR Part 340 regulations and requiring any GE organisms that may exhibit “noxious weed” characteristics to be regulated will establish science-based oversight of GE organisms and ensure that APHIS is safeguarding environmental and agricultural interests. It will require APHIS to evaluate the potential “noxious weed” impacts of a GE crop on other crops and “other interests of agriculture.” Clearly, the fact that use of a GE herbicide-tolerant seed with its corresponding herbicide directly results in huge herbicide-resistant weed populations is an impact that may fall within the definition of a “noxious weed.” Such an analysis then could allow USDA to impose restrictions on the use of those herbicide-tolerant seeds so as to delay or prevent the development of those herbicide-resistant weeds.

USDA has broad authority available to it to address the potential impacts that might arise from the commercial use of the herbicide-tolerant seeds that are being analyzed in the DEIS. Therefore, USDA should finalize the portion of its proposed rules for 7 C.F.R. Part 340 (73 FR 60008, Oct. 9, 2008) that incorporated the Plant Protection Act’s “noxious weed” authority into the regulatory system for GE organisms, and then use that authority to delay herbicide-resistant weed development from farmers’ use of 2,4-D herbicide-tolerant seeds in conjunction with Dow’s Enlist herbicide.

If USDA would like more information about any of the issues raised in this letter, I would be happy to provide it.

Sincerely,



Gregory Jaffe
Director, Biotechnology Project
gjaffe@cspinet.org
(202) 777-8369