# HEARING TO REVIEW USDA MARKETING PROGRAMS

# HEARING

BEFORE THE

SUBCOMMITTEE ON
BIOTECHNOLOGY, HORTICULTURE, AND RESEARCH

OF THE

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# HEARING TO REVIEW USDA MARKETING PROGRAMS

**THURSDAY, JUNE 25, 2015**

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON BIOTECHNOLOGY, HORTICULTURE, AND RESEARCH,
COMMITTEE ON AGRICULTURE,
*Washington, D.C.*

The Subcommittee met, pursuant to call, at 1:31 p.m., in Room 1300, Longworth House Office Building, Hon. Rodney Davis [Chairman of the Subcommittee] presiding.

Members present: Representatives Davis, Scott, Moolenaar, Newhouse, DelBene, McGovern, Kuster, and Graham.

Staff present: Carly Reedholm, Haley Graves, Jessica Carter, John Goldberg, Mary Nowak, Mollie Wilken, Keith Jones, Liz Friedlander, and Nicole Scott

## OPENING STATEMENT OF HON. RODNEY DAVIS, A REPRESENTATIVE IN CONGRESS FROM ILLINOIS

The CHAIRMAN. This hearing of the Subcommittee on Biotechnology, Horticulture, and Research to review USDA marketing programs, will come to order.

The chair would like to recognize our guest, Dr. Morris. Thank you for being here.

Thank you to Ranking Member DelBene.

I will offer my opening statement now.

Good afternoon. I would like to welcome everyone to the Committee hearing. For the past several months, the Committee has evaluated aspects of agricultural marketing as we have observed consumers, ourselves included, are becoming increasingly savvy. As the number of choices available to us has increased, so has our desire to locate and purchase products that appeal to a broader set of criteria. Consumers are seeking more and different food products, not only appealing to price and quality characteristics, but now also relating to various production methods such as grass-fed, natural, organic, or the use of technology such as genetic engineering. While many farmers and ranchers are in the commodity business, some have been able to achieve market premiums by appealing to this new consumer demand and creating mixed market opportunities for their products. By utilizing a variety of production practices, producers are distinguishing their products in order to appeal to unique consumer desires.

Today, we will be hearing from the USDA regarding programs that allow the Agricultural Marketing Service to help producers

and processors address consumer demand through the development of voluntarily and unique marketing claims. To distinguish and promote their products in the marketplace, USDA can assist producers using a variety of authorities, including the Agricultural Marketing Act of 1946, and the Organic Foods Production Act.

As this Committee has repeatedly observed, the keys to success in any marketing venture is voluntary participation, robust, transparent, and meaningful standards and comprehensive enforcement to ensure compliance. Most people are aware of the USDA organic label but may not be aware of the policies and procedures of the National Organic Program. Likewise, I am sure many people have heard of and thoroughly enjoy certified Angus beef, but may not know where to find the standards that are in place for this program, nor may they be aware of the procedures in place to assure that this label claim is truthful and not misleading.

USDA's Agricultural Marketing Service has long been in the business of assisting producers in developing the programs and tools to take advantage of market opportunities. As the Agriculture Committee considers proposals to develop other production-based marketing claims, we felt it useful to review USDA's authorities and procedures. And it is my hope that this information collected today will be of tremendous value as we look for opportunities to improve agricultural productivity, profitability, and sustainability.

Before I turn to the Ranking Member, I want to briefly discuss a recent Supreme Court decision on the marketing order within this Subcommittee's jurisdiction. In the ruling on *Horne* v. *U.S. Department of Agriculture* case, the Supreme Court held certain aspects of the raisin marketing order to be an unconstitutional taking. As with all marketing orders, these programs are initiated by each industry, and they have the opportunity to withdraw a marketing order at any time. Our responsibility is to uphold the integrity of marketing programs as they are a proven useful tool for many industries while ensuring our growers are not adversely harmed in the process.

We are beginning to have bipartisan discussions with the USDA to determine the impact of this decision and may conduct additional hearings as the situation warrants.

[The prepared statement of Mr. Davis follows:]

PREPARED STATEMENT OF HON. RODNEY DAVIS, A REPRESENTATIVE IN CONGRESS FROM ILLINOIS

Good afternoon. I would like to welcome everyone to the Subcommittee on Biotechnology, Horticulture, and Research.

For the past several months, the Committee has evaluated aspects of agricultural marketing. As we have observed, consumers, ourselves included, are becoming increasingly savvy. As the number of choices available to us have increased, so has our desire to locate and purchase products that appeal to a broader set of criteria. Consumers are seeking more and different food products, not only appealing to price and quality characteristics, but now also relating to various production methods such as grass-fed, natural, organic, or the use of technologies such as genetic engineering.

While many farmers and ranchers are in the commodity business, some have been able to achieve market premiums by appealing to this new consumer demand and creating niche market opportunities for their products.

By utilizing a variety of production practices, producers are distinguishing their products in order to appeal to unique consumer desires.

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I now yield to the distinguished Ranking Member, Ms. DelBene.

The CHAIRMAN. I now yield to my distinguished Ranking Member, Ms. DelBene, for her opening statement.

## OPENING STATEMENT OF HON. SUZAN K. DELBENE, A REPRESENTATIVE IN CONGRESS FROM WASHINGTON

Ms. DELBENE. Thank you, Chairman Davis.

And thank you, Dr. Morris, for being with us here today.

In recent years, the way the average consumer thinks about food has undergone a remarkable cultural transformation. Within a relatively short period of time, we have witnessed consumers rapidly moving from having little interest in products and where their food comes from to today's consumers seeing food as an exciting possibility, and with cooking now part of personal discovery.

Most importantly, both for the consumer and for agriculture, food is no longer something that just appears on grocery shelves. It is inspected, scrutinized, and given careful thought. Consumers are the real drivers behind today's individualistic food environment, and it is within this newly-developed foodie culture that the U.S. production agriculture now finds itself. Like most market evolution, there is both good news and not so good news.

The good news is food entrepreneurs, both producers and processors, have an increasingly diverse consumer base for which to tailor their products. The not-so-good news is an ever-growing and potentially confusing array of production, processing, and questions. And while more information for the consumer is a good thing, we need to ensure that this information is displayed in an

easy to understand and accurate way. And we also need to ensure that the information provided is grounded in sound science.

I am pleased that the USDA's Agricultural Marketing Service is here today because of their expertise in overseeing these emerging labels. We need to know how to best deliver information to the consumer, what is working now, what isn't, and how we continually improve the current system. As the Committee exercises its responsibility in the area of marketing and labeling claims across the board, but including labels related to genetically engineered crops, it is critical that we all have a full understanding of the expertise that exists within AMS should Congress choose to move forward with any sort of new label.

So, Mr. Chairman, I look forward to hearing from our witness today on this important matter, and I yield back.

The CHAIRMAN. Thank you.

The chair would request that other Members submit their opening statements for the record so that the witness may begin his testimony and to ensure that there is ample time for questions.

The chair would like to remind Members that they will be recognized for questioning in order of seniority for Members who are present at the start of the hearing. After that, Members will be recognized in order of their arrival. I appreciate the Members' understanding.

The witness is reminded to limit his oral presentation to 5 minutes. Your written statement will be included in the record.

I would like to welcome, once again, our witness, Dr. Craig Morris, Deputy Administrator, Livestock Poultry and Seed Program, at the Agricultural Marketing Service of the USDA based here in Washington, D.C.

Dr. Morris, please begin when you are ready.

**STATEMENT OF CRAIG MORRIS, PH.D., DEPUTY ADMINISTRATOR, LIVESTOCK POULTRY AND SEED PROGRAM, AGRICULTURAL MARKETING SERVICE, U.S. DEPARTMENT OF AGRICULTURE, WASHINGTON, D.C.**

Dr. MORRIS. Chairman Davis, Ranking Member DelBene, and Members of the Subcommittee, thank you for the opportunity to testify today. The position that I serve is as the Deputy Administrator of Livestock Poultry and Seed Program for USDA Agricultural Marketing Service, or AMS, whose mission is to facilitate the efficient fair marketing of U.S. agricultural products. Within AMS the Quality Systems Verification Programs, or QSVPs, offered to the agricultural industry, there are a family of user-fee funded, audit-based, third-party verification services. There are a number of QSVPs, including those known as export verification programs, or EV programs, which are negotiated between the United States and foreign governments to ensure U.S. products meet the requirements of foreign buyers and keep U.S. products competitive in an international marketplace.

