



# Oregon

John A. Kitzhaber, MD, Governor

Department of Agriculture

635 Capitol St NE  
Salem, OR 97301-2532



June 30, 2014

The Honorable Governor John Kitzhaber  
900 Court St. NE, Suite 254  
Salem, OR 97301

Dear Governor Kitzhaber:

In response to your October 1, 2013 letter to Senate President Peter Courtney and House Speaker Tina Kotek, the Oregon Department of Agriculture (ODA) conducted a review of our existing authorities to deal with conflicts between genetically engineered (GE) and non-genetically engineered crops. We conducted this review in consultation with legal counsel. Following is a summary of the findings from the review of our regulatory authorities.

The review found that ODA's current regulatory authorities are limited to GE crops that have not yet been de-regulated by the USDA Animal Plant Health Inspection Service (APHIS). Once a crop has been de-regulated by the federal government, the department no longer has the statutory authority to regulate that crop solely based on its GE characteristics. ODA's existing authority lies in Oregon Revised Statute 570.405, which allows the department to create control areas to deal with pests and disease. When USDA APHIS de-regulates a GE crop they specifically indicate that the crop is not a pest or disease therefore ODA does not have the ability to regulate that federally de-regulated crop under our pest and disease statutes.

ODA has adopted one control area order for a federally regulated GE crop under this authority. This control area is for GE bentgrass grown for field trials in Jefferson County. The purpose of the control area is to prevent contamination of existing bentgrass growing areas in the Willamette Valley with round up ready bentgrass grown in field trials. There are currently no round up ready bentgrass field trials being conducted in Oregon.

ODA also has the authority to provide input and monitor trials of APHIS-regulated genetically engineered crops designed to "produce vaccines, drugs, enzymes or other medicinal compounds," often referred to as biopharmaceutical crops (Oregon Revised Statute 561.738 to 740). To date, we have not received notification of any biopharmaceutical crop trials proposed in Oregon.

ODA receives notifications from USDA-APHIS regarding proposed regulated GE crop trials in Oregon. Notifications are limited due to APHIS regulations to protect confidential business information. The notifications ODA receives include information such as the crop, the county, and the phenotype (herbicide-tolerant, insect-resistant, etc). The notifications



do not include the specific location of the crop trials. ODA reviews the notifications relative to state law, specifically the potential for importation of pests and diseases depending on the origin of the experimental material, and provides comments to APHIS.

ODA does not currently have the statutory authority to gather the cropping information that would be needed to map crops that could cross-pollinate, including GE and non-GE varieties of the same crop, or closely related non-GE crops. State law does not require farmers to report cropping information to ODA. In addition, state law currently does not distinguish between GE and non-GE crop varieties.

Although our authorities regarding GE crops are extremely limited, other non-regulatory ODA programs and services may help reduce conflicts between GE and non-GE crops. We offer identity-preserved certification and have the capability to conduct testing of GE presence as a component of these certifications. In addition, ODA marketing and certification programs support local, organic, identity-preserved and sustainable agriculture through Specialty Crop Block Grants, Farm to School activities, marketing assistance, and a variety of fee-for service inspections and certifications.

I appreciated the opportunity to present these findings to the Task Force on Genetically Engineered Agriculture at its second meeting on May 12, 2014. I believe the dialogue occurring as part of the Task Force process has been very constructive and look forward to continued engagement with the other Task Force members. I am committed to work with you, legislative leadership, Task Force members, and other stakeholders to identify strategies and next steps to address these challenging issues.

Sincerely,



Katy Coba, Director

cc: Richard Whitman, Governor's Natural Resources Office