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(Original Signature of Member)

114TH CONGRESS
1ST SESSION

H. R. _____

To amend the Federal Food, Drug, and Cosmetic Act with respect to food produced from, containing, or consisting of a bioengineered organism, the labeling of natural foods, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. POMPEO introduced the following bill; which was referred to the Committee on _____

A BILL

To amend the Federal Food, Drug, and Cosmetic Act with respect to food produced from, containing, or consisting of a bioengineered organism, the labeling of natural foods, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Safe and Accurate
5 Food Labeling Act of 2015”.

6 **SEC. 2. TABLE OF CONTENTS.**

7 The table of contents of this Act is as follows:

- Sec. 1. Short title.
- Sec. 2. Table of contents.
- Sec. 3. Ensuring safety of food supply.

TITLE I—FOOD PRODUCED FROM, CONTAINING, OR CONSISTING
OF A BIOENGINEERED ORGANISM

- Sec. 101. Definitions.
- Sec. 102. Mandatory premarket biotechnology notification program.
- Sec. 103. Labeling of whether food is bioengineered.
- Sec. 104. Preemption.

TITLE II—NATURAL FOODS

- Sec. 201. Labeling of natural foods.
- Sec. 202. Regulations.
- Sec. 203. Preemption.
- Sec. 204. Effective date.

TITLE III—NON-BIOENGINEERED FOOD CERTIFICATION

- Sec. 301. Non-bioengineered food certification.
- Sec. 302. Regulations.
- Sec. 303. Preemption.

1 SEC. 3. ENSURING SAFETY OF FOOD SUPPLY.

2 Nothing in this Act (or the amendments made by this
3 Act) is intended to alter or affect the authorities or regu-
4 latory programs, policies, and procedures otherwise avail-
5 able to the Food and Drug Administration to ensure the
6 safety of the food supply under the Federal Food, Drug,
7 and Cosmetic Act (21 U.S.C. 301 et seq.).

8 **TITLE I—FOOD PRODUCED**
9 **FROM, CONTAINING, OR CON-**
10 **SISTING OF A BIOENGI-**
11 **NEERED ORGANISM**

12 **SEC. 101. DEFINITIONS.**

13 Section 201 of the Federal Food, Drug, and Cosmetic
14 Act (21 U.S.C. 321) is amended by adding at the end the
15 following:

1 “(ss) The term ‘bioengineered organism’ refers to an
2 organism if—

3 “(1) the organism is a plant (or a seed, a fruit,
4 or any other part thereof);

5 “(2) the organism contains genetic material
6 that has been modified through in vitro recombinant
7 deoxyribonucleic acid (DNA) techniques; and

8 “(3) the modification could not otherwise be ob-
9 tained using conventional breeding techniques.”.

10 **SEC. 102. MANDATORY PREMARKET BIOTECHNOLOGY NO-**
11 **TIFICATION PROGRAM.**

12 (a) **PROHIBITED ACT.**—Section 301 of the Federal
13 Food, Drug, and Cosmetic Act (21 U.S.C. 331) is amend-
14 ed by adding at the end the following:

15 “(ddd) The initial introduction or delivery for intro-
16 duction in interstate commerce of a bioengineered orga-
17 nism intended for a food use or application, unless the
18 developer of the organism has complied with the notifica-
19 tion requirements, to the extent applicable, under section
20 424.”.

21 (b) **NOTIFICATION PROGRAM.**—Chapter IV of the
22 Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341
23 et seq.) is amended by adding at the end the following:

1 **“SEC. 424. NOTIFICATION RELATING TO CERTAIN BIOENGI-**
2 **NEERED ORGANISMS.**

3 “(a) IN GENERAL.—A bioengineered organism shall
4 not be introduced or delivered for introduction into inter-
5 state commerce for a food use or application unless—

6 “(1) the use or application of the bioengineered
7 organism in food has been addressed by the devel-
8 oper of the bioengineered organism in a premarket
9 biotechnology notification, to which the Secretary
10 has responded under subsection (d)(2)(A) by stating
11 no objections; or

12 “(2)(A) food produced from, containing, or con-
13 sisting of the bioengineered organism was evaluated
14 by the Secretary pursuant to the Food and Drug
15 Administration’s voluntary consultation process for
16 foods and food products from genetically engineered
17 plants in effect prior to the date of enactment of the
18 Safe and Accurate Food Labeling Act of 2015; and

19 “(B) the Secretary informed the developer of
20 the bioengineered organism that all questions about
21 safety have been resolved.

