



United States
Department of
Agriculture

Office of the
General
Counsel

July 1, 2016

Senator Debbie Stabenow
Ranking Member
Senate Committee on Agriculture, Nutrition, and Forestry
328 Russell Senate Office Building
Washington, DC 20510

Dear Senator Stabenow,

Thank you for your letter of June 29, 2016, inquiring as to the scope and applicability of the GMO labeling legislation currently pending before the U.S. Senate. The United States Department of Agriculture, 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) Please explain whether the GMO Labeling Law provides authority to the USDA to require labeling of food products that contain widely used commodity crops, like corn, soybeans, sugar, and canola, which have been genetically modified, as defined by Section 291(1)?

Section 291(1) of the Senate bill provides authority to include food in the national disclosure program, including all of the commercially grown GMO corn, soybeans, sugar, and canola crops used in food today and reviewed and approved by USDA's Biotechnology Regulatory Service.

- 2) Please explain whether the GMO Labeling Law provides authority to the USDA to require labeling of food products that contain genetically modified material, which result from gene editing techniques?

Section 291(1) of the Senate bill provides authority to include food in the national disclosure program, including products of certain gene editing techniques. This would include novel gene editing techniques such as CRISPR when they are used to produce plants or seeds with traits that could not be created with conventional breeding techniques. In addition, the definition provides authority to include RNAi techniques that have been used on products such as the non-browning apple and potato.

- 3) Please explain whether the GMO Labeling Law provides authority to the USDA to require labeling of food products, which may or may not contain highly refined oils, sugars, or high fructose corn syrup that have been produced or developed from genetic modification techniques, as defined by Section 291(1)?

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Section 291(1) of the Senate bill provides authority to include food in the national disclosure program, including products which may or may not contain highly refined oils, sugars, or high fructose corn syrup that have been produced or developed from genetic modification techniques. As a practical matter of implementation, the Department would look not only at the definition in Section 291(1) regarding the genetically modified crops used to produce the refined or extracted materials, but also consider authority provided under Section 293(b)(2)(B) and Section 293(b)(2)(C) with respect to the amount of a bioengineered substance present and other factors and considerations which might deem the product to be considered bioengineered food.

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 reach out.

Sincerely,



Jeffrey M. Prieto
General Counsel