These EV programs are vital to reopening foreign markets to U.S. beef after our nation's first case of bovine spongiform encephalopathy. However, the QSVP I wish to focus on today is the highly visible USDA Process Verified Progam, or PVP. Currently, my program audits 51 different PVP companies, with approxi-

mately 190 different process verified marketing claims. Several PVP companies have labels in the marketplace featuring various market claims associated with the PVP shield. Examples of these marketing claims include use of antibiotics in animal agriculture, product availability, product palatability attributes such as tenderness and employee training in areas of animal welfare. Transparency of the standard behind the marketing claim and the knowledge that USDA is an independent auditor are the two key aspects of the PVP.

Companies establish their criteria they want verified, write a quality management system program manual, then undergo rigorous audits by AMS to ensure that they are adhering to the standards they set for themselves.

Recently, AMS approved a PVP for a company to verify their marketing claim that the food grade corn and soybeans processed at one of their facilities are tested to ensure they are at least 99.1 percent free of traits that would indicate genetic engineering and to market their products as non-GMO/GE.

I also think it is important to point out what the PVP program does not do. The PVP program is a Process Verified Progam, and not a product verification program. In the example of the non-GMO/GE PVP mentioned above, this means that there is no USDA non-GMO/GE marketing claim standard. In other words, USDA has not established a standard for what merits a non-GMO/GE marketing claim. Instead, the PVP verifies that the standard accompanied established for itself is transparent and being adhered to. By *transparent,* I mean that the standard behind the marketing claim is detailed on the USDA website, such as the specific GE traits being tested for, what testing methods are being used, the competency of those performing the tests, and that the USDA PVP website is available to any interested party to learn more about the basic of any PVP marketing claim.

Second, the PVP is not a truth-in-food labeling program. Within the U.S. Government, with narrow statutory exception, regulatory bodies at the Food and Drug Administration and other agencies, such as the Food Safety and Inspection Service for certain commodities and not AMS are charged with ensuring that all food labeling claims, regardless of if they are associated with a PVP or not are truthful and not misleading. We have seen and heard that there is some confusion regarding how this non-GMO/GE PVP relates to AMS's administration of the National Organic Program, or NOP. Therefore, I would like to offer some background differentiating those two programs.

The NOP is a regulatory program within AMS that establishes national organic standards and protects the integrity of the USDA organic label through certification and proper enforcement. As authorized by Congress, under the Organic Foods Production Act, these organic standards assure consumers that products with the USDA seal meet consistent uniform standards.

By contrast, USDA has not established standards for non-GMO/GE claims. So, although the non-GMO/GE PVP outlined earlier does provide transparency and third-party verification, it is not establishing a national standard for what merits a non-GMO/GE

claim like we have done for the National Organic Program organic claims.

In conclusion, AMS's audit-based services such as the USDA PVP allow producers to assure customers of their ability to provide consistent quality products, or services, but do not establish national standards for marketing claims. Again, thank you for the opportunity to testify today.

[The prepared statement of Dr. Morris follows:]

PREPARED STATEMENT OF CRAIG MORRIS, PH.D., DEPUTY ADMINISTRATOR, LIVESTOCK POULTRY AND SEED PROGRAM, AGRICULTURAL MARKETING SERVICE, U.S. DEPARTMENT OF AGRICULTURE, WASHINGTON, D.C.

Chairman Davis, Ranking Member DelBene, and Members of the Subcommittee, thank you for the opportunity to testify on behalf of the U.S. Department of Agriculture (USDA) at today's hearing to discuss some of the management system audits offered by the Department in support of producer marketing programs. It is our hope that the information we provide will offer a better understanding of our current activities and our programs.

I serve as the Deputy Administrator, Livestock Poultry and Seed Program, for USDA's Agricultural Marketing Service (AMS). AMS' mission is to facilitate the efficient, fair marketing of U.S. agricultural products, including food, fiber, and specialty crops. Within AMS, there are a family of user-fee-funded, audit based third-party verification programs and services available to the agricultural industry under its Quality Systems Verification Programs (QSVP). The QSVP are designed to provide suppliers the opportunity to assure customers of their ability to provide consistent quality products or services. Under a QSVP, a supplier's documented quality management system is verified through independent third-party audits conducted by qualified AMS staff. There are a few audit programs within the umbrella of QSVP that I will cover today.

**Processed Verified Program**

One of these is the Process Verified Program (PVP) which provides agricultural businesses with third-party, objective verification of a particular standard or marketing claim. With today's label-conscious consumers, producers often rely on management system audits to support claims that help distinguish their products in the marketplace. USDA's PVP assures buyers that the producer's production processes that support specific marketing claims have been verified by an independent third-party audit conducted by AMS. Process verification based on an audit of company's quality management system is distinct from the testing and certification of a product to a specific standard. Only the latter can guarantee to the consumer that the product meets the requirements, such as GE-free or hormone-free. Process verification can, however, provide confidence that the company's management supports such claims.

Companies with approved USDA PVPs make claims supported by their process verified points—these include age, source, feeding practices, or other raising and processing claims—and market themselves as "USDA Process Verified" with use of the "USDA Process Verified" shield and term. All label claims that are associated with a PVP or not, must be approved by the Food Safety and Inspection Service (FSIS) to determine if they are truthful and not misleading when associated with meat, poultry, or egg products in commerce that were produced under Federal Inspection. Separately, the U.S. Food and Drug Administration (FDA) is responsible for ensuring that labels for food under its authority are truthful and not misleading. It is the company's responsibility to ensure labels for foods other than meat, poultry and egg products are truthful and not misleading under FDA's requirements. The USDA Process Verified Program does not relieve the company of meeting regulatory requirements issued by other Federal Departments or USDA Agencies.

Currently, AMS audits 51 different companies with PVP programs, which have approximately 190 different process verified points. Several companies with PVP programs have labels in the marketplace featuring various points with the USDA PVP shield. Examples of process points verified include: Perdue brand for cage free, tenderness guaranteed, no antibiotics ever, vegetarian fed, no animal byproduct fed chicken; Cargill's Shady Brook brand for "No antibiotics used for growth promotion—antibiotics only used for treatment and prevention of illness" turkey; and Tyson's no antibiotics ever chicken.

Transparency and the knowledge that AMS is the independent auditor are key aspects of the PVP. The company establishes the criteria that they want verified, writes a Quality Management System Program Manual, and then undergoes rigorous audits by AMS to ensure they are adhering to the standards they set for themselves. Some examples of the marketing claims supported by process verification today are "No antibiotics or hormones being fed or administered to animals" and "Source verified to the farm or ranch of origin". The two pillars of the PVP are that buyers and any interested party can come to the AMS website, required to be on any PVP consumer packaging, to see the specific details of the quality management system that serves as the basis of any PVP marketing claim and know that highly trained and independent employees are conducting the onsite audits of any approved PVP establishment.

AMS utilizes the International Organization for Standardization (ISO) 19011:2002 guidelines for quality management systems auditing. These internationally recognized guidelines provide a format for evaluating program documentation to ensure consistent auditing practices and ensure confidence in AMS as an independent third-party verifier. AMS auditors undergo extensive training in ISO and audit principles, as well as training specific to the industry, process, and/or claims they are auditing. AMS is committed to the transparency of its auditing services. AMS posts online a list of suppliers and the claims AMS verifies for all Process Verified Programs.

The claims on food products associated with PVP's, like all food labeling claims, fall under the jurisdiction of either USDA's Food Safety and Inspection Service (FSIS) or the U.S. Food and Drug Administration (FDA). AMS's sole focus is auditing whether a subject firm followed the process it described in its PVP application. AMS approval of a PVP does not mean that the labeling of food produced using the process necessarily meets the regulatory requirements for food labeling enforced by FSIS and FDA.

Recently, AMS approved the first PVP for a company wishing to obtain third-part verification for its a marketing claim that its products meet its desired standard of 99.1 percent non-genetically engineered (content, which the company is using as a basis for labeling the product as comprised of "Non-GMO/GE Process Verified" material. Under this new program AMS verifies that the processes and procedures are in place to support a claim that food grade corn and soybeans sold under the program are at least 99.1 percent free of traits that indicate genetic engineering. This means that the company can use the USDA Process Verified Shield, after prior approval by AMS officials, on the product labels or marketing materials that they use on the food grade soybeans and corn coming from the approved facility. These foods will not themselves be labeled for or sold directly to consumers.