22 “(b) EXCEPTIONS.—This section does not apply with
23 respect to the introduction or delivery for introduction into
24 interstate commerce of a bioengineered organism—

25 “(1) for the purpose of development or testing
26 conducted to generate data and information that

1 could be used in a premarket biotechnology notifica-
2 tion or other regulatory submission; or

3 “(2) solely because a processing aid or enzyme
4 produced from the bioengineered organism is in-
5 tended to be used to produce food.

6 “(c) PREMARKET BIOTECHNOLOGY NOTIFICA-
7 TION.—

8 “(1) SUBMISSION.—At least 210 days before a
9 bioengineered organism is first introduced or deliv-
10 ered for introduction into interstate commerce for a
11 food use or application, a premarket biotechnology
12 notification shall be submitted to the Secretary by
13 the developer of the bioengineered organism. Such
14 notification shall provide—

15 “(A) the basis for the notifier’s determina-
16 tion that food produced from, containing, or
17 consisting of such bioengineered organism is as
18 safe for use by humans or animals, as applica-
19 ble, as one or more comparable marketed foods
20 that are not produced from, do not contain, or
21 do not consist of such bioengineered organism;
22 and

23 “(B) whether any other Federal agency is
24 conducting or has conducted any review of the

1 bioengineered organism and the status or con-
2 clusions of any such review.

3 “(2) CONSULTATION PRIOR TO SUBMISSION.—A
4 prospective notifier may consult informally with the
5 Secretary concerning a bioengineered organism in-
6 tended for a food use or application before submit-
7 ting a premarket biotechnology notification.

8 “(d) RESPONSE TO A PREMARKET BIOTECHNOLOGY
9 NOTIFICATION.—

10 “(1) PRELIMINARY RESPONSE.—Within 30
11 days of receipt of a premarket biotechnology notifi-
12 cation, the Secretary shall—

13 “(A) inform the notifier in writing that the
14 notification is complete and has been filed; or

15 “(B) inform the notifier in writing of any
16 missing elements that prevent the Secretary
17 from filing and reviewing the notification.

18 The Secretary shall limit any request under subpara-
19 graph (B) to data or information necessary to per-
20 form the evaluation specified in paragraph (2) and
21 shall not delay informing the notifier under para-
22 graph (1)(A) for any other purpose.

23 “(2) SUBSTANTIVE RESPONSE.—Within 180
24 days of the Secretary informing the notifier under

1 paragraph (1)(A) that the premarket biotechnology
2 notification is complete, the Secretary—

3 “(A) shall respond in writing to the noti-
4 fier that the Secretary has evaluated the notifi-
5 cation and has no objections to the notifier’s
6 determination that food produced from, con-
7 taining, or consisting of the bioengineered orga-
8 nism that is the subject of the notification is as
9 safe for use by humans or animals, as applica-
10 ble, as one or more comparable marketed foods
11 that are not produced from, do not contain, or
12 do not consist of such bioengineered organism;
13 or

14 “(B) shall—

15 “(i) respond in writing to the notifier
16 that the Secretary has evaluated the notifi-
17 cation and has determined the notification
18 does not provide an adequate basis for the
19 notifier’s determination; and

20 “(ii) include in such response the Sec-
21 retary’s basis for the Secretary’s deter-
22 mination.

23 “(3) WITHDRAWAL BY NOTIFIER.—At any
24 point before receiving a written response from the
25 Secretary under subparagraph (A) or (B) of para-

1 graph (2), the notifier may withdraw a premarket
2 biotechnology notification without prejudice as to
3 any future notifications.

4 “(4) EFFECTIVE DATE.—A notification sub-
5 mitted under subsection (c) shall become effective on
6 the date that is 180 days after the Secretary in-
7 forms the notifier under paragraph (1)(A) that the
8 notification is complete, and as of such date the bio-
9 engineered organism that is the subject of the notifi-
10 cation may be introduced or delivered for introduc-
11 tion into interstate commerce, unless the Secretary
12 provides a response under paragraph (2)(B).

