

for OMB approval. All comments will also become a matter of public record.

Erin Morris,

Associate Administrator, Agricultural Marketing Service.

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Doc. No. AMS-FTPP-22-0080]

National Bioengineered Food Disclosure Standard; Annual Review of the List of Bioengineered Foods

ACTION: Notice; request for information.

SUMMARY: The Agricultural Marketing Service (AMS) of the Department of Agriculture (USDA) is soliciting information about potential additions to or subtractions from the List of Bioengineered Foods (List) as it pertains to the National Bioengineered Food Disclosure Standard (Standard).

DATES: Comments must be received by April 29, 2024 to be assured of consideration.

ADDRESSES: Interested parties are invited to submit written comments via the internet at <https://www.regulations.gov>. Enter “AMS-FTPP-22-0080” in the Search field. Select the Documents tab, then select the ‘Comment’ button in the list of documents. Comments may also be filed by mail or by fax with the Docket Clerk, 1400 Independence Ave. SW, Room 2069—South, Washington, DC 20250; Fax: (202) 260-8369. All comments submitted in response to this notice, including the identity of individuals or entities submitting comments, will be made available to the public on the internet via <https://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT:

Kenneth Becker, Research and Rulemaking Branch Chief, Food Disclosure and Labeling Division, Fair Trade Practices Program, Agricultural Marketing Service, U.S. Department of Agriculture, Telephone (202) 570-3661, Email kenneth.becker@usda.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On July 29, 2016, Public Law 114-216 amended the Agricultural Marketing Act of 1946 (7 U.S.C. 1621 *et. seq.*) (amended Act) to require USDA to establish a national, mandatory standard for disclosing any food that is or may be bioengineered. In accordance with the

amended Act, USDA published final regulations (2018 final rule) to implement the Standard on December 21, 2018 (83 FR 65814). The regulations became effective on February 19, 2019, with a mandatory compliance date of January 1, 2022. Under 7 CFR 66.1, a bioengineered food is a food that—subject to certain factors, conditions, and limitations—contains detectable genetic material that has been modified through *in vitro* recombinant deoxyribonucleic acid (rDNA) techniques and for which the modification could not otherwise be obtained through conventional breeding or found in nature.

The regulations, at 7 CFR 66.6, provides the List, which currently includes: alfalfa, apple (Arctic™ varieties), canola, corn, cotton, eggplant (BARI Bt Begun varieties), papaya (ringspot virus-resistant varieties), pineapple (pink flesh varieties), potato, salmon (AquAdvantage®), soybean, squash (summer, coat-protein mediated virus-resistant), sugarbeet, and sugarcane (Bt insect-resistant). Where practical, the List includes specific information about individual crops and foods, such as variety descriptions or trade names, to help distinguish bioengineered versions of those foods from their non-bioengineered counterparts.

The List attempts to capture bioengineered crops and food that meet the statutory definition of “bioengineering,” based on existing technology, and that could potentially be offered for sale in the United States (83 FR 65839). AMS has developed the List to identify the crops and food that are available in a bioengineered form, and to aid regulated entities considering whether they may need to make a bioengineered disclosure (83 FR 65839). Food has a broad definition under 7 CFR 66.1 and includes raw agricultural commodities, such as crops and animals; incidental additives; and processed foods. Raw agricultural commodities, including crops and animals, are candidates for inclusion on the List. Microbes, such as enzymes, yeasts, and other similar foods produced in controlled environments, are excluded from the List, as explained in the preamble to the 2018 Final Rule, and therefore are not considered for addition to the List (83 FR 65839). Similarly, “processed foods”, as defined at 7 CFR 66.1, are excluded from the List (*See* 83 FR 65819).

