



July 8, 2016

United States  
Department of  
Agriculture

Office of the  
General  
Counsel

Representative Michael Conaway  
Chairman  
House Committee on Agriculture  
1300 Longworth House Office Building  
Washington, DC 20515

Dear Chairman Conaway,

Thank you for your letter of July 7, 2016 inquiring as to various technical aspects of the legislative text of the GMO labeling bill currently pending before the U.S. Senate. The United States Department of Agriculture (USDA), as the lead implementing agency has carefully studied this legislation from legal, program policy, and scientific aspects. I will respond in turn below to the questions raised in your letter.

1. It is my understanding that the preemption provision is to take effect on the date of enactment of this Act. Absent such clarifying language in this bill, I would like assurances from you that you understand the above to be the intent of Congress and that you would indeed interpret the language to mean as such.

The preemption provisions in Sections 293(e) and 295 of the Senate bill are triggered upon the date of enactment.

2. After reading the text of the bill, I had serious concerns over what limitations existed as far as what can be required in the actual disclosure. I was directed to look at section 292 regarding applicability. As it was explained to me, that section is meant to limit the application of the disclosure requirement only to the presence of the bioengineered food or ingredient. The language seems somewhat unclear. Can you confirm that the Department would have no authority beyond requiring disclosure of the presence of a bioengineered food or ingredient? Do the same limitations apply to the content of the text or symbol options for disclosure?

The Section 293 of the Senate bill only authorizes the Secretary to require disclosure pertaining to the presence of bioengineered food.

3. In response to the study required by Sec. 293(c), the Secretary "shall provide additional and comparable options to access the bioengineering disclosure." Does this provision direct the Secretary to provide a means of accessing the disclosure (e.g. paying to install land-line phones in supermarkets, purchasing and donating mobile phones for customers to be able access QR codes, etc.)? Does this provision limit the Secretary's authority, simply providing additional disclosure options comparable to those enumerated in Sec. 293(b)(2)(D)?

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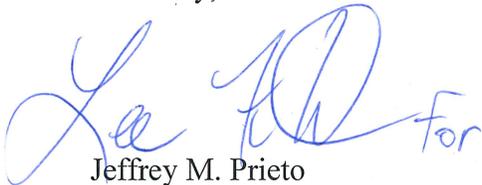
Section 293(c) of the Senate bill calls for a study to be conducted subsequent to enactment to determine if there are technological or other barriers to accessing the electronic disclosure. If the Secretary determines that barriers exist, the bill requires the Secretary to offer other comparable means of disclosing bioengineered foods. The Senate bill does not provide any new authority to provide equipment, funding, or services to assist in accessing the electronic disclosure.

4. There appears to be overlap between the new authorities and limitations on authorities conferred upon the Secretary and existing authorities. For instance, while this bill specifies that there is no recall authority, the Department already has recall authority. Similarly, the Department has other labeling authority apart from what this bill now grants. Is it your understanding that such authorities cannot be used in the context of bioengineered food disclosure unless the use is specifically authorized by this bill?

As an initial matter, the Secretary does not have authority to mandate a recall of meat, poultry or egg products. The Senate bill does not present avenues to utilize recall for the purposes of implementing the disclosure provisions of this bill.

If needed, my team and our USDA programmatic and scientific experts are available to discuss any aspects of the legislation in greater detail at your request. Please do not hesitate to contact me.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jeffrey M. Prieto" with a stylized flourish and the word "for" written to the right.

Jeffrey M. Prieto  
General Counsel