13 “(e) LABELING.—If the Secretary determines that
14 there is a material difference between a food produced
15 from, containing, or consisting of a bioengineered orga-
16 nism and its comparable marketed food and that disclo-
17 sure of such difference is necessary to protect health and
18 safety or to prevent the label or labeling of such food from
19 being false or misleading, the Secretary may, in a response
20 under subsection (d)(2)(A), specify labeling that would
21 adequately inform consumers of such material difference.
22 The use of bioengineering does not, by itself, constitute
23 a material difference.

24 “(f) PUBLIC DISCLOSURE.—The existence and con-
25 tents of a premarket biotechnology notification shall be

1 made available to the public as of the date the Secretary
2 issues a written response under subsection (d)(2)(A), sub-
3 ject to review by the Secretary pursuant to the provisions
4 on exemptions from disclosure under chapter 5 of title 5,
5 United States Code.

6 “(g) DEFINITIONS.—In this section:

7 “(1)(A) The term ‘comparable marketed food’
8 means, with respect to the food produced from, con-
9 taining, or consisting of a plant that is a bioengi-
10 neered organism—

11 “(i) the parental variety of the plant;

12 “(ii) another commonly consumed variety
13 of the plant; or

14 “(iii) a plant variety from which is derived
15 a commonly consumed food with properties
16 comparable to the food produced from, con-
17 taining, or consisting of the plant that is a bio-
18 engineered organism.

19 “(B) A food produced from, containing, or con-
20 sisting of a bioengineered organism may have more
21 than one comparable marketed food.

22 “(2) The term ‘notifier’ means the person who
23 submits a premarket biotechnology notification.

24 “(3) The term ‘premarket biotechnology notifi-
25 cation’—

1 “(A) means a submission to the Secretary
2 under subsection (c); and

3 “(B) includes all scientific data and other
4 information in the original submission and in
5 any amendments to the original submission.

6 “(4) The term ‘material difference’ means a dif-
7 ference that—

8 “(A) significantly alters the characteristics,
9 including the functional or compositional char-
10 acteristics, of a food, such that the common or
11 usual name no longer adequately describes the
12 food;

13 “(B) results in a significantly different nu-
14 tritional property in the food produced from,
15 containing, or consisting of the bioengineered
16 organism; or

17 “(C) results in the food containing an al-
18 lergen that consumers would not expect to be
19 present based upon the name of the food.”.

20 (c) APPLICABILITY.—The amendments made by this
21 section apply beginning on the date that is 30 days after
22 the date of enactment of this Act, irrespective of whether
23 regulations or guidance have been finalized or issued by
24 such date to carry out such amendments.

25 (d) PENDING SUBMISSIONS.—The Secretary shall—

1 (1) deem to be a premarket biotechnology noti-
2 fication under section 424 of the Federal Food,
3 Drug, and Cosmetic Act, as added by this section,
4 any submission that—

5 (A) is pending as of the date of enactment
6 of this Act; and

7 (B) is for voluntary consultation with re-
8 spect to food produced from, containing, or con-
9 sisting of a bioengineered organism (as defined
10 in section 201(ss) of the Federal Food, Drug,
11 and Cosmetic Act, as added by subsection (a));
12 and

13 (2) evaluate such notifications expeditiously.

14 (e) PREEMPTION.—Section 403A(a) of the Federal
15 Food, Drug, and Cosmetic Act (21 U.S.C. 343–2(a)) is
16 amended—

17 (1) by striking “or” at the end of paragraph
18 (4);

19 (2) by striking the period at the end of para-
20 graph (5) and inserting a comma; and

21 (3) by adding at the end the following:

22 “(6) any requirement respecting, prohibition
23 against, or restriction on, the sale, distribution, or
24 marketing of—

1 “(A) a bioengineered organism intended
2 for a food use or application, or

3 “(B) food produced from, containing, or
4 consisting of a bioengineered organism, or”.

5 (f) TECHNICAL CORRECTIONS.—Section 403A of the
6 Federal Food, Drug, and Cosmetic Act (21 U.S.C. 343–
7 1) is amended—

8 (1) by striking the section designation and enu-
9 merator and all that follows through “(a) Except”
10 and inserting the following:

11 **“SEC. 403A. STATE REQUIREMENTS.**

12 “(a) IN GENERAL.—Except”; and

13 (2) in subsection (b), by striking “(b) Upon pe-
14 tition” and inserting the following:

15 “(b) PETITIONS FOR EXEMPTIONS.—Upon petition”.