As stated in the preamble to the 2018 final rule, at 83 FR 65852, the List “establishes a presumption about what foods might require disclosure under the Standard but does not absolve

regulated entities from the requirement to disclose the bioengineered status of food and food ingredients produced with foods not on the List when the regulated entities have actual knowledge that such foods or food ingredients are bioengineered.” As a result, if a regulated entity is using a food or ingredient produced from an item on the List, they must make a bioengineered food disclosure unless they have records demonstrating that the food or ingredient they are using is not bioengineered. Similarly, even if a food is not on the List, a regulated entity must make a bioengineered food disclosure if they have actual knowledge a food or ingredient that they are using is a bioengineered food or a bioengineered food ingredient.

The regulations at 7 CFR 66.7(a) require AMS to review and consider updates to the List on an annual basis and solicit comments regarding recommended updates to the List through notification in the **Federal Register** and on the AMS website.

The regulations at 7 CFR 66.7(a) further provide that:

(1) Recommendations regarding additions to and subtractions from the List may be submitted to AMS at any time or as part of the annual review process.

(2) Recommendations should be accompanied by data and other information to support the recommended action.

(3) AMS will post public recommendations on its website, along with information about other revisions to the List that the agency may be considering, including input based on consultation with the government agencies responsible for oversight of the products of biotechnology: USDA’s Animal and Plant Health Inspection Service (USDA-APHIS); the U.S. Environmental Protection Agency (EPA); the Department of Health and Human Services’ Food and Drug Administration (FDA)’ and appropriate members of the Coordinated Framework for the Regulation of Biotechnology or a similar successor.

(4) AMS will consider whether foods for inclusion on the List have been authorized for commercial production somewhere in the world and whether the food is currently in legal commercial production for human food somewhere in the world.

As stated at 7 CFR 66.7(b), regulated entities will have 18 months following the effective date of the updated List to revise food labels to reflect changes to the List in accordance with the disclosure requirements of 7 CFR part 66.

II. Request for Information

When considering whether crops and food available in a bioengineered form should be added to the List, AMS will consider two criteria: (1) whether the food has been authorized for commercial production somewhere in the world; and (2) whether the food is currently in legal commercial production for human food somewhere in the world. AMS uses resources such as GAIN Agricultural Biotechnology Annual Reports, information from food manufacturers, and international governmental information to track such authorizations and the status of commercial production.

AMS is soliciting comments including data, recommendations, and other information on the inclusion of several specific crops and foods it has determined are likely to meet the criteria to be added to the List. AMS also seeks information from the public on any additional crops or foods that may meet the criteria to be added to the List, any crops or foods that no longer meet the criteria and should be subtracted from the List, and any trade names, varieties or modifiers that should be considered for addition to or subtraction from the items currently appearing on the List. After reviewing the recommendations and information submitted in response to this notice, AMS will use that information, as well as input based on consultation with other government agencies responsible for oversight of the products of biotechnology, to determine whether it should initiate rulemaking to update the List. Any comments not directly related to updates to the List will not be considered, nor will recommendations that are not accompanied by data and other information to support the recommended action. AMS is providing 30 days for the submission of relevant information. Any changes to the List would be reflected in an amendment to 7 CFR part 66.

1. Should Dry Edible Beans (Event—EMB—PV051)^{1 2} be added to the List? If so, would you suggest that AMS use a modifier, trade name, variety, etc.?

2. Should Cowpea (Event—AAT709A)^{3 4} be added to the List? If so,

would you suggest that AMS use a modifier, trade name, variety, etc.?

3. Should Wheat (Event—HB4)^{5 6} be added to the list? If so, would you suggest that AMS use a modifier, trade name, variety, etc.?

4. Should Rice (Event—GR2E, Production of provitamin A carotenoids),^{7 8} also known as Golden Rice, be added to the List? If so, would you suggest that AMS use a modifier, trade name, variety, etc.?

5. Should Purple Tomato (Event—Del/Ros1—N)⁹ be added to the List? If so, would you suggest that AMS use a modifier, trade name, variety, etc.?

6. Should Plums (Honeysweet, Event—ARS—PLMC5—6)¹⁰ be added to the List? If so, would you suggest that AMS use a modifier, trade name, variety, etc.?

