July 17, 2017

AMS USDA Griffith Foods Response to 30 Questions Posed Re: Bioengineered Food Standard

To Whom It May Concern:

Griffith Foods Inc. has considered the 30 questions posed by the AMS USDA and is offering the following comments:

1. What terms should AMS consider interchangeable with 'bioengineering'? (Sec. 291(1))
Genetic engineering, genetically modified, GMO.

2. Which breeding techniques should AMS consider as conventional breeding? (Sec. 291(1)(B))
No opinion.

3. Which modifications should AMS consider to be found in nature? (Sec. 291(1)(B))
No opinion.

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))
Yes, we would not want to get into "testing to prove presence" scenario.

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 other 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))
What about natural?

6. Meat, poultry, and egg products are only subject to a bioengineered disclosure if the most predominant ingredient, or the second most predominant ingredient if the first is broth, stock, water, or similar solution, is subject to the labeling requirements under the Federal Food, Drug, and Cosmetic Act. How will AMS determine the predominance of ingredients? (Sec. 292(c))
No labeling exemption based on amount of genetically engineered material in a multi-component meat / poultry / egg product.

7. How should AMS craft language in the regulations acknowledging that the Law prohibits animal products from being considered bioengineered solely because the animal consumed feed products from, containing, or consisting of a bioengineered substance? (Sec. 293(b)(2)(A))
Regulatory language is already apparent, i.e. "would not require disclosure as a bioengineered food solely because their nutrition came from food with bioengineered ingredients."

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))
The amount of bioengineered material present does not make the food bioengineered, rather no directly added bioengineered material can be present in non-bioengineered food but allow up to 0.9% based on unintentional cross contact. Consider providing an allowance for bioengineered materials used as process aids such as enzymes used in starch production. The enzymes would not have to be non-bioengineered.

9. Should AMS consider more than one disclosure category? (Sec. 293(b)(2)(D))
Recommending 3 categories: certified non-bioengineered = third party verification; 100% non-bioengineered (includes up to 0.9% unintentional cross contact); contains bioengineered materials.

10. What other factors or conditions should AMS consider under which a food is considered a bioengineered food? (Sec. 293(b)(2)(C))
Use of enzymes, microbes, substrates, process aids in the consideration of whether a material is considered bio-engineered. Non-conventional meat production techniques also need to be considered.

11. Could AMS consider whether a type of food is considered a bioengineered food under the determination process? (Sec. 293(b)(2)(C))
Yes, consider dietary supplements and medical foods exempt.

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))
Contains bio-engineered ingredients.

13. If a manufacturer chooses to use a symbol to disclose a bioengineered food, what symbol should AMS require for disclosure? (Sec. 293(b)(2)(D))
Symbol should not have a negative impact or impression.

14. If a manufacturer chooses to use an electronic or digital link to disclose a bioengineered food, what requirements should AMS implement for an electronic or digital link disclosure? (Sec. 293(b)(2)(D))
No opinion.

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))
No opinion.

16. What kind of text, symbol, or electronic or digital disclosure should AMS require for bioengineered food that is not purchased from a grocery store shelf, such as food for sale in bulk (such as fresh produce in a bin or fresh seafood at a fish counter), in a vending machine, or online? (Sec. 293(b)(2)(D))
No opinion.

17. The Law offers special provisions for disclosure on very small or small packages. How should AMS define very small or small packages? (Sec. 293(b)(2)(E))
Mirror FDA's rule for small package nutrition labeling.

18. What are the reasonable disclosure options AMS should provide for food contained in very small or small packages? (Sec. 293 (b)(2)(E))
Mirror FDA.

19. How should AMS define small food manufacturers? (Sec. 293(b)(2)(F))
Same as current FSIS and/or FDA.

20. For disclosures by small food manufacturers, what is the appropriate language indicating that a phone number provides access to additional information? (Sec. 293(b)(2)(F)(ii)(I))
English.

21. The Law excludes restaurants and similar retail food establishments from disclosure requirements. How should AMS define similar retail food establishment to exclude these establishments from the requirements of the regulation? (Sec. 293(b)(2)(G)(i))
No opinion.

22. How should AMS define very small food manufacturers to exclude these manufacturers from the requirements of the regulation? (Sec. 293(b)(2)(G)(ii))
No opinion.

23. Is there other equivalent on-package language that AMS should consider to accompany an electronic or digital disclosure besides "Scan here for more food information"? (Sec. 293(d)(1)(A))
No opinion.

24. How should AMS ensure that bioengineered food information is located in a consistent and conspicuous manner when consumers use an electronic or digital disclosure? (Sec. 293(d)(2))
No opinion.

25. How should AMS ensure that an electronic or digital disclosure can be easily and effectively scanned or read by a device? (Sec. 293(d)(5))
No opinion.

26. What types of records should AMS require to be maintained to establish compliance with the regulations? (Sec. 293(g)(2))
Follow current FSIS standards for record keeping and maintenance.

27. How should AMS obtain information related to potential non-compliance with these regulations? Is there information USDA should request prior to conducting an examination of non-compliance? (Sec. 293(g))
Third party audit must be conducted.

28. What are the rules of practice for a hearing? (Sec. 293(g)(3)(B))
No opinion.

29. How should AMS make public the summary of any examination, audit, or similar activity? (Sec. 293(g)(3)(C))
No opinion.

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

Follow US regulations pertaining to disclosure of bio-engineered materials.

Yours truly,

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