16 **SEC. 103. LABELING OF WHETHER FOOD IS BIOENGI-
17 NEERED.**

18 (a) MISBRANDING.—Section 403 of the Federal
19 Food, Drug, and Cosmetic Act (21 U.S.C. 343) is amend-
20 ed by adding at the end the following:

21 “(z) If it bears labeling (indicating that bio-
22 engineering was or was not used in the production of the
23 food) in violation of section 425.”.

24 (b) LABELING REQUIREMENTS.—Chapter IV of the
25 Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341

1 et seq.), as amended by section 102 of this Act, is further
2 amended by adding at the end the following:

3 **“SEC. 425. LABELING OF WHETHER FOOD IS BIOENGI-**
4 **NEERED.**

5 “(a) CLAIMS THAT BIOENGINEERING WAS NOT
6 USED.—

7 “(1) IN GENERAL.—If a claim in the labeling of
8 food indicates, directly or indirectly, that bio-
9 engineering was not used in the production of the
10 food, such claim shall be subject to this subsection.

11 “(2) REQUIREMENTS.—A claim described in
12 paragraph (1)—

13 “(A) may be made only if the food bearing
14 the claim is comprised of ingredients subject to
15 supply chain process controls that address—

16 “(i) the producer planting a seed de-
17 veloped by means other than through the
18 use of bioengineering;

19 “(ii) the producer keeping the crop
20 separated during growth, harvesting, stor-
21 age, and transportation; and

22 “(iii) persons in direct contact with
23 such crop or foods derived from such crop
24 during transportation, storage, or proc-
25 essing keeping the product separated from

1 foods or food ingredients derived through
2 bioengineering;

3 “(B) may be made for a food produced in
4 accordance with subparagraph (A) in which
5 food produced from, containing, or consisting of
6 a bioengineered organism is inadvertently
7 present;

8 “(C) may not suggest either expressly or
9 by implication that foods developed without the
10 use of bioengineering are safer than foods pro-
11 duced from, containing, or consisting of a bio-
12 engineered organism;

13 “(D) may be made on dairy products de-
14 rived from cows or other milk-producing ani-
15 mals, on shell eggs derived from chickens and
16 other birds, and on products consisting of or
17 derived from fish or animals (that are under
18 the jurisdiction of the Food and Drug Adminis-
19 tration) that consumed feed or a feed ingre-
20 dient, or received a drug or biological product,
21 that—

22 “(i) was developed with the use of bio-
23 engineering; and

24 “(ii) has been authorized for such use
25 by the Secretary;

1 “(E) may be made on a food produced
2 with a bioengineered processing aid or enzyme;
3 and

4 “(F) shall comply with any other require-
5 ments established by the Secretary by regula-
6 tion to ensure that the food’s labeling is not
7 false or misleading.

8 “(3) REGULATIONS.—

9 “(A) IN GENERAL.—The Secretary shall
10 promulgate regulations to carry out this sec-
11 tion. Such regulations shall specify a maximum
12 permissible level of food produced from, con-
13 taining, or consisting of a bioengineered orga-
14 nism that may be inadvertently present in food
15 bearing claims under paragraph (1).

16 “(B) SEPARATE CATEGORIES.—Such regu-
17 lations may specify different permissible levels
18 for separate categories of food.

19 “(C) CLAIMS PRIOR TO FINALIZATION OF
20 REGULATIONS.—This section does not limit the
21 ability of persons to make claims described in
22 paragraph (1) before the finalization of regula-
23 tions under this paragraph.

24 “(D) INITIAL REGULATIONS.—The Sec-
25 retary shall promulgate final regulations under

1 this paragraph not later than 24 months after
2 the date of enactment of the Safe and Accurate
3 Food Labeling Act of 2015.

4 “(b) CLAIMS THAT BIOENGINEERING WAS USED.—

5 “(1) IN GENERAL.—If a claim in the labeling of
6 food indicates, directly or indirectly, that bio-
7 engineering was used in the production of the food,
8 such claim shall be subject to this subsection.