7. Are there any other crops or foods that should be considered for inclusion on the List?

8. Are there any crops or foods currently on the List that should be considered for subtraction from the List?

9. Should any modifiers be added or changed for any of the crops or foods already on the List?

Authority: 7 U.S.C. 1621 *et seq.*

Erin Morris,

Associate Administrator, Agricultural Marketing Service.

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DEPARTMENT OF AGRICULTURE

Economic Research Service

Agency Information Collection Activities: Comment Request

AGENCY: Economic Research Service (ERS), Department of Agriculture (USDA).

⁴ <https://sciencenigeria.com/pbr-cowpea-revolutionising-nigerias-food-production-nabda-boss/>.

⁵ Argentina: Agricultural Biotechnology—Annual—2021, https://apps.fas.usda.gov/newgainapi/api/Report/DownloadReportByFileName?fileName=Agricultural%20Biotechnology%20Annual_Buenos%20Aires_Argentina_10-20-2021.

⁶ UPDATE 1—Argentina becomes first country to authorize planting GMO wheat | Reuters.

⁷ Philippines approves Golden Rice for direct use as food and feed, or for processing, <https://www.iri.org/news-and-events/news/philippines-approves-golden-rice-direct-use-food-and-feed-or-processing>.

⁸ https://apps.fas.usda.gov/newgainapi/api/Report/DownloadReportByFileName?fileName=Agricultural%20Biotechnology%20Annual_Manila_Philippines_RP2022-0058.pdf.

⁹ <https://www.cfsanappsexternal.fda.gov/scripts/fdcc/index.cfm?set=NewPlantVarietyConsultations&id=DelRos1-N>.

¹⁰ <https://www.isaaa.org/gmaprovaldatabase/event/default.asp?EventID=236>.

ACTION: Notice of information collection; request to comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, ERS is proposing a new information collection to study consumer's willingness to pay to prevent health effects of foodborne illness, "Foodborne Illness Prevention Valuation Survey."

DATES: Written comments on this notice must be received by May 28, 2024 to be assured of consideration. Comments received after that date will be considered to the extent practicable. Send comments to the address below.

ADDRESSES: Address all comments concerning this notice to *julie.parker3@usda.gov* and *ers.pra@usda.gov* identified by docket number 0536–NEW.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of this information collection should be directed to Julie Parker at *ers.pra@usda.gov* or 202–868–7945.

SUPPLEMENTARY INFORMATION:

Title of collection: Foodborne Illness Prevention Valuation Survey.

OMB Control Number: 0536–NEW.

Type of Request: A new information collection.

Abstract:

Collection of Information for Foodborne Illness Prevention Valuation Survey

The proposed data collection will survey U.S. consumers to study the value consumers place on preventing pain and suffering from foodborne illnesses and their long-term outcomes. The survey sample will be drawn from a panel of individuals recruited to be representative of the U.S. public. USDA Food Safety and Inspection Service uses these estimates in cost-benefit analysis of proposed food safety regulations. They also use information on the value consumers place on avoiding a range of foodborne illnesses to help inform food safety program priorities.

This stated preference survey will enhance understanding of the value the public places on preventing foodborne illness. Like other cost of illness research, current cost of foodborne illness estimates includes cost of medical treatment, the value of lost time, and willingness to pay to reduce risk of death, but do not include the value consumers place on preventing the physical, emotional and social burden experienced from these illnesses. Economic theory supports the utility of measuring consumer willingness to pay for these non-monetary benefits of health protection, as demonstrated by recent survey

¹ <https://www.isaaa.org/gmaprovaldatabase/event/default.asp?EventID=23>.

² Agricultural Biotechnology Annual—2021—Brazil, https://apps.fas.usda.gov/newgainapi/api/Report/DownloadReportByFileName?fileName=Agricultural%20Biotechnology%20Annual_Brasilia_Brazil_10-20-2021.

³ Agricultural Biotechnology Annual—2021—Nigeria, https://apps.fas.usda.gov/newgainapi/api/Report/DownloadReportByFileName?fileName=Agricultural%20Biotechnology%20Annual_Lagos_Nigeria_10-20-2021.