

**Commissioner Seth Bradstreet, III, State of Maine
Department of Agriculture, Food and Rural Resources**

December 14, 2009

**Comments on the “Rule Requiring Use of Best Management Practices
for Growing Crops to Minimize Cross Contamination”**

Dear Commissioner Bradstreet:

On behalf of our members, the Biotechnology Industry Organization (BIO) respectfully submits the following comments concerning Chapter 9, the proposed ***Rule Requiring Use of Best Management Practices for Growing Crops to Minimize Cross Contamination***.

BIO is a national trade organization, based in Washington, D.C., representing more than 1,100 biotechnology companies, academic institutions, state biotechnology centers, and related organizations across the United States. BIO members are involved in the research and development of healthcare, agricultural, industrial and environmental biotechnology products. BIO represents virtually all of the biotech seed manufacturers in North America.

BIO applauds the Legislature and the Department’s vision in establishing Best Management Practices to help increase comfort levels among growers in the state who may use different production practices. Furthermore, we agree that BMPs are a much more useful way to ensure that agricultural producers communicate more with their peers rather than onerous and business inhibiting regulation. BIO greatly supports coexistence of different production practices side by side in the state. We are glad that the Maine Department of Agriculture, Food and Rural Resources is clearly embracing this concept through the well developed BMP effort.

BIO seeks to help further these efforts with the comments below. In these comments, we seek to dispel myths and to ensure that these newly developed BMPs are science-driven, realistic and ultimately may serve as a set of principles that other states could emulate.

We offer the following points regarding the proposed Best Management Practices:

- i) **The BMPs MUST state references to the USDA National Organic Program’s rules for certification.** It is up to the Department to dispel myths that low level presence of biotechnology crop DNA in an organic crop means entire loss of that crop and decertification of the organic farm. The Department also should state that to date no organic farm has lost certification due to any unintended presence of biotechnology DNA in its crop. Much confusion from misunderstanding these facts has led to hysteria over agricultural biotechnology in the state – especially among those state policy makers who have no relationship to agriculture. The

Department clearly refers to other bodies in this proposal, e.g. the Board of Pesticides Control and the Maine Cooperative Extension. Since the proposal dances around how to protect organic farmers it seems absurd that there is no mention of the rules of the National Organic Program, under which Maine's organic farmers are certified.

- ii) **Under Section 4, part 2, the Best Management Practices require 300 foot setbacks for corn, yellow crookneck squash and zucchini, and nothing for other crops that also are identified.** There is no explanation of why such a large buffer is needed, nor is there any mention of which grower would have to incur the setback. Failure to state which farm would incur these costs is a mistake and leads to confusion. Clearly written into the USDA National Organic Program rules are statements indicating that growers of identity preserved crops (in this case organic) have always incurred the extra cost of protecting integrity since they are the ones who will benefit financially from the extra effort. If the Department disagrees with the USDA National Organic Program then it should be clearly stated. Otherwise, the Department should clearly reference existing norms for agriculture across the country and the Federal National Organic Program.

Again, BIO applauds the Department in spending considerable time and affording much deference to all interested parties over the past year to develop these BMPs. We have seen how difficult this process can be in other parts of the country as well. With realistic and facts-based practices in place in Maine, these BMPs can be of tremendous help to growers both opting to use modern technologies as well as those involved in organic production.

Thank you for your consideration of these comments. We would welcome the opportunity to further discuss these issues moving forward. Please feel free to contact our counsel, Robert Tardy with Somerset Associates, or me at (202) 962-6637 or boconnor@bio.org if you should have any questions or concerns regarding this matter.

Sincerely,



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