



July 17, 2017

U.S. Department of Agriculture
Agricultural Marketing Service
1400 Independence Avenue SW
Washington, DC 20250

Submitted via GMOlabeling@ams.usda.gov

RE: Proposed Rulemaking Under the National Bioengineered Food Disclosure Act

Thank you for the opportunity to submit comments to the USDA's Agricultural Marketing Service (AMS) in response to questions related to proposed rulemaking under the National Bioengineered Food Disclosure Act. Organic Seed Alliance (OSA) is a national organization that advances ethical seed solutions to meet food and farming needs in a changing world. We accomplish this mission through research and education with farmers and other agricultural professionals, and also through policy advocacy. This demands close attention to the issue of genetic engineering (GE) and how these crops are regulated.

We appreciate the opportunity to provide input on the questions posted by AMS. These labeling questions provide an opportunity for clarity and consistency between markets (including the organic market) here in the US and also internationally. In response to the request for input, we provide the following answers to select questions:

**1. What terms should AMS consider interchangeable with 'bioengineering'?
(Sec. 291(1))**

In the disclosure law, the term "bioengineering" refers to a food that has been genetically modified in a way that could not be obtained through conventional breeding or found in nature. Since many consumers may not know or understand the term bioengineering, there should be allowable interchangeable terms for the disclosure standard. These include the terms: genetically engineered, genetically modified organism, and GMO. We recommend that USDA allow and recognize these as interchangeable terms, since they have been used consistently by AMS in National Organic Program regulations and communications.

**2. Which breeding techniques should AMS consider conventional breeding?
(Sec. 291(1)(B))**

According to USDA, conventional farming is the "use of seeds that have been genetically altered using a variety of traditional breeding methods, excluding biotechnology, and are not certified as organic." We suggest using the USDA National Organic Standards Board (NOSB) definition of classical/traditional breeding when considering conventional breeding

techniques. Please see the enclosed 2016 NOSB proposal that lists this and other definitions relevant to the bioengineered labeling questions at hand.

3. Which modifications should AMS consider to be found in nature? (Sec. 291(1)(B))

The purpose of the labeling law is to require the disclosure of bioengineered foods – foods derived from crops developed through modern biotechnology techniques rather than through conventional breeding. While virtually all bioengineered foods do contain traits that are found in nature, the entire altered genetic sequence used to produce such foods is not found in nature. Therefore, products of modern biotechnology, as defined by NOSB, FDA, Codex Alimentarius, and the Convention on Biological Diversity and others, including gene-edited products, should not be considered “modifications found in nature” under Section 291(1)(B).

5. Although the Law states that the definition of bioengineering shall not affect any other definition, program, rule, or regulation of the Federal government, could there be potential areas of confusion between the definition of bioengineering as used in the Law and others similar terms used by the Federal government? If so, what are the potential remedies that could be added to this regulation to alleviate any confusion between this definition and others by the Federal government? (Sec. 292(b))

To alleviate potential confusion, the AMS should harmonize the definition of terms for genetic engineering to the NOP standards of excluded methods. The definition used for this new GE labeling standard should be consistent with the NOP and with other US national and international standards such as the UN Codex Alimentarius, a collection of standards, guidelines and codes of practice from around the world that have been adopted by the Codex Alimentarius Commission, a central part of the Joint Food and Agriculture Organization and the World Health Organization of the United Nations.

Furthermore, the NOSB has made recommendations concerning *specific* excluded methods in USDA organic regulations. To avoid confusion between these definitions of terms and acronyms, we recommend using the definitions recommended by the NOSB in 2016 (see again the enclosed proposal). The definition of excluded methods is well established in the regulations of the NOP, and the organic food industry has grown alongside these requirements. To maintain consumer confidence, it is critical that USDA ensure that the rules for mandatory GE food ingredient disclosure adopt the language included in the AMS policy that no proposed rules for bioengineered food disclosure will require that modifications be made to the USDA organic regulations.

12. If a manufacturer chooses to use text to disclose a bioengineered food, what text should AMS require for a text disclosure? (Sec. 293(b)(2)(D))

The label must provide clear, unambiguous information to the consumer. We suggest allowing the following text for disclosure: “produced with genetic engineering” and

“genetically engineered.” The ingredient list should identify each genetically engineered ingredient.

15. Should AMS specify in the regulations the type of electronic or digital disclosure manufacturers, e.g. QR code, can use to disclose bioengineered food? What steps should AMS take if an electronic or digital disclosure method becomes obsolete? (Sec. 293(b)(2)(D))

We believe USDA should reject the option of allowing electronic or digital disclosure for bioengineered food. The reasons are clear: not everyone has access to a smartphone and this option increases the burden on consumers. Studies show that half of low-income people do not own smartphones. Almost half of rural people do not own smart phones. Minorities are a disproportionate percentage of low-income and rural Americans. Two-thirds of the elderly do not own smartphones. Electronic disclosure is inherently discriminatory against all of these demographics.

In summary, OSA supports the following;

- Using definitions for new GE labeling standards that are consistent and aligned with the NOP and other national and international standards
- Requiring on-package labeling only
- Requiring the labeling of all GE food ingredients

Thank you for your work to develop labeling standards for bioengineered products.

Sincerely,



Kiki Hubbard

Director of Advocacy & Communications