NATIONAL CHICKEN COUNCIL

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United States Department of Agriculture
Agricultural Marketing Service
GMOlabeling@ams.usda.gov

Re: USDA Seeks Input on Proposed Rule – Proposed Rule Questions Under Consideration

To Whom It May Concern:

Consumers are increasingly interested in learning how the foods they choose to eat are produced. The National Chicken Council (NCC) understands this interest, and appreciates the opportunity to provide pre-rulemaking input regarding the National Bioengineered Food Disclosure Standard (Standard), which seeks to provide the American public with information about bioengineered foods. NCC represents vertically integrated companies that produce and process more than 95 percent of the chicken marketed in the United States, and we would like to take the opportunity to address several of the questions posed by the U.S. Department of Agriculture's Agricultural Marketing Service (AMS or the Agency) pertaining to the National Bioengineered Food Disclosure Standard. We have listed the questions as they appear on the AMS website, along with our corresponding response, below:

Question 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))

NCC recommends that the Agency utilize ingredient predominance by weight as reflected in the ingredient statement for the product, which must declare the ingredients in descending order of predominance by weight. If the first ingredient (or second ingredient if the first ingredient is water, broth, stock, or a similar solution) is a single-ingredient meat or poultry product or a multi-ingredient meat or poultry food (e.g., a breaded chicken tender), the food should not be subject to the bioengineered food disclosure requirement. This approach would help drive consistency with Food Safety and Inspection Service (FSIS) and Food and Drug Administration (FDA) labeling requirements.

Question 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))

In the interest of clarity, we recommend that this requirement be specifically stated in the regulations as it is stated in the Law. A statement such as the following would be sufficient: "A food derived from an animal may not be considered a bioengineered food solely because the animal consumed feed produced from, containing, or consisting of a bioengineered substance".

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

AMS should make clear that administering a medication that may have been produced using bioengineering does not cause the animal to be considered bioengineered, nor does it cause a food derived from such an animal to be considered a bioengineered food. The statute establishes that items administered to an animal do not affect whether the animal itself, or the food derived from such an animal, is considered bioengineered. For example, the law makes clear that administering an animal feed made with bioengineering does not cause the food derived from the animal to be considered bioengineered. For the same reason, medications administered to the animal, whether orally in feed or water, injected, or through some other means, should not cause an animal to be considered bioengineered, regardless of whether bioengineering was used to develop the medication. In particular, the statute defines "bioengineering," as it relates to foods, as including foods that "contain" recombinant DNA from bioengineering, and neither administering bioengineered feed or medicine will cause the resulting food to contain recombinant DNA from the feed or medicine. As with animal feed, an animal drug administered to livestock or poultry would not confer any bioengineered properties or characteristics to the animal or food derived from that animal. This approach ensures consistency with the intent of the statute and is scientifically sound. It also protects animal health and welfare by ensuring that important medications are not withheld from an animal out of concerns about compliance with a labeling program.

Moreover, a food should not be considered a bioengineered food solely because it was produced using a processing aid or incidental additive that may have been produced with bioengineering. By definition, processing aids and incidental additives are present at insignificant levels and do not have any technical or functional effect in the finished food. Many also serve important food-safety purposes during the processing of chicken products, including helping to control the risk posed by *Salmonella* and *Campylobacter* on raw products. Their use therefore should not be material to bioengineered food disclosure requirements, and AMS should not take steps to inadvertently discourage the use of processing aids that are effective food safety interventions during processing.

Nor should the use of an ingredient authorized for use in certified organic foods under the USDA National Organic Program (NOP) cause a food to be considered bioengineered under this standard. The NOP maintains lists of substances allowed in organic foods, and organic foods are widely recognized as not being produced with the use of bioengineering, including in the bioengineered food disclosure law, which states that certification under the NOP is considered sufficient to make a claim regarding the absence of bioengineering in the food. This approach is thus consistent with the statute and would ensure alignment between the bioengineering disclosure standard and NOP Organic standards.

Providing information to consumers about broiler chicken production is important to the National Chicken Council. We hope that the above recommendations are helpful in the development of a proposed rule. We look forward to reviewing the proposed rule, and appreciate the opportunity to provide input in advance. If you have any questions regarding the above recommendations, please feel free to contact us. Thank you for your consideration.

Respectfully submitted,

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