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July 17, 2017

U.S. Department of Agriculture  
Agricultural Marketing Service  
Washington, DC

**SUBMITTED VIA E-MAIL**

On behalf of 50 organizations, representing millions of Americans from across the country, we urge the U.S. Department of Agriculture (USDA) to create a meaningful and accessible labeling standard for genetically engineered (GE) foods, as mandated by the National Bioengineered Food Disclosure Standard Act of 2016 (GE labeling law).

Americans have called upon the U.S. government to label GE foods for many years, to give Americans the same information provided to the citizens of 64 other countries around the world. Polls consistently show that nearly 90% of Americans want to know whether the foods they purchase are produced using genetic engineering, through clear, on-package labeling disclosures. Congress recognized the public's right to know in passing the GE labeling law. Now, it is critical that the USDA regulations and implementation of the GE labeling law accurately reflect the intent of Congress when they passed the law, provide consistency with international standards, and provide easy access to this information to all Americans.

As such, we request that the regulations guiding the disclosure law include the following provisions:

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## **REQUIRE ON-PACKAGE LABELING.**

USDA should require on-package labeling. While the law includes potential options other than on-package labeling, such as QR codes and websites, only on-package labeling provides easy access to all Americans. Anything else is simply discriminatory.

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 smart phones. In fact, only 64 percent of Americans own a smart phone. Electronic disclosure is inherently discriminatory against all of these demographics. Moreover, smart phones and data plans are expensive and nearly half of those who have smart phones have had to cancel or shut off their cell phone service for a period of time because the cost of maintaining that service was a financial hardship. Even those who have the phones and service plans are not guaranteed consistent access to the internet, and far fewer than that have ever used a QR code – only 16% have ever scanned a QR code and only 3% of those people do it regularly. As such, allowing labeling based on QR codes is discriminatory against the poor, rural Americans, minorities, the elderly and other groups less likely to own a smart phone or know how it is used.

In addition, electronic labeling disclosures put an undue burden on the shopper. Even if supermarkets were required by law to include QR scanners in every aisle (an absurdly expensive proposition that would burden many small retailers), it is completely unrealistic for a shopper to scan all of the many items s/he is shopping for on any given shopping trip (which for a family of 4 could easily amount to more than 50 items). This would be an undue burden on the consumer and greatly impede access to information that is currently required for

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all other forms of food labeling. On-package labeling is simple, quick and effective. QR codes, websites, and 1-800 numbers are not.

Proposals to use QR code technology in lieu of on-package labeling also raise serious questions about the privacy of consumer data. Americans have many legitimate concerns with this scheme: What data would be exchanged and how might companies be able to use that data? For instance, would a company be able to determine which customers are viewing their products through QR codes or websites, or capture their phone numbers when calling an 800 number? Could they use that data to target consumers through advertising? Would any personal data be exchanged? The government thus far has a poor track record of protecting consumer data and curbing the massive marketing machines of the food industry. This system only opens consumers up to further exploitation. The GE labeling law provides that if and when USDA determines that electronic and digital disclosure methods do not provide "sufficient access" to Americans, which it should, the regulations must provide additional options. That option is straightforward: The only option that provides sufficient, equal, and consistent access to all Americans is explicit, on-package labeling, the way labeling has always been done.

### **REQUIRE THE LABELING OF ALL GE FOODS.**

Equally important to how GE information is disclosed is what GE information is required. Americans reasonably expect that all foods produced through genetic engineering should be labeled, and the USDA regulations to come should meet those expectations, using the broad authority Congress granted the agency. Overly narrow interpretations, creating loopholes to exempt some GE foods from labeling requirements, would be contrary to Congress's express intent and to USDA's own statements in the legislative process. The labeling should provide

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specific, unambiguous information (“genetically engineered”, “produced with genetic engineering” but not “may be produced with genetic engineering”). If a symbol is used it should be similarly unambiguous and easily recognizable by Americans (“GE” or “GMO”).

More specifically, the “bioengineered” definition and scope of the labeling law should ensure that all foods produced through genetic engineering are labeled, include those with ingredients derived from genetically engineered sources, such as highly refined sugars and oils and processed corn and soy ingredients. This should be the case even if such processed foods are so highly processed that the genetic material of the GE ingredient is presently undetectable in the final product: they are still GE foods. Although the genetic material is undetectable, that does not mean it is not present, but rather only that we cannot detect it using present technology. However, technology may improve such that the genetic material may be detectable in the future. For example, DNA could not be detected in highly processed oils 30 years ago, but today it can be.

Similarly, the regulations must account for current and potential future changes in biotechnology. Related terms to “bioengineered” such as genetically engineered should be considered interchangeable. The regulations should also ensure that any GE foods made with newer forms of genetic engineering – such as gene editing (e.g. CRISPR-Cas9) and gene silencing (e.g. RNA interference or RNAi) – are covered.

