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1. What terms should AMS consider interchangeable with ‘bioengineering’? (Sec. 291(1))

R: “Genetic engineering (GE)”

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))

R: Yes, bioengineered is bioengineered. Manufacturers and producers of bioengineered foods already claim their products are “indistinguishable from their non-engineered counterparts” but consumers deserve to know, regardless of detectable level.

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))

R: Why are meat, poultry, and egg products exempt from disclosure at all? If an ingredient in the product is bioengineered, the presence of meat, poultry, or egg products should have no relevance on disclosure. Consumers deserve to know, regardless of predominance.

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))

R: “Animal products are prohibited from being considered bioengineered solely because the animal consumed feed products from, containing, or consisting of a bioengineered substance.”

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))

R: Any amount, even if at “undetectable levels” in the finished product.

9. Should AMS consider more than one disclosure category? (Sec. 293(b)(2)(D))

R: No, keep it simple for clarity and ease. “Contains genetically engineered ingredients” and, perhaps for the seasonal on/off use of bioengineered ingredients, allow “May contain genetically engineered ingredients.”

10. What other factors or conditions should AMS consider under which a food is considered a bioengineered food? (Sec. 293(b)(2)(C))

R: Any food or food product should be subject to disclosure if it “contains a substance that has been modified using recombinant in vitro DNA techniques and/or the modification

could not be obtained through conventional breeding or found in nature.” Knowing that new methods of bioengineering are already being tested, the part about “recombinant in vitro DNA techniques” may be obsolete or insufficient for identifying future methods of bioengineering.

11. Could AMS consider whether a type of food is considered a bioengineered food under the determination process? (Sec. 293(b)(2)(C))

R: No, bioengineered is bioengineered.

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))

R: Keep it simple for clarity and ease. “Contains genetically engineered ingredients” and, perhaps for the seasonal on/off use of bioengineered ingredients, allow “May contain genetically engineered ingredients.” This statement is informative enough, truthful, and is not misleading. Consumers who want or need more information should be able to find it on company’s website, which most companies have to provide more detail on their products, bioengineered or not.

As to placement, the text (and symbol if allowed) should be located near the ingredients list, with font the same size and color as that list.

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))

R: A circle around the letters ‘BE’ or ‘GE’ – similar to those used to identify gluten free (GF) or Kosher (K). This should also be placed near the ingredients list.

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))

R: An electronic link or symbol, i.e. QR code, should not be allowed in place of required text and/or symbol. If the manufacturer wants to include more information regarding bioengineering they should use whatever link or symbol they choose. AMS should not need to specify requirements.

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))

R: Same answer as for #14. An electronic link or symbol, i.e. QR code, should not be allowed in place of required text and/or symbol. If the manufacturer wants to include more information regarding bioengineering they should use whatever link or symbol they choose. AMS should not need to specify requirements.

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))

R: The sign identifying the item, like fresh produce or fresh seafood, and its price could be required to include the text and/or symbol. Food in a vending machine is wrapped and should have a label identifying the contents and could hold the text and/or symbol. Food ordered online should be required to post the text and/or symbol with the description and ingredients, similar to food package labeling.

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))

R: I believe even very small packaging has room for and is required to list ingredients, though a magnifier may be needed to read it. This packaging should be help to same standards as any other food packaging.

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

R: This packaging should be help to same standards as any other food packaging. If there is space to provide an address, phone number, or website, there is room for a simple text statement and/or symbol.

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

R: Why should food from a small manufacturer be exempt? Bioengineered is bioengineered. Consumers deserve to have the information regardless of the size of the company making the food.

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))

R: “Contains genetically engineered ingredients. Call xxx-xxx-xxxx for more information.”

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))

R: Same response as for #19. Why should food from a small or very small manufacturer be exempt? Bioengineered is bioengineered. Consumers deserve to have the information regardless of the size of the company making the food.

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))

R: The link or digital symbol should take the consumer directly to the information, not just to the manufacturer's web page where the consumer has to hunt for the information. The text of this information might be required to state which ingredients are bioengineered, what percent of the product is bioengineered, etc. It should NOT be allowed to include a disclaimer that 'bioengineered food is indistinguishable from its non-engineered counterparts', nor should it be allowed to include statements of perceived (or real) risks associated with bioengineered foods.

26. What types of records should AMS require to be maintained to establish compliance with the regulations? (Sec. 293(g)(2))

R: Same as any other recordkeeping and compliance regulations, such as for organic certification.

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

R: Imports should be required to have the same labeling as US products. Our producers should have a level playing fields and consumers need the same information regardless of country of origin.

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