9 “(2) REGULATIONS.—A claim described in
10 paragraph (1) may be made only in accordance with
11 regulations promulgated by the Secretary. Such reg-
12 ulations—

13 “(A) shall not require the labeling to de-
14 clare the use of bioengineering solely because
15 the food was developed with the use of bio-
16 engineering;

17 “(B) shall not allow the labeling to ex-
18 pressly or impliedly claim that food developed
19 with the use of bioengineering is safer solely be-
20 cause the food is a food developed with the use
21 of bioengineering;

22 “(C) shall allow any claims which the Sec-
23 retary deems necessary under section 424(e);
24 and

1 “(D) may contain other requirements es-
2 tablished by the Secretary to ensure that the
3 food’s labeling is not false or misleading.

4 “(3) PROHIBITION AGAINST RESTRICTING CER-
5 TAIN DISCLOSURES.—The regulations under this
6 subsection shall not prevent a person—

7 “(A) from disclosing voluntarily on the la-
8 beling of food developed with the use of bio-
9 engineering the manner in which the food has
10 been modified to express traits or characteris-
11 tics that differ from its comparable marketed
12 food (as defined in section 424); or

13 “(B) from disclosing in advertisements, on
14 the Internet, in response to consumer inquiries,
15 or on other communications, other than in the
16 labeling, that a food was developed with the use
17 of bioengineering.

18 “(c) DEFINITION.—The term ‘bioengineered orga-
19 nism’ means a bioengineered organism, as such term is
20 used in section 201(ss).”.

21 **SEC. 104. PREEMPTION.**

22 (a) IN GENERAL.—Section 403A(a) of the Federal
23 Food, Drug, and Cosmetic Act (21 U.S.C. 343–1(a)) is
24 amended by adding at the end the following:

1 “(7) any requirement for the labeling of food of
2 the type described in subsection (a)(1) or (b)(1) of
3 section 425 that is not identical to the requirement
4 of such section, or”.

5 (b) PROHIBITION AGAINST MANDATORY LABEL-
6 ING.—Section 403A of the Federal Food, Drug, and Cos-
7 metic Act (21 U.S.C. 343–1) is amended by adding at the
8 end the following:

9 “(c) PROHIBITIONS AGAINST MANDATORY LABELING
10 OF FOOD DEVELOPED USING BIOENGINEERING.—Except
11 for claims under subsection (a)(1) or (b)(1) of section 425,
12 no State or political subdivision of a State may directly
13 or indirectly establish under any authority or continue in
14 effect as to any food in interstate commerce any require-
15 ment for the labeling of a food by virtue of its having been
16 developed using bioengineering, including any require-
17 ments for claims that a food is or contains an ingredient
18 that was developed using bioengineering.”.

19 **TITLE II—NATURAL FOODS**

20 **SEC. 201. LABELING OF NATURAL FOODS.**

21 Section 403 of the Federal Food, Drug, and Cosmetic
22 Act (21 U.S.C. 343), as amended by section 103 of this
23 Act, is further amended by adding at the end the fol-
24 lowing:

1 “(aa)(1) If its labeling contains an express or implied
2 claim that the food is ‘natural’ unless the claim is made
3 in accordance with subparagraph (2).

4 “(2) A claim described in subparagraph (1) may be
5 made only if the claim uses terms that have been defined
6 by, and the food meets the requirements that have been
7 established in, regulations promulgated to carry out this
8 paragraph.

9 “(3) Notwithstanding subparagraph (2), prior to the
10 finalization of regulations to carry out this paragraph, the
11 use of any claim that a food is ‘natural’ shall be allowed
12 if consistent with the Secretary’s existing policy for such
13 claims.

14 “(4) In promulgating regulations to carry out this
15 paragraph, the Secretary shall differentiate between food
16 for human consumption and food intended for consump-
17 tion by animals other than humans.

18 “(5) For purposes of subparagraph (1), a natural
19 claim includes the use of—

20 “(A) the terms ‘natural’, ‘100% natural’, ‘natu-
21 rally grown’, ‘all natural’, and ‘made with natural
22 ingredients’; and

23 “(B) any other terms specified by the Sec-
24 retary.”.

1 **SEC. 202. REGULATIONS.**

2 (a) PROPOSED REGULATIONS.—Not later than 12
3 months after the date of enactment of this Act, the Sec-
4 retary of Health and Human Services shall issue proposed
5 regulations to implement section 403(aa) of the Federal
6 Food, Drug, and Cosmetic Act, as added by section 201
7 of this Act.