I think it is important to point out what this program does not do. First, this does not establish an approved claim for food safety nor does it establish a standard for food safety. Second, this is not a USDA marketing claim standard. USDA has not established a standard for what merits a marketing claim concerning the presence or absence of genetically engineered components in food regulated by USDA. Moreover, such a food labeling claim for plant-derived foods would fall within the regulatory purview of the FDA. In this case, the company established their own standard, terminology, and logo for the claim they wished to make and AMS simply verified that processes were in place and operational such that the firm could meet its own established standard. Such verification does not necessarily mean that any food labeling associated with the claim meets regulatory requirements enforced by FSIS or FDA. Third, the PVP is not a truth in food labeling program. Within the U.S. Government, the U.S. Food and Drug Administration (FDA), USDA's Food Safety and Inspection Service, and other agencies, and not AMS, are charged with ensuring that all food labeling claims are truthful and not misleading.

And, finally, AMS did not create a "Non-GMO/GE" logo for this program. Logos that may begin to appear in commerce identifying products produced under a PVP are those developed by the specific establishments themselves. Those logos are the responsibility of the good producer and are subject to copyright by Federal agencies other than AMS. The only official, AMS-authorized mark on a product produced under any PVP will be the PVP Shield associated with the PVP website associated with the specific marketing claim.

**Quality System Assessment Program**

A second audit service provided is the USDA Quality System Assessment (QSA) Program which provides companies that supply agricultural products and services the opportunity to assure customers of their ability to provide consistent quality products or services. It is limited to programs or portions of programs where specified product requirements are supported by a documented quality management sys-

tem. The specified product requirements may be identified by the company or may be those outlined in a USDA Export Verification (EV) Program. To operate an approved QSA Program, a company must submit a documented program that meets the program requirements as outlined by AMS.

One such QSA Program is our export verification (EV) program for pork products. EV Programs ensure that the specified product requirements are supported by a documented quality management system and are verified through independent, third-party audits conducted by AMS. For example, our EV Program for Pork to the Russian Federation ensures that:

- Pork is free of tetracycline group antibiotics.
- Slaughter facilities have implemented a tetracycline group antibiotics testing program.
- Facilities approved for export to the Russian Federation have implemented a microbiological testing program for generic *Salmonella, Listeria* monocytogenes, and total plate count testing.

**Certified Responsible Antibiotic Use Standard**

A final example of an AMS audit-based marketing program is the Certified Responsible Antibiotic Use (CRAU) Standard developed by School Food FOCUS (FOCUS) and The Pew Charitable Trusts (Pew). FOCUS and Pew sought to minimize the use of veterinary antibiotics that are identical or closely related to drugs used in human medicine and to offer schools a viable way to put poultry raised with responsible antibiotic use on menus. Poultry producers in conformance with CRAU are prohibited from using antibiotics with analogues in human medicine routinely or without clear medical justification. Use of antibiotics with analogues in human medicine must be rare, well documented, and prescribed by a veterinarian. Antibiotics that do not have analogues in human medicine have no further restrictions in this standard.

The scope of the CRAU verification includes a comprehensive farm-to-package review of relevant processes and facilities that include hatcheries, feed mills, farms/barns and processing/packaging sites. The audit must document systems for proper identification and segregation of CRAU product from farm to package. To meet the requirements of the CRAU standard, a poultry company must be audited by AMS.

**National Organic Program**

We have seen and heard of some confusion in the press and elsewhere regarding these audit-based marketing claims and AMS' National Organic Program (NOP). Therefore, I would like to offer some background differentiating the two programs.

The NOP is a regulatory program housed within AMS responsible for developing national standards for producing agricultural products labeled as "organic". These standards assure consumers that the production process for products carrying the USDA organic seal meet consistent, uniform standards. NOP regulations do not address food safety, nutrition or health.

The Organic Foods Production Act of 1990 provided the authority for USDA to set these national standards for the production, handling, and processing of organically grown agricultural products. Statutory authority was also provided to enforce compliance with these standards, to accredit certifying agents, and to collect fees for accreditation services.

NOP regulates the labeling of all organic crops, livestock, and agricultural products certified to USDA organic standards. Organic certification bodies inspect and certify that the production, processing and handling practices of farmers, ranchers, distributors, processors, and traders comply with the USDA organic regulations. USDA conducts audits and otherwise ensures that the more than 90 organic certification bodies operating around the world are properly certifying the production, processing and handling of products labeled as organic. In addition, USDA conducts investigations and enforcement activities to ensure the integrity of the products bearing the organic label. In order to sell, label, or represent their products as organic, operations must follow the specifications set out by the USDA organic regulations.

**Conclusion**

Audit-based services support the ability of producers to make specific claims or to assure customers of their ability to provide consistent quality products or services. These claims can cover raising, feeding, handling, processing, labeling practices, or other practices and processes that differentiate a product. They do not establish that the claim is in conformance with applicable labeling requirements, nor do they establish any food safety standards. I hope that this testimony and subsequent questions will help this Subcommittee better understand current AMS activi-

ties and the many marketing programs offered by the agency. Again, thank you for the opportunity to testify today.

The CHAIRMAN. Thank you, Dr. Morris.

Since it is a fly-out day, I am going to reserve my questions for the end.

So I would like to begin by recognizing the gentleman from Georgia, Mr. Scott, for 5 minutes.

Mr. SCOTT. Thank you, Mr. Chairman. And, Dr. Morris, you hit a little bit on the process *versus* product issue. Could you expand on that briefly for us?

Dr. MORRIS. Absolutely. What the USDA Process Verified Progam is about is that when a company establishes for itself a standard that it wants to adhere to, we insure that—essentially, the internal quality management system within that company is operating as intended. It takes on two steps: One, we require a company to develop a documented quality management system. They submit that to us. We do a desk review of that to make sure that as written, that will deliver on the claim that they set for themselves. It will consistently produce a product that meets their standard. We then do on-site audits to make sure that in-plant, the things that they are doing reflect what we saw in the written manual. So it is all about them adhering to their own systems. But it is nothing about, at the end of the day, the product meets a certain USDA standard.

Mr. SCOTT. So when the USDA set the standards for organics, for example, you are double-checking, if you will, them to make sure that they are complying with what they said their process was? Am I understanding that correctly?

Dr. MORRIS. Somewhat, yes. In the case of the National Organic Program, Congress provided us express authority to develop national standards for what merits an organic claim. So we actually have a standard for what meets an organic claim. Then we have specific enforcement powers and investigation powers provided to us, again, by Congress, and implemented through regulation, and we go out and accredit the certifiers to make sure that they are competent as a certification body in performing the certifications on farm organic agriculture.

Mr. SCOTT. Could you speak to the impact of the mandatory labeling in general as compared to the voluntary labeling and the differences in the supply chain and the costs to the consumer of the products.

Dr. MORRIS. The U.S. marketing chain is very dynamic, and there is really not a one-size-fits-all approach. Clearly, in the cases of the organic program, Congress provided USDA with specific authority to set a single national standard. In many cases, the marketplace works quite well through a process verification where the industry sets for itself standards that it basically adheres to.

So there is not necessarily one specific approach that works best in any one situation. We do, obviously, though, look to Congress for input in terms of the specific areas that would merit standardization nationally.

Mr. SCOTT. But if there were no uniform standard, I am from Georgia, you could have one standard for Atlanta; you can have another standard for Augusta; one for Tifton; one for Columbus; one

for Macon, and that would create disruptions in the supply chain, I would assume, and maybe the consumer didn't actually know what they were getting.

Dr. MORRIS. Well, and that gets to exactly the reason the PVP was developed. The purpose of the PVP, what it was designed to do, is when you see similar claims in commerce, to be able to have transparency back to what is the standard behind that claim. So what the PVP is trying to do is give consumers that ability to go back and see those different standards that are in place in the marketplace. But we have many standards oftentimes, and they operate quite well.

Mr. SCOTT. Without those standards, I would suggest it would be inconsistent and confusing.

Dr. MORRIS. And they can be, yes.

Mr. SCOTT. I am sorry?

Dr. MORRIS. And they can be, yes, if there is not transparency back to the standards themselves.

Mr. SCOTT. I am going to yield the remainder of my time, Mr. Chairman. But I may come back and ask another question as time goes on.

The CHAIRMAN. The gentleman yields back.

The chair recognizes Ranking Member DelBene, for 5 minutes.

Ms. DELBENE. Thank you, Mr. Chairman.

And thank you again, Dr. Morris, for being here. One of my main concerns when we are talking about any potential GMO or non-GMO certification program is that it not conflict in any way with the organic regulations or process that is already in place. Many in the industry, though certainly not uniformly, view organic certifications as the gold standard. And so I was wondering, in your opinion, would the current organic certification be sufficient to be labeled as non-GMO?