In its definition and scope, the new GE labeling standard should be consistent with and aligned with other U.S. national and international standards. For example, the Food and Drug Administration has stated that its definition of “bioengineering” is the same as the definition of “modern biotechnology”:

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*Modern biotechnology means the application of in vitro nucleic acid techniques, including recombinant deoxyribonucleic acid (DNA) and direct injection of nucleic acid into cells or organelles, or fusion of cells beyond the taxonomic family, that overcome natural physiological reproductive or recombinant barriers and that are not techniques used in traditional breeding and selection (Ref. 1). The term "modern biotechnology" may alternatively be described as "recombinant DNA (rDNA) technology," "genetic engineering," or "bioengineering."*

At its Fall 2016 meeting, the National Organic Standards Board (NOSB) unanimously voted to accept the following definitions as part of excluded method:

*Genetic engineering (GE) – A set of techniques from modern biotechnology (such as altered and/or recombinant DNA and RNA) by which the genetic material of plants, animals, organisms, cells and other biological units are altered and recombined.*

*Genetically Modified Organism (GMO) – A plant, animal, or organism that is from genetic engineering as defined here. This term will also apply to products and derivatives from genetically engineered sources.*

*Modern Biotechnology – (i) in vitro nucleic acid techniques, including recombinant DNA and direct injection of nucleic acid into cells or organelles, or (ii) fusion of cells beyond the taxonomic family, that overcomes natural, physiological reproductive or recombination barriers, and that are not techniques used in traditional breeding and selection. (From Codex Alimentarius)*

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This definition of “modern biotechnology” is the same as the definition in the Principles for Risk Analysis of Foods Derived From Modern Biotechnology adopted by the Codex Alimentarius Commission in 2003. It should be noted that deviating from this standard would needlessly complicate international trade. Documents and standards developed by Codex are referenced by the World Trade Organization in trade disputes involving food, and constitute a globally accepted standard. In addition, the Codex definition of “modern biotechnology” is also the same as that used in the Cartagena Biosafety Protocol under the Convention on Biological Diversity, which also clearly shows it to be the globally accepted standard. Therefore, USDA should adopt the definition of “modern biotechnology” employed by the NOSB, FDA and Codex Alimentarius Commission because it is the globally accepted standard.

If the agency is to set a threshold, it should also be consistent with international standards, where the most common standard is mandatory disclosure when levels equal or exceed 0.9%, by individual GE ingredient.

### **REQUIRE ALMOST ALL MANUFACTURERS TO LABEL.**

USDA should not unreasonably exempt any manufacturers from the GE labeling requirements. Congress intended to only exempt “cottage foods” and very small companies from the disclosure requirement. The Food and Drug Administration defines “very small business” as businesses averaging less than \$1 million in sales. With regard to regulation of nutrition labeling, special considerations and exemptions apply to small businesses, which FDA defines as businesses averaging less than \$500,000 in gross annual sales. For farms, small businesses are defined as farms with an average annual monetary value of produce sold during the previous 3-year period as no more than \$500,000. For farms that are very small businesses the limit is \$250,000. USDA should follow precedent set by these

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relevant definitions of small and very small businesses.

**REQUIRE LABELING IN A TIMELY FASHION.**

Americans have already waited a long time for GE food labeling. Recognizing this, Congress established explicit deadlines in the GE Labeling Law for issuance of USDA's regulations. USDA must complete its study on the efficacy of any digital disclosures by July 29, 2017 and publish it for public comment. USDA must issue its proposed rule in a timely manner, allowing time for public comment, such that a final rule is published by July 29, 2018. USDA must meet these Congressional deadlines. In addition, USDA should not give manufacturers more than a short period of a few months after that date for the labeling regulations to become effective. Manufacturers have already had years' worth of notice and preparation to provide this information, at the state and federal level. Indeed, many major food companies are already labeling and have been for some time. It would be unfair to Americans, and unnecessary given the recent history of GE labeling, to set an effective date more than several months after regulations are finalized.

Respectfully submitted,

A Drop of Joy, LLC  
Bear Mountain Farm  
Cate Farm  
Center for Biological Diversity  
Center for Food Safety  
Cornucopia Institute  
CotWinkel Acres Forest Farm  
Cultivate Oregon

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Jitterbugs LLD  
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MA Right to Know GMOs  
Maple Hill Farm  
Meadowhawk Homestead  
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National Organic Coalition

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Northeast Organic Farming Association of New York (NOFA-NY)  
PEER Associates, Inc.  
Quarter Circle J Seeds LLC  
Recirculating Farms Coalition  
Rural Vermont  
Singing River Farm  
Standing Stone Farm  
Stephens Farm  
the Egg Farm  
Three Springs Farm  
Vermont Yankee Decommissioning Alliance  
Wild Branch Valley Farm  
Windstone Farm

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1. Food and Drug Administration. 2015. Guidance for Industry: Voluntary Labeling Indicating Whether Foods Have or Have Not Been Derived from Genetically Engineered Plants. At: [www.fda.gov/RegulatoryInformation/Guidances/ucm059098.htm](http://www.fda.gov/RegulatoryInformation/Guidances/ucm059098.htm)
  2. Food and Agriculture Organization of the United Nations, Codex Alimentarius Commission. 2003. Principles for the Risk Analysis of Foods Derived from Modern Biotechnology (CAC/GL 44-2003) At [www.fao.org/input/download/standards/10007/CXG\\_044e.pdf](http://www.fao.org/input/download/standards/10007/CXG_044e.pdf)
  3. Convention on Biological Diversity. 2000. Text of the Cartagena Protocol on Biosafety. At: [bch.cbd.int/protocol/text](http://bch.cbd.int/protocol/text)

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