Wolf DiMatteo + ASSOCIATES
The Organic Specialists

July 17, 2017

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

RE: Proposed Rule Questions Under Consideration for GMO Disclosure and Labeling

Dear Secretary Perdue,

The partners of Wolf, DiMatteo + Associates thanks the United States Department of Agriculture (USDA) for requesting stakeholder input to inform the implementation of the National Bioengineered Food Disclosure Standard (Pub. L. 114-216) by the mandated July 2018 deadline. We appreciate the posted 30 questions and look forward to commenting on any proposed rule during the rulemaking process.

The partners and associates of Wolf, DiMatteo + Associates (WDA) have over 100 years of combined experience in the organic sector. We have served hundreds of farms and businesses with their organic production systems and regulatory compliance, both nationally and internationally. We worked for the passage of the Organic Foods Production Act (OFPA) in 1990 and have since actively participated as a stakeholder in comments to the USDA National Organic Program (NOP) on regulations, policy and guidance regarding the production, handling and trade of organic products. We had supported the passage of OFPA and the implementation of the NOP regulations because we believe that there should be a clear standard to label organic products that ensure consumers have confidence in their purchase. Likewise, we strongly support the labeling of all genetically modified (bioengineered) foods because the consumer has the right to know how their food was produced.

We were pleased that the National Bioengineered Food Disclosure Law recognized that USDA certified organic products already meet stringent and transparent requirements that seeds and their crops through to a final retail product are not genetically engineered and qualify for non-GMO claims. Regardless of the claims language that will be allowed in the regulations to implement the National Bioengineered Food Disclosure Law, it is essential that USDA organic certification is allowed as sufficient proof to claim the absence of bioengineering in the food.

In response to some of the Proposed Rule Questions under consideration:

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Question 1. WDA supports the use genetic engineering, genetically modified, and the acronyms GMO and GM to be considered interchangeable with "bioengineering."

Question 4. WDA urges USDA to use the authority it has to implement the definition of "bioengineering" in Pub. L. 114-216 broadly enough ensure that a wide range of products, including highly processed products with ingredients derived from bioengineering, are subject to mandatory disclosure. It is not a matter of detecting levels of bioengineered genetic material but rather that the seed was bioengineered and its crops, subsequent ingredients and products should be disclosed as bioengineered.

Question 5. The regulations for the National Bioengineered Food Disclosure Law must include language that explicitly protects the USDA organic regulations from any modifications as stated in the USDA's Policy Memorandum entitled "Consistency with the AMS National Organic Program." Section 299 (f)(2) of Pub. L. 114-216 should not be interpreted in any way that supersedes or overturns the definition and prohibition of "excluded methods" in the NOP.

Question 7. WDA does not support an exemption from disclosure for animal products from animals consuming bioengineered feed. However, since Section 293(b)(2)(A) allows such products from disclosure as bioengineered, these products should not qualify for a "non-GMO" claim. The final rule should clearly state that products exempt from disclosure, including milk from a cow fed bioengineered feed, do not qualify for absence of bioengineering claims.

Question 10. New genetic engineering techniques and advances in technology are certain to occur therefore a mechanism should be established to consider whether such new techniques and advances should be included in the bioengineering definition and regulated under the disclosure standard. At the very least the process must allow for public comment and petitions.

Questions 12 - 18. First and foremost, there should be consistency in labeling. Manufacturers should have flexibility only within parameters set by USDA. The clearest form of communication would be text established by USDA in its regulation. Either the text allowed by the Consumer Protection Rule 121 of the State of Vermont or similar language that identifies products of genetic engineering or products with some ingredients of genetic engineering, and ingredient identification on the ingredient panel. Text disclosure can be accompanied by a USDA symbol created under the bioengineering disclosure standard or a QR code. A USDA symbol or QR code alone is not sufficient for clear and transparent disclosure. In retail situations or small packages where it would be difficult to include text and a symbol, the USDA symbol for bioengineered products could solely be used as long as the symbol contains text, such as "bioengineered." The USDA NOP labeling and recordkeeping requirements are an excellent model for the bioengineering disclosure standard.

Thank you for your consideration of our comments.

Sincerely,

Bill Wolf, Katherine DiMatteo and Sandy Mays
Partners