Dr. MORRIS. Well, yes. Anything that is USDA organic is, by definition, non-GMO, as genetically engineered crops are not allowed to be used in that system. Now, I have to recognize that I do not oversee the National Organic Program. I have a peer, Deputy Administrator, Miles McEvoy, and if you would like, we can provide you with additional information in written form after I have had an opportunity to confer with him that goes into much more detail about how the National Organic Program not only controls that issue, but allows for the marketing of those products as non-GMO or non-GE.

Ms. DELBENE. I would appreciate that. That would be helpful.

And in today's fiscal environment where resources are definitely scarce all around, I worry that with the new certification process, resources could be diverted away from other important programs, not only organic programs but programs across the board. So can you comment on how this might be avoided, or are more resources needed if we were going to have other programs that were going to be available?

Dr. MORRIS. The PVP that we operate today is fully user-fee funded. So we establish a fee rate that is cost recovery. It basically pays for the caliber of the employees that we have carrying out the activities. So there are no appropriations required for carrying out the PVP.

Ms. DELBENE. And any other particular programs that might be put together would probably be user-funded as well then?

Dr. MORRIS. Yes. The only issues that we would potentially have would be the development of standards, or things like that, the Subcommittee could be contemplating that we would need some source of funds to recover.

Ms. DELBENE. You also talked earlier about the need for a quality management system. And so I wondered if you could describe what that is, and are they used in areas other than agriculture?

Dr. MORRIS. Yes. Quality management systems are used extensively. They are used extensively in the manufacturing and service industries. Essentially, a quality management system is a collection of the business processes that are focused on meeting a customer's requirements. It is expressed at the organizational structure, the policies, the procedures, the processes and resources needed to implement quality management. There are a number of different quality management system regimes out there, but far and away, the ISO 9000 family of standards is the most widely implemented worldwide, and those are the standards that we have chosen to implement as the basis of our Process Verified Program.

Ms. DELBENE. And you brought out the ISO, International Organization for Standardization. And why do you use their guidelines, and so how did you go about using their guidelines, and how did they establish them?

Dr. MORRIS. Without question, the ISO is the world's largest developer of voluntary international standards. They facilitate worldwide trade by providing that common set of language between nations. They have nearly 20,000 different standards at the ISO that cover everything from manufactured products and technology to food safety, to agriculture, health care. It basically allows products from different markets to be directly compared. When we established the Process Verified Progam, we wanted it to have international recognition. We knew that our audit-based services under the broader class of what we call the quality service verification programs would need to have recognition from foreign governments so that we could keep U.S. agricultural products flowing. That is why we chose to use that as the basis of our program.

Ms. DELBENE. Thank you.

That completes my questions. I will yield back.

The CHAIRMAN. Wow. Succinct hearing. We actually have Members yielding back time.

Mr. Moolenaar is recognized for 5 minutes.

Mr. MOOLENAAR. Thank you. And my apologies for being late. I missed some of your testimony. In general, there has been a lot of discussion. And when people meet with me, there is this question of voluntary *versus* mandatory. And you may have addressed that already in some of your comments, but do you have any thoughts on that?

Dr. MORRIS. Well, it is very similar to the issue of whether or not there needs to be a single national standard for every single marketing claim out there. I think voluntary *versus* mandatory works well in different situations. We have, in AMS, a number of mandatory programs and a number of voluntary programs, both of which

we believe are doing an outstanding job of facilitating marketing. It really depends on the context of the specific issue in play.

Mr. MOOLENAAR. And just, could you speak a little bit about some of your voluntary marketing programs and, again, maybe some of those you have already, but how effective are they?

Dr. MORRIS. You would be hard-pressed to go to a grocery store and not see the product of a lot of our voluntary marketing programs. Everything from USDA choice beef to grade A eggs to certified Angus beef, to a lot of the claims that you would see on particular products related to responsible use of antibiotics, or humanely-raised claim. All of those are voluntary activities. So these are companies that have decided to voluntarily differentiate themselves from the marketplace and utilize AMS as their third-party auditor, and then also have the transparency behind the standards that they have set for themselves, not only available on the USDA website, but available to anybody that would seek that information.

Mr. MOOLENAAR. In terms of the compliance with the standard, how does that work?

Dr. MORRIS. Well it depends on the program. For a number of our mandatory programs, we have express authority provided to us for investigation and enforcement. In the case of our voluntary programs, companies, especially PVP companies, they have basically chosen to differentiate themselves from the broader market. They have chosen to hold themselves up as a company that not only has transparency but is following through on their standards. In that situation, if a company has built a brand around a PVP and then loses that PVP, that penalty alone is quite significant to that company in the marketplace.

Clearly, in the course of our audits, both desk and on-site, we do find non-conformance. We have had firms that have lost their process verified status. That impacts their ability to continue to sell products as process verified, and really undermines the brand that they have developed for themselves.

Mr. MOOLENAAR. So you have, after conducting an audit, if you find irregularities, do you notify them and then give them an opportunity to comply, or is it immediate loss of status?

Dr. MORRIS. It depends on the severity of the non-conformance. We have minor non-conformance that we can deal with in follow-up audits, we are requesting corrective and preventive action. We have significant non-conformance that can render a program immediately unapproved, and we are actually at that point looking back in to the product that was produced since the last audit. So it really varies based on the issues at play. We have for-cause audits that we will see things occur in the marketplace or have third parties bring to us products that they don't believe to be conforming, and that could initiate us coming in and doing an on-site for-cause audit, which then, again, can affect their approval.

Mr. MOOLENAAR. Well, thank you very much.

And, Mr. Chairman, I yield back.

The CHAIRMAN. The gentleman yields back.

The gentleman from Massachusetts, Mr. McGovern, is recognized for 5 minutes.

Mr. MCGOVERN. Thank you, Mr. Chairman.

And thank you, Dr. Morris, for being here. I appreciate all the work that you do. This is an interesting hearing, in the context of something that we are beginning to talk about in this Committee, and in other committees, about the issue of GMO labeling. Voluntary *versus* mandatory, or only voluntary non-GMO labeling. Quite frankly, I am puzzled by this debate, because I fall on the side of the fact that if a majority of people in this country want there to be GMO labeling so they know what they are buying, then I am for it. I am not making any judgment about the safety or the quality of the food. We have all been eating GMOs for a long time, but if a majority of people want to know that information, why shouldn't we give it to them?

There is a recent poll from the Mellman Group that found that Americans overwhelmingly favor requiring labels on GMO food: 71 percent of Americans strongly favor GMO labeling. And I guess the argument against the voluntary stuff is that some might do it, some might not, but it just makes it more difficult for the consumer in my mind. I am not asking you to take a position, but if you are going to come up with a standard for what is non-GMO, wouldn't it just be simpler for the consumer to have one label that indicates whether something contains GMOs?

Dr. MORRIS. In AMS, we carry out both kinds of programs, mandatory labeling programs and also our voluntary labeling programs. Again, the voluntary labeling programs are carried out on a fee-for-service basis. So these are companies that are choosing to differentiate themselves in the market hoping to command a premium for their products because, obviously, they are paying for the verification service that we provide.

So the question is one of is it appropriate for companies to try to demand a premium for the product, which is what people obviously use AMS for with our Process Verified Progam and other voluntary marketing programs, or in the mandatory scheme that we carry out in other areas where we have been provided authority by Congress.

Mr. MCGOVERN. Right. We have heard a lot of talk that, the mandatory route, will cost all this money, it is going to cost the consumer money. And yet I am reading from the *Washington Post* Fact Checker that says that people who claim that mandatory labeling is going to cost consumers significantly more in groceries per family per year, earned three Pinocchios. Does AMS have any evidence on the cost to consumers on mandatory *versus* voluntary labeling?

Dr. MORRIS. No. Again, because the voluntary programs basically go where the market wants them. And so we don't typically sit down on our voluntary programs and determine the return on investment, because a company is making that decision when they approach us. And so as we dealt with on this particular firm that we were discussing during the testimony, they have made a business decision that the investment in AMS auditing is going to help them command a premium in the marketplace for their products. That is a very different model. So we don't track the mandatory *versus* voluntary unless we are going into an environment where we are given authority by Congress to require labeling.

Mr. MCGOVERN. So basically at this point, if Congress said to you we want mandatory GMO labeling, you would then——

Dr. MORRIS.—conduct an economic analysis.

