

March 30, 2020

On behalf of the following organizations, we thank USDA for its efforts in developing the “Report to the President of the United States and the United States Congress on Plant Biostimulants Submitted by the United States Department of Agriculture (USDA) in Consultation with the Environmental Protection Agency (EPA) on Dec. 20, 2019”. We appreciate the breadth of options considered and included in the report. We were encouraged to see that the USDA report acknowledged:

- The benefits of plant biostimulants.
- The need for a legal definition for plant biostimulants.
- The fact that many plant biostimulant products do not have a consistent or predictable regulatory “home” or pathway to market.
- The need for a long-term regulatory solution to ensure the continued growth of this industry.

In addition, we thank USDA for including the list of key issues and goals as discussed in the several USDA-APHIS hosted meetings on this topic over the last two years. These included:

- The ability to use a uniform, national legal definition for "plant biostimulant"
- The consequent ability to make defined plant biostimulant claims
- A responsible approach that builds credibility for the industry
- A clear, consistent, and predictable pathway to market
- A uniform national framework which includes a single process for labeling and regulation – “one label,” for all states
- Clear and reasoned criteria to assess product efficacy, safety and compositional claims
- Clear rules and/or regulations for so-called "multi-function" active ingredients
- Global regulatory consistency

After a detailed review of the USDA report, the biostimulant industry recognizes that **Option 3** has the support of several federal agencies as well as National Association of State Departments of Agriculture (NASDA). Under this option, USDA would facilitate a process to bring about a uniform model bill that States would use to enact legislation. This option would partially address a couple of Industry’s objectives for the States choosing to adopt the model bill into legislation.

Industry agrees that Option 3 will help USDA and relevant stakeholders move the initiative forward. Specifically, Option 3, as proposed, works toward a uniform legal definition for biostimulants and lends clarity to acceptable biostimulant claims – the first two of our stated goals. Option 3 could potentially aid in forging criteria for product efficacy and compositional claims. We believe it unlikely, however, that Option 3 can achieve the stated goals of “a clear, consistent and predictable pathway to market” or a uniform (“one label”) environment for regulation in an efficient and sustainable fashion – especially when considering the time and

complexity involved with enabling legislation across 50 independent states. Further, we strongly believe that Option 3 must necessarily be complemented by parallel initiatives at the Federal level in order to substantially achieve all of the objectives in a cohesive solution.

We agree to support the implementation of Option 3 with the understanding there are several elements from the industry supported Options 4 and 5 that will not be addressed by Option 3 as presently defined. We believe these elements are essential to achieve meaningful long-term success for all involved stakeholders and will be crucial towards efforts to develop global regulatory harmonization. Accordingly, we expect that all involved stakeholders will consider implementation of some or all of Option 4 as a concurrent step.

Core Components of Option 4:

1. Amend current pesticide regulations to: (1) incorporate the same uniform national definition of "plant biostimulant," and (2) clarify the exclusion of plant biostimulant products from regulations as plant growth regulators (or pesticides) under FIFRA.

The definition proposed in the USDA report called "Alternative definition 2" could be a helpful definition for interested stakeholders to collectively pursue. "A plant biostimulant is a substance(s), microorganism(s), or mixtures thereof, that, when applied to seeds, plants, the rhizosphere, soil or other growth media, act to support a plant's natural nutrition processes independently of the biostimulant's nutrient content. The plant biostimulant thereby improves nutrient availability, uptake or use efficiency, tolerance to abiotic stress, and consequent growth, development, quality or yield."

2. Enact legislation: similar to Virus-Serum-Toxin Act (VSTA), authorizing USDA to establish minimum criteria for the assessment of safety and efficacy of biostimulant products.

3. Related regulatory amendments: In addition to the details in item 2, the previously undefined term, "nutritional chemicals" should be defined as "a substance or substances that act to improve a plant's natural nutrition processes independently of the substance's nutrient content, thereby improving nutrient availability, uptake or use efficiency, tolerance to abiotic stress, and subsequent growth, development, quality or yield; including a chemical / biochemical product meeting the definition of a plant biostimulant product."

Industry welcomes USDA facilitation throughout the process, bringing together all Stakeholders to work towards a State harmonized federal framework that ensures a predictable path to market for future biostimulant products.

If you have any follow up questions or comments, please do not hesitate to reach out to us. We look forward to working with you to help implement these changes.

Sincerely,

Agricultural Retailer Association (ARA)

Biological Products Industry Alliance (BPIA)
Humic Products Trade Association (HPTA)
The Fertilizer Institute (TFI)
U.S. Biostimulant Coalition (USBC)