



July 17, 2017

The Honorable Sonny Perdue
Secretary of Agriculture
U.S. Department of Agriculture
1400 Independence Ave., S.W.
Washington, DC 20250

Via email to: GMOlabeling@ams.usda.gov

RE: AHPA Stakeholder Input to the USDA-AMS Bioengineered Food Disclosure Rule Development Questions (<https://www.ams.usda.gov/rules-regulations/gmo-questions>)

Dear Secretary Perdue,

The following represents the stakeholder input of the American Herbal Products Association (AHPA) to the U.S. Department of Agriculture's Agricultural Marketing Service (USDA-AMS) request for stakeholder input to specific questions regarding the establishment of a National Bioengineered Food Disclosure Standard. AHPA appreciates the opportunity to provide comments on behalf of its members that may be impacted by this new rule.

The American Herbal Products Association (AHPA) is the leading trade association and voice of the herbal products industry. AHPA is comprised of domestic and foreign companies doing business as growers, collectors, processors, manufacturers, marketers, importers, exporters and distributors of herbs and herbal products.

AHPA's members are engaged in the commerce of herbs and herbal products and numerous AHPA members located in the United States and in other countries that have regulations regarding bioengineered food. AHPA includes in its membership several companies that grow herbal crops and market herbal products that are certified as organic under the USDA's National Organic Program (NOP) and that are therefore controlled against the introduction of GMO crops and ingredients derived from such crops. Several AHPA members also market herbal products that are guaranteed to be free of GMO crops and ingredients.

This subject matter has been of interest to AHPA's members for many years; AHPA has maintained a guidance policy for its members since 2003 (most recently updated in 2015) regarding the use of GMO agricultural inputs in herbal products such as dietary supplements. Among other things, this policy encourages the voluntary disclosure of the use of any herbal ingredients that have been knowingly and intentionally cultivated from bioengineered technologies.

AHPA provides the following input to selected questions posed by USDA-AMS.

What terms should AMS consider interchangeable with ‘bioengineering’? (Sec. 291(1))

AHPA believes USDA-AMS should consider terms other than “bioengineering” that are most familiar to both the food industry and consumers or that are used in other already established regulations for such products. The term likely most familiar to consumers in the U.S. is the term “genetically modified organism” or simply “GMO.” This is consistent with terminology used in the USDA National Organic Program (NOP) to refer to these products as well.

The USDA-AMS may want to also consider such terms as “genetically modified” food as used in the European Union food labeling regulations, or “genetically engineered” food and ingredients as used in Vermont’s state food labeling legislation.

What is the amount of a bioengineered substance present in a food that should make it be considered bioengineered? (Sec. 293(b)(2)(B))

AHPA recommends review of existing GMO disclosure regulations in the international community to determine an appropriate methodology for the U.S. Some systems in other countries require the intentional use of GMO ingredients to be disclosed at any level. Review by AHPA indicates that thresholds for adventitious or technically unavoidable GMO presence in food used in other international labeling and disclosure programs can vary considerably – from 0.9% to 5.0%. Another approach is to define a threshold based on percent weight of the ingredient in the food product.

Should AMS consider more than one disclosure category? (Sec. 293(b)(2)(D))

AHPA agrees that the establishment of multiple exposure categories can be helpful to consumers in describing the various scenarios for the presence of bioengineered ingredients in foods. This could be similar to the system established under the NOP, which has labeling for 100% organic, organic, and “made with” organic categories.

If such a system is developed, AHPA anticipates that greater consumer education will be necessary than for a standard based on a single disclosure category.

Could AMS consider whether a type of food is considered a bioengineered food under the determination process? (Sec. 293(b)(2)(C))

As stated previously, AHPA has maintained a guidance policy for its members since 2003 regarding the use of GMO agricultural inputs in herbal products such as dietary supplements. This policy has encouraged the voluntary disclosure of the use of any herbal ingredients that have been knowingly and intentionally cultivated from GMO technologies.

AHPA supports the inclusion of dietary supplements under the determination process. Many dietary supplement products are already making voluntary disclosures regarding whether or not they have bioengineered or GMO content, or are participating in third-party certification programs to confirm the absence of GMO content. Consumers are already looking for these

voluntary disclosures on these products, and it would be confusing to exempt dietary supplements from the scope of this rule.

The Law offers special provisions for disclosure on small or very small packages. How should AMS define very small or small packages? (Sec. 293(b)(2)(E))

AHPA agrees it is reasonable and consistent for USDA-AMS to utilize the same definitions already established for small or very small packaging by FDA for use in the food industry.

How should AMS define small food manufacturers? (Sec. 293(b)(2)(F))

AHPA agrees it is reasonable and consistent for USDA-AMS to utilize the same definitions already established for small food manufacturers by FDA.

How should AMS define very small food manufacturers to exclude these manufacturers from the requirements of the regulation? (Sec. 293(b)(2)(G)(ii))

AHPA agrees it is reasonable and consistent for USDA-AMS to utilize the same definitions already established by other federal agencies for very small businesses in the food industry.

In conclusion, AHPA appreciates the opportunity to provide these comments to USDA-AMS as part of the stakeholder input process. We look forward to the issuance of the proposed rule and expect to be actively engaged in the public comment process.

Respectfully submitted,



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