Mr. MCGOVERN. All right. I thank you and I raise the issue because I have been at a number of briefings where people talked about the pros and cons of GMO foods and how they fit into our society right now. It just seems to me that the more people resist giving the public what they want, the more the public begins to suspect maybe there is something wrong with these products. I think sunshine and transparency are a good thing. So I would hope that Congress would move along the line of greater transparency and giving the American people what they want. I thank you very much for being here.

Dr. MORRIS. Thank you.

The CHAIRMAN. The gentleman yields back.

Does the gentleman from Massachusetts wish to produce his poll or his Pinocchios for the record?

Mr. MCGOVERN. Absolutely. Thank you. With unanimous consent and all the other blessings you would give me.

The CHAIRMAN. Without objection.

[The information referred to is located on p. 21.]

Mr. MCGOVERN. Thank you.

The CHAIRMAN. Dr. Morris, again, I appreciate you being here. I am going to go ahead and ask you a few questions myself.

I mentioned this in my opening statement about the Supreme Court's decision in the case involving volume control components of the raisin marketing order. And the court held the requirement for producers to surrender a portion of their crop without just compensation to be an unconstitutional taking. Can you provide, for the record, an analysis of this decision, and in particular, what, if any, implications this decision has for this or other marketing orders?

Dr. MORRIS. Absolutely. As I opened with my statement, the efforts of AMS are divided primarily on commodity lines, and I don't actually have marketing orders under my purview. Let me go back to the Department and we will work with our Office of the General Counsel and Department of Justice and prepare something for you in writing.

The CHAIRMAN. Thank you. Thank you. And for the record too——

Dr. MORRIS. Yes.

The CHAIRMAN.—you already oversee a program that is synonymous with non-GMO, that is organic. So can you tell us, for the record today, that if one buys an organic product, certified organic product, meets all the standards, that it does not include genetically modified seeds?

Dr. MORRIS. Now, again, I have a peer, Deputy Administrator Miles McEvoy. He is the Deputy Administrator of the National Organic Program. Let me go back with him, and we will prepare for you, for the record, a much more expansive reply.

[The information referred to is located on p. 21.]

The CHAIRMAN. All right. And the organic program sets a single standard for organic marketing claims, though?

Dr. MORRIS. Correct.

The CHAIRMAN. Can we fairly conclude the establishment of this voluntary and transparent standard for organic has helped actually build the market for those products?

Dr. MORRIS. Yes. I think that would be a fair conclusion.

The CHAIRMAN. Okay. All right. I will reserve the balance of my time and recognize Mr. Scott, again, for a second round of questions.

Mr. SCOTT. Thank you, Mr. Chairman. And one of the things that I do think is important to point out is that the certified Angus, if you will, that is a voluntary. And I sold Angus cows with my grandfather for a long time. We also had a commercial herd. When we sold our Angus cows, we didn't imply that the Limousin Brahman Angus mix cows were unsafe, if you will.

And some of the, if you will, things that are being said about the use of biotechnology in agriculture is confusing, and in the end, misleading. We use less fertilizer, less pesticides. Biotechnology has been good for the environment, has been good for the producer, and has been good for the consumer. But one of the key differences in the certified Angus voluntary labeling and what we are facing right now is we are facing mandatory labeling from a government, in some cases, states, in some cases they are trying to do it at the local level. And I guess my question for you is, if somebody passed a standard, let's say, for whatever city we want to call—let's say they want to pass one for Washington, D.C., who would certify that?

Dr. MORRIS. Well, that would be up to the firm that would—well, I guess it would be up to the city or the municipality that has passed that requirement. So we have not been approached at AMS about carrying out any mandatory labeling programs for genetically engineered products.

Mr. SCOTT. So if a state, for example, we have seen states go down this path, who would certify that at the state level?

Dr. MORRIS. That would have to be determined at the state level.

Mr. SCOTT. And so the USDA wouldn't have to?

Dr. MORRIS. There are a lot of different agencies that relate to food labeling. AMS deals, with the exception of those areas, we have mandatory labeling programs or specific statutory authority to set standards. Most of what we are dealing with, most of what I particularly deal with, are these voluntary mandatory claims that are used at the national level. We would probably need to go back and consider the impacts of some of the state level labeling laws and what impact that would have on USDA, or more broadly, the Executive Branch. I probably need to follow up with you on that, because that gets outside of, really, my scope.

Mr. SCOTT. Somebody would have to pay for that labeling. Somebody would have to pay for that standard. The state or whoever passed that law would have to contract with somebody to do that. And I guess that is where I think that we are headed down a very dangerous path here for the consumer where, if something is not done here, then you are going to see more inconsistency and more confusing scenarios for the consumer. The USDA is the standard for guaranteeing that we are getting what we purchase when we go to the store.

Mr. Chairman, there is a lot that needs to be done here to protect the consumer to make sure the consumer understands actually what they are getting, and there is a uniform standard.

Thank you for your testimony.

Dr. MORRIS. Thank you.

The CHAIRMAN. The gentleman yields back.

The gentleman from Michigan is recognized, Mr. Moolenaar, for 5 minutes.

Mr. MOOLENAAR. Thank you, Mr. Chairman. And, again, thank you for your testimony, Dr. Morris.

I wonder if you can help me with some of the definitions that you hear a lot. There is *genetically engineered, genetically modified.* Are those synonymous terms?

Dr. MORRIS. Well, genetic engineering is really the method used to arrive at the claim. In the case of genetically modified, genetically modified organism, GMO, those are terms that consumers rightly or wrongly are associating with a class of products that they are wanting to seek more information about or have an opinion about one way or another. So genetically engineered is the technology that is arriving at this class of foods that are often labeled as non-GMO, there is a lot of Federal guidance in this area. But there are different kinds of genetic—it is very complicated. We can get back to you with a little bit more in writing if you want in terms of some of the different technologies and how they are applied. But *genetic engineering* is clearly the proper term for this class of foods that we are discussing.

Mr. MOOLENAAR. So it is the means of genetic modification that is the genetic engineering?

Dr. MORRIS. Correct.

Mr. MOOLENAAR. Some of the modifications occur in nature, do they not?

Dr. MORRIS. Absolutely.

Mr. MOOLENAAR. Could you speak to that?

Dr. MORRIS. Yes. In the case of the non-GMO/GE PVP that we have approved, we are specifically looking for those traits that indicate genetic engineering. So an example, and let's say livestock, where you can naturally select cattle that are pulled without horns. Or you can go with gene editing and kind of preordain that you have decided that this is going to be a pulled animal more efficiently than if you went through natural selection. Those are very different things.

So in the case of our non-GMO/GE program, we are really looking for those traits that wouldn't be arrived at through natural selection that are much more genetic engineering as opposed to some of the gene editing and some of those other things.

Mr. MOOLENAAR. And how do you handle that with respect to natural. Because if certain things are being genetically modified naturally, how do you approach that?

Dr. MORRIS. AMS doesn't regulate the term *natural* for meat, poultry, and egg products, our sister agency, the Food Safety and Inspection Service, and for all of the commodities, the Food and Drug Administration. So natural claims fall in a whole different area that are somewhat independent or on a separate stream from the debate we are having on non-GMO/GE.

Mr. MOOLENAAR. Okay. Thank you. I appreciate it.

I yield back.

The CHAIRMAN. The gentleman yields back.

The gentleman from Washington, Mr. Newhouse, is recognized for—I haven't figured out how long yet, because he is late—for 5 minutes.

Mr. NEWHOUSE. So I will make up some time a little bit there. Thank you, Mr. Chairman, I appreciate that. I apologize for my lateness, but I can assure you, I was doing good work.

I appreciate you being here, Dr. Morris. I don't really have a question as such, so I won't take much time. But I just wanted to expound on what I understand my colleague from the State of Washington and our Ranking Member, Ms. DelBene, was asking, if I could.

Under current USDA regulation, is, in fact, the case that biotech products are not allowed to be certified organic? I would like to read an excerpt from the USDA blog from a post titled *Organic 101, Can GMOs Be Used in Organic Products?* And that was dated May 17, 2013. So if I may, just to enter it into the record.

"The use of genetic engineering, or genetically modified organisms (GMOs), is prohibited in organic products. This means an organic farmer can't plant GMO seeds, an organic cow can't eat GMO alfalfa or corn, and an organic soup producer can't use any GMO ingredients."

