



July 17, 2017

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United States Department of Agriculture, Agricultural Marketing Service

Email: GMOlabeling@ams.usda.gov

**SUBJECT: PROPOSED RULE QUESTIONS UNDER CONSIDERATION RELATED
TO THE NATIONAL BIOENGINEERED FOOD DISCLOSURE STANDARD
REGULATIONS**

To whom it may concern:

Canada appreciates the opportunity to provide comments on the United States Department of Agriculture's (USDA) Proposed Rule Questions under Consideration concerning the *National Bioengineered Food Disclosure Standard* regulations, posted on the USDA's Agricultural Marketing Service website on June 28, 2017.

Canada and the United States have the largest bilateral agricultural trading relationship in the world, with two-way trade reaching US\$47 billion in 2016. This relationship creates thousands of jobs on both sides of the border, and provides our consumers with safe, high-quality, and affordable food. Agriculture and Agri-Food Canada Minister MacAulay and USDA Secretary Perdue met recently and both stated the importance of this relationship and of working together to ensure we continue to have a smooth flow of agriculture trade between our two countries.

Both countries benefit from our highly integrated supply chains and from our significant joint advocacy efforts to promote science-based regulatory decision-making to ensure a predictable, fair, and transparent regulatory environment for trade. In the past, both Canada and the United States have strongly advocated against the adoption of mandatory labelling regimes for products of agriculture biotechnology, including at the Codex Alimentarius and at the World Trade Organization Committee on Technical Barriers to Trade.

Canada recognizes and supports the right of the United States to implement regulatory frameworks that enable informed decisions to consumers regarding the processing methods used to make the food they purchase. This objective can be best achieved through voluntary approaches if there is no health and safety impact, as these are less trade restrictive, and help provide consumers with information that may be of value in the marketplace.

Canada is of the view that mandatory labelling or disclosure of genetically modified or “bioengineered” products should only be required, when necessary, to convey important information, such as the presence of an allergen, or significant nutritional changes that can have an impact on health. Products of bioengineering that have been assessed to be as safe as their conventional counterpart do not pose any risk to human health and safety. In the absence of identified health and safety issues, mandatory disclosure could mislead consumers to believe that there may be safety or health related issues with the product, where there are none.

The Government of Canada has a *National Standard for Voluntary Labelling and Advertising of Foods That Are and Are Not Products of Genetic Engineering* (the Standard). This Standard facilitates the communication of information that is neither health nor safety-related, and provides criteria for making voluntary labelling and advertising claims on the Canadian market that are truthful and not misleading. Industry has the responsibility to respond to consumers’ desire for greater information, and has the means to do so without further government intervention through voluntary labelling claims.

All approved genetically modified (GM) foods in Canada have been reviewed by relevant departments and agencies under a rigorous and internationally respected scientific regulatory process, and deemed to pose no greater risk to consumers, animals, and the environment than conventional foods. Mandatory labelling of GM foods could perpetuate the perception of risk regarding the safety of these technologies and foods derived from it.

The Government of Canada has prepared responses to the following questions from the list of Proposed Rule Questions Under Consideration by the USDA:

4. Will AMS require disclosure for food that contains highly refined products, such as oils or sugars derived from bioengineered crops? (Sec. 291(1)(A))

In Canada’s view, regulations based on end-product characteristics are the least onerous in terms of enforcement, and the most consistent with the World Trade Organization Agreement on Technical Barriers to Trade. As such, only products which contain detectable modified DNA materials should be subject to regulatory provisions related to disclosure, to avoid the onerous information requirements necessary to enforce a process-based system (i.e., a regulation which includes all products/ingredients that have used bioengineering in their production process, but that cannot be distinguished from their conventional counterparts through traditional detection methods for genetically engineered materials). This would exclude foods that contain highly refined products, such as oils or sugars derived from bioengineered crops.

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

In Canada's experience, a threshold of 5 per cent as a proportion of the total weight of the product provides food manufacturers with the necessary flexibility to help mitigate the costs and supply chain challenges associated with ensuring label accuracy, including by alleviating the need to implement segregation systems.

For example, Canada's *National Standard for the Voluntary Labelling and Advertising of Foods That Are and Are Not Products of Genetic Engineering*, reaffirmed in May 2016, provides for a minimum of 5 per cent of content sourced from a product of genetic engineering, in order to make a claim that single-ingredient foods that are a mixture of products of and not of genetic engineering and ingredients in multi-ingredient foods *are* products of genetic engineering. Such claims may generally appear on the front of the package when 'genetically engineered' ingredients each make up 5 per cent or more of the total weight of the multi-ingredient food as offered for sale.

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

As both Canada and the United States are members of the Organisation for Economic Co-operation and Development (OECD), Canada suggests that the United States also consider the OECD definition, which could facilitate harmonization at the international level. The OECD definition is based on number of employees (fewer than 50 employees) and financial ceiling (EUR 10 Million turnover).

The OECD's definition can be found in its Glossary of statistical terms:
(<https://stats.oecd.org/glossary/detail.asp?ID=3123>)

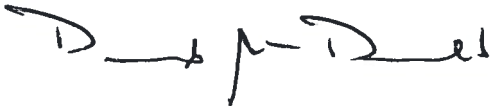
30. What should the requirements for imports into the United States of products covered by the Law/regulation be? (Sec. 294(a))

As a general principle, and as per Sec. 294(a) of the Law, Canada requests that USDA regulations be applied in a manner consistent with the United States' obligations under international agreements, including the World Trade Organization Agreement on Technical Barriers to Trade.

Furthermore, given the importance of our agriculture and food trading relationship (valued at \$47 billion in 2016), Canada requests that the *National Bioengineered Food Disclosure Standard* regulations be applied in a manner that is the least trade restrictive to achieve its objective, taking into account the integrated nature of our sectors, where products can often cross the border several times before being sold and consumed.

In closing, Canada appreciates the opportunity to provide comments on the USDA proposed rule questions under consideration related to the *National Bioengineered Food Disclosure Standard* regulations and asks that our comments are taken into account as the USDA begins the drafting process for the proposed rule. Should you have any questions on our submission, please contact me at kris.panday@agr.gc.ca.

Yours sincerely,


for Kris Panday

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