



CENTER FOR  
FOOD SAFETY

July 3, 2018

U.S. Department of Agriculture  
Agriculture Marketing Service

Docket No.: AMS-TM-17-0050

**RE: Comments on proposed regulations to implement the National Bioengineered Food Disclosure Standard**

On behalf of the undersigned organizations representing millions of Americans, we submit the following comments on the U.S. Dept. of Agriculture's (USDA's) proposed regulations for the National Bioengineered Food Disclosure Standard (NBFDS, Pub. L. 114-216).

For two decades, Americans have overwhelmingly demanded mandatory labeling of genetically engineered (GE) foods, also known as genetically modified organisms (GMOs). These rules, implementing the 2016 law, represent the final step in that process. Because the NBFDS's entire purpose is to provide information to the American public, the proposed regulations must meet reasonable public expectations. Disclosure of GE foods must be readily accessible to all, understandable and not misleading, comprehensive, and implemented in a timely manner. USDA's proposed regulations miss the mark in many respects, but as detailed below could be improved and fulfill the law's intent to provide the clear and comprehensive GE food labeling that Americans demand and deserve.

Provide disclosure accessible to all

USDA proposes to allow companies to affix "QR codes," which are encoded images on a package that must be scanned by a smartphone to see whether a product was produced with genetic engineering. Because they require a smartphone and a reliable broadband connection, QR codes alone would discriminate against more than 100 million Americans – especially many rural, low-income, minority and elderly populations – known to disproportionately lack access to these technologies. USDA's own 2017 study illustrated this. Information via on-package website URLs or text messaging is also unavailable to some, and unnecessarily onerous for everyone else. Text messaging additionally imposes costs per text sent and received for many. These methods are all time-consuming and simply unworkable in reality, impeding rather than promoting public access to GE content information. USDA must mandate clear, on-package labels for all GE foods as the only way to fulfill the NBFDS's statutory purpose of providing GE disclosure to American consumers.

**NATIONAL HEADQUARTERS**

660 Pennsylvania Avenue, SE Suite 402  
Washington, D.C. 20003  
T: 202-547-9359 F: 202-547-9429

**CALIFORNIA OFFICE**

303 Sacramento Street, 2nd Floor  
San Francisco, CA 94111  
T: 415-826-2770 F: 415-826-0507

**PACIFIC NORTHWEST OFFICE**

917 SW Oak Street, Suite 300  
Portland, OR 97205  
T: 971-271-7372 F: 971-271-7374



### Make disclosure understandable, not misleading

USDA proposes to permit only the little-known term “bioengineered,” or still worse the entirely unfamiliar acronym “BE,” to denote GMO content. This is entirely unacceptable, as it can only mislead and confuse consumers. For over 30 years, the terms “genetically engineered,” “genetically modified organism” and their associated acronyms (GE, GMO) have been consistently used by consumers, biotechnology and food companies, as well as regulators. Food manufacturers are already out in the marketplace using labels with this well-established terminology. USDA must permit GE disclosures using these long-familiar terms.

The disclosure law permits the use of symbols instead of text. However, none of the three symbols proposed by USDA is understandable to the public. Two are cartoonishly pro-biotech propaganda (smiley faces) that violate NBFDS’s requirement that GE disclosures be neutral. They should be rejected (options #2 and #3). Option #1 – the initials “BE” – is still less understandable to the public than “bioengineered” and should also be rejected. USDA must ensure that any symbols permitted to denote genetically engineered foods are readily understandable to the public, such as “GE” or “GMO” enclosed by circles.

### Include all GE foods

The vast majority of GE foods are not whole foods but processed foods, made with GE commodity crops such as corn, soybeans, canola, and sugar beets. Many of these products – such as sugar from GE beets, cooking oils, sodas and candy – are so highly refined that current DNA tests may or may not “show” the GE content in the final product, despite the source of the ingredient(s) indisputably being GE. Failure to require GE disclosures for these hundreds of highly refined GE foods would be grossly misleading and confusing to American consumers. A meaningful standard cannot be based on the current status of DNA testing technology. Any meaningful standard must include all food products derived in whole or in part from GE sources, regardless of how highly refined they are.

Companies are currently experimenting with newer forms of genetic engineering, such as gene-editing. USDA must likewise ensure that any foods made with these newer forms of genetic engineering are subject to mandatory labeling.

USDA proposes two standards for GE content arising from inadvertent contamination at some point in the supply chain. Disclosure should be required if unintentional GE contamination exceeds 0.9% (rather than 5%) of the specific ingredient (by weight). USDA should adopt the 0.9% threshold because it is high enough to cover contamination; has long been established in the European Union and so would facilitate trade with EU countries; and it aligns with existing standards of many U.S. food companies.

**NATIONAL HEADQUARTERS**  
660 Pennsylvania Avenue, SE Suite 402  
Washington, D.C. 20003  
T: 202-547-9359 F: 202-547-9429

**CALIFORNIA OFFICE**  
303 Sacramento Street, 2nd Floor  
San Francisco, CA 94111  
T: 415-826-2770 F: 415-826-0507

**PACIFIC NORTHWEST OFFICE**  
917 SW Oak Street, Suite 300  
Portland, OR 97205  
T: 971-271-7372 F: 971-271-7374



## CENTER FOR FOOD SAFETY

### Implement disclosure in a timely manner

The NBFDS requires that regulations be finalized by July 29, 2018. USDA would nonetheless allow companies to postpone GMO labeling until as late as 2022, so as to permit them to use up labels without GMO content information. This is an entirely unreasonable delay. Many companies are already labeling. USDA is urged to require the use of GMO content labels by no later than January 1, 2020.

Thank you for consideration of these comments.

Sincerely,

Center for Food Safety  
Abundance Food Co-op  
Alliance for Natural Health USA  
Beyond Pesticides  
Canada Organic Trade Association  
Cedar Circle Farm and Education Center  
Cultivate Oregon  
Dr. Bronner's  
Eden Foods  
Equal Exchange Inc.  
Food & Water Watch  
Food Democracy Now!  
Friends of Family Farmers  
Friends of the Earth  
Genesis Farm  
GMO Free USA  
Good Food Brigade  
Green America  
International Organic Inspectors Association  
Kanalani Ohana Farm

Lundberg Family Farms  
National Organic Coalition  
Nature's Path Foods Inc.  
Northeast Organic Dairy Producers Alliance (NODPA)  
Northeast Organic Farming Association of Vermont  
Northeast Organic Farming Association, Mass. Chapter (NOFA/Mass)  
Oregonians for Safe Farms and Families  
Organic Advocacy  
Organic Farmers' Agency for Relationship Marketing, Inc. (OFARM)  
Organic Seed Alliance  
Our Family Farms  
Pesticide Action Network North America  
Sierra Club  
Soil Not Oil Coalition  
Straus Family Creamery  
The Organic & Non-GMO Report

#### **NATIONAL HEADQUARTERS**

660 Pennsylvania Avenue, SE Suite 402  
Washington, D.C. 20003  
T: 202-547-9359 F: 202-547-9429

#### **CALIFORNIA OFFICE**

303 Sacramento Street, 2nd Floor  
San Francisco, CA 94111  
T: 415-826-2770 F: 415-826-0507

#### **PACIFIC NORTHWEST OFFICE**

917 SW Oak Street, Suite 300  
Portland, OR 97205  
T: 971-271-7372 F: 971-271-7374