The reason, Mr. Chairman, that I raise this point is because it is frustrating to me that USDA already has this, what I would call a great voluntary tool for consumers to know what is in the food and products that they purchase, but that some jurisdictions feel compelled to impose duplicative, costly, and mandatory burdens on consumers and producers that, as far as can be seen from the USDA's own blog, add no additional benefit. So ultimately, I believe this Congress and this Committee will likely have to consider legislation to ensure that our farmers, ranchers, growers, producers, and families aren't harmed by these costly unworkable rules. And that is not necessarily a question, but just a statement, and I wanted to make sure I got that in the record.

And with that, Mr. Chairman, I would yield back.

The CHAIRMAN. Let the record show the gentleman yielded back 3 minutes of time.

Thank you, Mr. Newhouse.

And I want to go ahead and get into a few more questions with you, Dr. Morris. And we are waiting on possibly another Member to get here to ask a few questions.

Obviously, there has been a lot of discussion about H.R. 1599, and I would like to know, has the USDA taken a look at the USDA-related portions of H.R. 1599, the Pompeo-Butterfield bill?

Dr. MORRIS. Yes. We have looked at the legislation. We have worked with technical assistance with the Subcommittee, absolutely.

The CHAIRMAN. All right. If the non-GE certification provisions included in the Pompeo-Butterfield bill were enacted, would that give the USDA the authority to establish a standard for non-GE food labeling programs?

Dr. MORRIS. We are familiar—as I stated, we are familiar with the legislation as introduced. Our read of the bill is aimed at providing authority to establish a standard, but certainly there are many aspects of the legislation, and we continue to analyze its impact if it is enacted in its current form. It does affect many agencies in the Department, so we are working through that.

The CHAIRMAN. All right. Under the bill, the USDA is instructed to promulgate regulations establishing a non-GE labeling program. When the agency promulgates regulations to implement such programs as they did with the National Organic Program, what kind of opportunity is typically available for the public to comment and influence the rulemaking process?

Dr. MORRIS. Again, without final legislation explicitly directing us on what to do, there are several processes that we could use. With our standard rulemaking process, we typically, we always do provide the public with multiple opportunities to comment. Again, we don't have the final legislation or our regulatory guidance at this time.

The CHAIRMAN. And we don't have the final legislation either, hopefully you can come back and we can have further discussion.

But my last question, some observers assert that because some consumers desire information concerning the use or nonuse of genetic engineering, all consumers should pay the price through mandatory labeling schemes. I know that some other Members mentioned this process with you, but it seems to me that USDA's voluntary labeling programs provide additional information to consumers about how their food was raised or produced, and they do so in a manner that adds value to the agricultural production, marketing claim.

Would you agree that the USDA's labeling programs provide value?

Dr. MORRIS. In short, yes. As we stated, these services are provided for a fee. So the private-sector is very smart, that they are making a decision that there is a value in paying for the service that we provide.

The CHAIRMAN. So you agree these labels provide useful information to consumers who actually desire it?

Dr. MORRIS. Yes.

The CHAIRMAN. Okay. Well, I have no further questions.

I will yield to the Ranking Member for any last questions or closing statement.

Ms. DELBENE. I have no further questions. I want to thank you, again, for being here and appreciate your follow-up on the earlier information from your colleague.

Dr. MORRIS. You bet.

Ms. DELBENE. Thank you.

The CHAIRMAN. Today, the Subcommittee examined the tools and capabilities of USDA's Agricultural Marketing Service to assist food producers to market their products. As we look more closely at the types of products consumers are demanding, we need to have the programs in place to ensure that the claims made on product labels are truthful and not misleading.

The farmers want and need to provide consumers with the products they desire. And as we have just heard, the Agricultural Mar-

keting Service has the tools and expertise to provide consumers with the information they want in a manner that supports interstate commerce.

We will soon consider a substitute amendment to H.R. 1599, the Safe and Accurate Food Labeling Act, which seeks to put in place the policy to make this work. That substitute is circulating in draft form and will continue to go through refinement as we near Committee consideration. Consumers are now being exposed to arbitrary and inconsistent label claims, some for non-GE products such as salt, where there is obviously no genetically engineered salt. Consumers will benefit from legislation under consideration, which would establish a national uniform and voluntary marketing approach to these label claims. The House Committee on Agriculture has a long history of involvement in developing policies to further the advancement of agricultural biotechnology. We are aware of the incredible potential this technology brings to food and fiber production. With biotechnology, the careful and precise addition of one or a few genes to a plant may make it more productive and nutritious, more tolerant to environmental stresses such as drought, and more resistant to disease and pests.

These technologies can likewise improve the efficiency and therefore, the productivity of agriculture, while at the same time, reducing detrimental effects on the environment. These and other advances have enabled us to enjoy the safest highest quality, most abundant and affordable supply of food and fiber in mankind's history. As our knowledge has increased, so has the speed and precision in which we are able to harness natural capabilities to improve the plants that we cultivate.

We just heard from the USDA that they have the capability and resources to provide the valuable oversight of these voluntary marketing claims. We know from previous hearings in this Committee as well as the Energy and Commerce Committee that we have a robust regulatory review process to ensure human, plant, and animal health as well as environmental health. We look forward to everyone's thoughtful review and constructive suggestions. And with that, I want to thank the witness for his time here today. I look forward to having you back in front of this Subcommittee to discuss this legislation further.

And with that, under the rules of the Committee, a record of today's hearing will remain open for 10 calendar days to receive additional material and supplementary written responses from the witness to any questions posed by a Member. This Subcommittee on Biotechnology, Horticulture, and Research hearing is now adjourned.

[Whereupon, at 2:16 p.m., the Subcommittee was adjourned.]

[Material submitted for inclusion in the record follows:]

SUPPLEMENTARY MATERIAL SUBMITTED BY CRAIG MORRIS, PH.D., DEPUTY ADMINISTRATOR, LIVESTOCK POULTRY AND SEED PROGRAM, AGRICULTURAL MARKETING SERVICE, U.S. DEPARTMENT OF AGRICULTURE

**Insert**

The CHAIRMAN. Thank you. Thank you. And for the record too——

Dr. MORRIS. Yes.

The CHAIRMAN.—you already oversee a program that is synonymous with non-GMO, that is organic. So can you tell us, for the record today, that if one buys an organic product, certified organic product, meets all the standards, that it does not include genetically modified seeds?

Dr. MORRIS. Now, again, I have a peer, Deputy Administrator Miles McEvoy. He is the Deputy Administrator of the National Organic Program. Let me go back with him, and we will prepare for you, for the record, a much more expansive reply.

The use of GMO seeds is prohibited with no exceptions. The USDA organic regulations at 7 CFR § 205.204 require that organic producers use organic seeds, annual seedlings, and planting stock. The regulations allow producers to utilize non-organic seeds and planting stock when equivalent organic varieties are not commercially available, however this allowance does not extend to the allowance of GMO seeds.

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SUBMITTED ARTICLE BY HON. JAMES P. MCGOVERN, A REPRESENTATIVE IN CONGRESS FROM MASSACHUSETTS

WASHINGTON POST

**Fact Checker**

***Would GMO labeling requirement cost $500 more in groceries per family a year?***

By MICHELLE YE HEE LEE
April 6, 2015


(Erich Schlegel/AP Images for *GMO Answers*)

*"Having a series of different and conflicting state and local GMO labeling mandates will increase grocery prices for consumers by hundreds of dollars per*

*year. Grocery costs for a family could increase by an average of $500 per year under GMO labeling mandates, according to a Cornell University study.*"—Coalition for Safe Affordable Food, **news release on website** (*http://coalitionforsafeaffordablefood.org/news/2015/03/25/coalition-safe-affordable-food-hails-introduction-federal-food-labeling-legislation*), March 25, 2015

There's a lot of buzz over "GMO labeling," though polls consistently have shown that consumers don't know much about it. Genetically modified organisms, also called GMO, genetically modified food, genetically engineered food, are crops whose genes are altered using biotechnical techniques. Plants are bred to have certain characteristics, such as being more resistant to herbicides or pests, or to better withstand drought. Food and food ingredients made from such crops have been in the food supply **since the 1990s** (*http://www.fda.gov/Food/FoodScienceResearch/Biotechnology/ucm346030.htm*).

A huge portion of commonly grown crops in the United States are modified this way, especially corn, soybeans and cotton. For the most part, genetically modified crops are considered safe. But the debate is over whether food products should be required to be labeled as genetically modified.

Last year, Vermont became the first state to require food makers to label products that include GMOs. The requirement goes into effect in July 2016. There are efforts in more than 20 states to require GMO labels. The debate is picking up steam on a national level as Congress debates a bill that would trump states' decisions to mandate GMO labeling.

The Coalition for Safe Affordable Food is one of the bill's proponents, which include many food industry groups, who want to see a voluntary labeling system.

Would mandating GMO labels really cost an additional $500 per year for a family of four?

*The Facts*

**A bipartisan bill,** (*http://www.washingtonpost.com/blogs/wonkblog/wp/2015/03/25/is-your-food-genetically-modified-if-congress-moves-on-this-you-may-never-know/*) proposed by Reps. Mike Pompeo (R-Kan.) and G.K. Butterfield (D-N.C.), would block states from requiring GMO labeling. Instead, it would set up a voluntary labeling program that would certify foods that do not contain GMOs.

Those who want labeling say they want a nonjudgmental, back-of-package wording. The point, advocates say, is to allow consumers to make informed decisions, if they care about whether foods contain GMOs. Just as people look for the amount of transfats, sodium, sugar or any other ingredient they care about, consumers would be able to see that the product may contain GMO ingredients.

Both sides largely agree that simply adding the wording would not drive up consumer costs. Companies regularly update their food packaging as they come up with new designs or marketing strategies. But those who oppose mandatory labeling say the requirement would drive up costs because it would change manufacturers' and consumers' behaviors.

A study by Cornell University Professor William Lesser found that if GMO labeling is required in New York, a family of four **would pay $500 more** (*http://dyson.cornell.edu/people/profiles/docs/LabelingNY.pdf*) each year. Lesser uses consumer surveys to project the demand for products that contain, and are labeled as containing, GMO ingredients. Demand for non-GMO products will grow in part because the labeling is perceived as a warning. To remain competitive, companies then would need to create new products without GMO ingredients. Non-GMO ingredients, especially corn and soybean, tend to be more expensive.

Companies would, therefore, spend more money on ingredients and on producing, warehousing and stocking these new non-GMO products in supermarkets. The study assumes that all cost increases will be passed along to food consumers, as opposed to being absorbed by the companies or supermarkets.

Lesser said he used these assumptions because polls show that consumers would be less likely to buy consumer products labeled as containing GMO. Competition would drive companies to switch to non-GMO ingredients, he wrote to The Fact Checker.

**A December 2014 Associated Press—GfK poll** (*http://ap-gfkpoll.com/main/wp-content/uploads/2015/01/AP-GfK_Poll_December_2014_.pdf*) found 66 percent of Americans favor "requiring food manufacturers to put labels on products indicating if they contain genetically modified ingredients." Among those polled, 42 percent said knowing whether food was genetically modified was extremely or very important in judging whether it's a healthy choice, while 28 percent said it was moderately important.

An August 2014 **Pew Research survey** (*http://www.pewinternet.org/2015/01/29/public-and-scientists-views-on-science-and-society/*) found 57 percent of Ameri-

cans said it was "generally unsafe" to eat genetically modified foods, while 37 percent said it was safe. A parallel survey of scientists showed this was the single largest disagreement between scientists and the general American population; 88 percent of scientists said it was safe to eat GMO foods. Just 28 percent of the public perceived scientists had a clear understanding of the health effects of GMOs. (Hat tip to *The Washington Post* poll analyst Scott Clement for combing through the data.)

Labeling advocates say Lesser's study makes unrealistic assumptions.

There are many factors other than ingredient costs that affect retail price, according to a **study commissioned by Just Label It!** (*http://www.justlabelit.org/wp-content/uploads/2013/09/Kai-Roberston-Food-Labeling-Study-2013.pdf*) A food processor's costs fluctuate, but several factors deter companies from raising or lowering their retail or wholesale prices because of "price stickiness," the study says. That means prices tend to remain constant despite changes in supply and demand, in part because companies are not willing to risk losing long-term customers by raising prices. Plus, setting and advertising new prices is costly on its own.

Consumers Union, which supports mandatory labeling, estimates the median cost of designing and labeling a product as containing GMOs **would be just $2.30 per person per year.** (*https://consumersunion.org/wp-content/uploads/2014/09/GMO_labeling_cost_findings_Exe_Summ.pdf*) But these costs may not necessarily be passed on to consumers, they say.

A 2011 study by the USDA looked at the impact of labeling on consumer behavior and market prices in countries that mandated GMO labels. Even large warning labels on the front of packages are not guaranteed to attract consumer attention, the study says.

Evidence suggests that consumers are just as likely to overlook GMO labels as other labels, according to USDA researchers. This is in part because food labels contain a lot of information, and consumers tend to look for labels that matter to them. Even if they do look at every single piece of information on a label, they have a hard time prioritizing what matters the most.

Researchers did not find significant retail price increases resulted from labeling requirements in other countries. Advocates on both sides point to Ben & Jerry's, which switched to non-GMO products. The premium for non-GMO ingredients ranged from 5 to 20 percent, ***The Wall Street Journal*** **reported.** (*http://www.wsj.com/articles/the-gmo-fight-ripples-down-the-food-chain-1407465378*) But Ben & Jerry's planned to absorb the costs rather than pass them on to customers.

Yet it is impossible to know how many companies will act as Ben & Jerry's did, said Claire Parker, spokeswoman for the Coalition for Safe Affordable Food, which opposes mandatory labeling. Smaller companies, in particular, would not be able to do so, she said.

It is important to consider how consumer behavior would change, and supporters of mandatory labeling are downplaying the costs, according to Parker: "The validity of the (Consumers Union) study is also brought into doubt by Consumers Union's admission that they dismissed potential changes in consumer behavior. When the leaders of the movement are admitting the aim of labeling is to change consumer behavior and remove GMOs from the marketplace, I think that tells you how central consumer behavior is to the debate."

*The Pinocchio Test*

The $500 figure assumes that companies will switch to more expensive, non-genetically modified ingredients, and then pass all the incurred costs to consumers. It also assumes that all extra costs to stock, warehouse and produce new, non-genetically modified products will translate to higher prices at the cash register. It is difficult to imagine all of these assumptions will materialize for every company.

However, it also is difficult to imagine that consumers or companies will not be affected at all. Not every company may be in the position to absorb all extra costs, if they decide to switch ingredients. Given that consumers overwhelmingly want GMO labeling—even though they largely don't understand GMOs—consumers could decide not to buy products labeled as such. If the demand for such products decreases significantly, companies will have to act accordingly. Ultimately, that could result in costs trickling down to consumers—even if it's not as high as $500 per year.

It is an exaggeration to use the $500-per-family figure from the New York labeling bill in the national GMO debate. Those who oppose mandatory labeling are making the assumption that companies will switch out all GMO ingredients, produce completely new products, and then pass on all the costs of stocking, warehousing and producing those products to consumers. There may, indeed, be increased com-

petition for companies to switch to non-GMO ingredients. But there are many other factors that affect wholesale or retail prices than just the cost of ingredients.

*Three Pinocchios*

(About our rating scale (*http://www.washingtonpost.com/blogs/fact-checker/about-the-fact-checker/*))

**Update:** William Lesser, who conducted the Cornell study, provided the following response to this fact check.

April as we know brings showers, leading to May flowers. As of late though April is also bringing a host of state-based bills to require labeling of many foods containing GMO ingredients. There are many issues involved in such discussions, but those receiving special attention are 'the right to know' v. labeling costs. The polar points of the cost debate are the $2.30 annual per capita from Consumers Union and my estimate for N.Y. of $125 [**Note:** Lesser said he reduced his $500 estimate for a family of four to $125 per capital to compare to the Consumers Union estimate.], which estimate received a triple ding from The Fact Checker (*Would GMO labeling requirement cost $500 more in groceries per family a year?,* (*http://www.washingtonpost.com/blogs/fact-checker/wp/2015/04/06/would-gmo-labeling-requirement-cost-500-more-in-groceries-per-family-a-year/*) April 6).

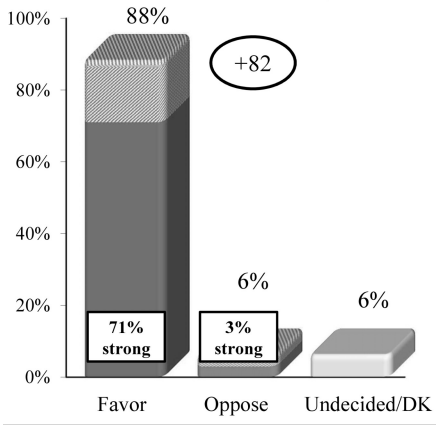
The huge distinction is not over the cost of placing a "May contain GMO ingredients" on a package, but rather what the associated costs are. Those proposing low costs, according to The Fact Checker, assume few consumers will switch to products with the more costly non-GMO ingredients and/or manufacturers will absorb the higher costs. The example given is for Ben & Jerry's which did not raise prices when it switched to non-GMO flavoring ingredients like brownies. But flavorings are only a small part of ice cream ingredient costs so, that example is not very illustrative.

For my part, I assume based on survey data that, post-labeling, products will realign to 50% labeled GMO-containing, 40% unlabeled non-GMO containing and 10% organic. Unfortunately The Fact Checker got that fact incorrect, stating my work "assumes that companies will switch out of all GMO ingredients." I did not assume that, and the difference is enormous: about 10,000–12,000 individual food items. It is true that no one really knows how consumers will respond to labeling. The Fact Checker references a USDA study which notes that consumers may ignore GMO labels as they seem to ignore many other labels. But then other food products are not stigmatized by being called "Frankenfoods," certain to cause concern among a population admittedly uninformed about GMOs.

The Fact Checker serves a highly valuable function when checking the accuracy of politicians' quotes and identifying references to data sources. Critiquing an individual study on an unfamiliar industry is though a different task which should perhaps be approached with more care.

W. LESSER,
Dyson School of Applied Economics and Management,
Cornell University.

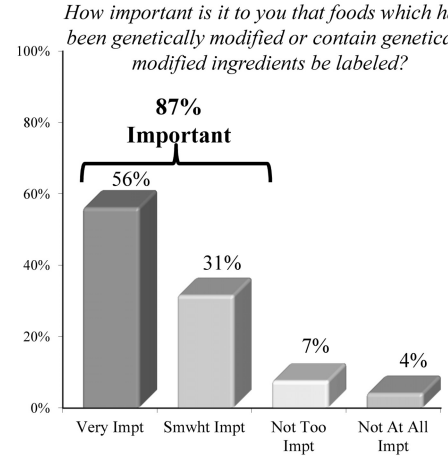
**Support For Requiring Labels On GMO Foods Is Overwhelming Across All Segments**




| By Key Group | Favor | Oppose |
|---|---|---|
| Democrat ID | 93% | 3% |
| Independent ID | 86% | 7% |
| Republican ID | 86% | 9% |
| Moms | 91% | 3% |
| Dads | 90% | 7% |
| Young Women | 85% | 8% |
| Young Men | 92% | 4% |
| Older Women | 92% | 4% |
| Older Men | 82% | 9% |
| HS or Less | 87% | 6% |
| Some College | 90% | 6% |
| College+ | 88% | 6% |
| Upper Middle | 79% | 13% |
| College Middle | 92% | 3% |
| Non-Coll Middle | 90% | 5% |
| Working/Lower | 89% | 7% |
| White | 87% | 7% |
| Black | 89% | 3% |
| Hispanic | 94% | 2% |
| Northeast | 90% | 4% |
| Midwest | 88% | 6% |
| South | 90% | 5% |
| West | 84% | 9% |
| Referendum States | 87% | 11% |
| Heard About GMOs | 87% | 8% |
| Not Heard | 90% | 3% |
| Primary Groc Shopper | 89% | 6% |

THE MELLMAN GROUP RESEARCH BASED STRATEGY 1

**Nearly Nine-In-Ten Believe Labels Are Important, and a Majority Believe They Are Very Much So**




| By Key Group | Important | Not Imp |
|---|---|---|
| Democrat ID | 90% | 9% |
| Independent ID | 85% | 12% |
| Republican ID | 85% | 13% |
| Moms | 91% | 9% |
| Dads | 88% | 12% |
| Young Women | 85% | 15% |
| Young Men | 90% | 9% |
| Older Women | 91% | 5% |
| Older Men | 79% | 19% |
| HS or Less | 87% | 12% |
| Some College | 89% | 8% |
| College+ | 86% | 13% |
| Upper Middle | 83% | 17% |
| College Middle | 88% | 12% |
| Non-Coll Middle | 87% | 9% |
| Working/Lower | 89% | 9% |
| White | 86% | 13% |
| Black | 87% | 12% |
| Hispanic | 91% | 8% |
| Northeast | 82% | 18% |
| Midwest | 85% | 10% |
| South | 92% | 7% |
| West | 86% | 14% |
| Referendum States | 87% | 12% |
| Heard About GMOs | 87% | 13% |
| Not Heard | 88% | 9% |
| Primary Groc Shopper | 87% | 12% |

Split sample

THE MELLMAN GROUP RESEARCH BASED STRATEGY 2

SUBMITTED ARTICLE BY HON. DAN NEWHOUSE, A REPRESENTATIVE IN CONGRESS FROM WASHINGTON

***Organic 101: Can GMOs Be Used in Organic Products?***

Posted by MILES MCEVOY, *National Organic Program Deputy Administrator,* on May 17, 2013 at 1:20 p.m.

*This is the thirteenth installment of the* ***Organic 101*** *(*http://blogs.usda.gov/tag/organic-101*) series that explores different aspects of the* ***USDA organic regulations*** *(*http://www.ams.usda.gov/nop*).*

The use of genetic engineering, or genetically modified organisms (GMOs), is **prohibited** (*http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&SID=3e8c8892691edb8b698bb72196aafed3&rgn=div5&view=text&node=7:3.1.1.9.32&idno=7*) in organic products. This means an organic farmer can't plant GMO seeds, an organic cow can't eat GMO alfalfa or corn, and an organic soup producer can't use any GMO ingredients. To meet the USDA organic regulations, farmers and processors must show they aren't using GMOs **and** that they are protecting their products from contact with **prohibited substances,** (*http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&SID=3e8c8892691edb8b698bb72196aafed3&rgn=div5&view=text&node=7:3.1.1.9.32&idno=7*) such as GMOs, from farm to table.

Organic operations implement preventive practices based on site-specific risk factors, such as neighboring conventional farms or shared farm equipment or processing facilities. For example, some farmers plant their seeds early or late to avoid organic and GMO crops flowering at the same time (which can cause cross-pollination). Others harvest crops prior to flowering or sign cooperative agreements with neighboring farms to avoid planting GMO crops next to organic ones. Farmers also designate the edges of their land as a buffer zone where the land is managed organically, but the crops aren't sold as organic. Any shared farm or processing equipment must be thoroughly cleaned to prevent unintended exposure to GMOs or prohibited substances.

All of these measures are documented in the organic farmer's **organic system plan** (*http://blogs.usda.gov/2012/10/10/organic-101-five-steps-to-organic-certification/*). This written plan describes the substances and practices to be used, including physical barriers to prevent contact of organic crops with prohibited substances or the products of "excluded methods" such as GMOs. On-site inspections and records verify that farmers are following their organic system plan. Additionally, certifying agents **conduct residue testing** (*http://blogs.usda.gov/2013/02/20/organic-101-strengthening-organic-integrity-through-increased-residue-testing/*) to determine if these preventive practices are adequate to avoid contact with substances such as prohibited pesticides, antibiotics, and GMOs.

Any certified organic operation found to use prohibited substances or GMOs may face enforcement actions, including loss of certification and financial penalties. However, unlike many pesticides, there aren't specific tolerance levels in the USDA organic regulations for GMOs. As such, **National Organic Program policy** (*http://www.ams.usda.gov/AMSv1.0/getfile?dDocName=STELPRDC5090396*) states that trace amounts of GMOs don't automatically mean the farm is in violation of the USDA organic regulations. In these cases, the certifying agent will investigate how the inadvertent presence occurred and recommend how it can be better prevented in the future. For example, they may require a larger buffer zone or more thorough cleaning of a shared grain mill.

USDA supports all methods of agriculture production, including organic, conventional, and biotechnology. To help these different methods coexist better, USDA has convened an **Advisory Committee on Biotechnology and 21st Century Agriculture** (*http://www.usda.gov/wps/portal/usda/usdahome?contentidonly=true&contentid=AC21Main.xml*) ("AC21"). Organic stakeholders are well-represented on AC21. Recent recommendations from the Advisory Committee are **currently being implemented** (*http://www.usda.gov/documents/usda-factsheet-ac21-final-recommendations.pdf*) by USDA agencies.

Consumers purchase organic products expecting that they maintain their organic integrity from **farm to market** (*http://blogs.usda.gov/2012/04/26/organic-101-the-lifecycle-of-organic-food-production/*), and USDA is committed to meeting these expectations. No matter where it was grown, if a product has the USDA Organic label on it, it wasn't produced with GMOs.

See more at: *http://blogs.usda.gov/2013/05/17/organic-101-can-gmos-be-used-in-organic-products/#sthash.eFzcMOFW.dpuf*

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