8 (b) FINAL REGULATIONS.—Not later than 24 months
9 after the date of enactment of this Act, the Secretary of
10 Health and Human Services shall issue final regulations
11 to implement such section 403(aa).

12 **SEC. 203. PREEMPTION.**

13 Section 403A(a) of the Federal Food, Drug, and Cos-
14 metic Act (21 U.S.C. 343–1(a)), as amended by section
15 104 of this Act, is further amended by adding at the end
16 the following:

17 “(8) any requirement for the labeling of food of
18 the type required by section 403(aa) that is not
19 identical to the requirement of such section.”.

20 **SEC. 204. EFFECTIVE DATE.**

21 The labeling requirements of section 403(aa) of the
22 Federal Food, Drug, and Cosmetic Act, as added by sec-
23 tion 201 of this Act, shall take effect on the effective date
24 of final regulations promulgated under section 202(b) of
25 this Act. The provisions of section 403A(a)(8) of the Fed-
26 eral Food, Drug, and Cosmetic Act, as added by section

1 203 of this Act, take effect on the date of enactment of
2 this Act.

3 **TITLE III—NON-BIOENGINEERED**
4 **FOOD CERTIFICATION**

5 **SEC. 301. NON-BIOENGINEERED FOOD CERTIFICATION.**

6 The Agricultural Marketing Act of 1946 (7 U.S.C.
7 1621 et seq.) is amended by adding at the end the fol-
8 lowing new subtitle:

9 **“Subtitle E—Non-bioengineered**
10 **Food Certification**

11 **“SEC. 291. DEFINITIONS.**

12 “In this subtitle:

13 “(1) The term ‘bioengineered organism’ refers
14 to an organism if—

15 “(A) the organism is a plant (or a seed, a
16 fruit, or any other part thereof);

17 “(B) the organism contains genetic mate-
18 rial that has been modified through in vitro re-
19 combinant deoxyribonucleic acid (DNA) tech-
20 niques; and

21 “(C) the modification could not otherwise
22 be obtained using conventional breeding tech-
23 niques.

24 “(2) The term ‘certifying agent’ means any per-
25 son (including a private entity) who is accredited by

1 the Secretary as a certifying agent for the purpose
2 of certifying an agricultural product as a product to
3 be labeled to indicate that the product is produced
4 without the use of bioengineering.

5 “(3) The term ‘comparable marketed food’
6 means with respect to an agricultural product pro-
7 duced from, containing, or consisting of a plant that
8 is a bioengineered organism—

9 “(A) the parental variety of the plant;

10 “(B) another commonly consumed variety
11 of the plant; or

12 “(C) a plant variety from which is derived
13 a commonly consumed agricultural product with
14 properties comparable to the agricultural prod-
15 uct produced from, containing, or consisting of
16 the plant that is a bioengineered organism.

17 “(4) The term ‘handle’ means to sell, process or
18 package agricultural products.

19 “(5) The term ‘producer’ means a person who
20 engages in the business of growing or producing ag-
21 ricultural products.

22 “(6) The term ‘Secretary’ means the Secretary
23 of Agriculture, acting through the Agricultural Mar-
24 keting Service.

1 **“SEC. 291A. NATIONAL NON-BIOENGINEERED FOOD CER-**
2 **TIFICATION PROGRAM.**

3 “(a) IN GENERAL.—The Secretary shall establish a
4 non-bioengineered food certification program for agricul-
5 tural products with respect to the use of bioengineering
6 in the production of such products, as provided for in this
7 subtitle. The Secretary shall establish the requirements
8 and procedures as the Secretary determines are necessary
9 to carry out such program.

10 “(b) CONSULTATION.—In developing the program
11 under subsection (a), the Secretary may consult with such
12 other parties as are necessary to develop such program.

13 “(c) CERTIFICATION.—The Secretary shall imple-
14 ment the program established under subsection (a)
15 through certifying agents. Such certifying agents may cer-
16 tify that agricultural products were produced without the
17 use of bioengineering, in accordance with this subtitle.

18 **“SEC. 291B. NATIONAL STANDARDS FOR LABELING NON-**
19 **BIOENGINEERED FOOD.**

20 “(a) IN GENERAL.—To be sold or labeled as an agri-
21 cultural product produced without the use of bio-
22 engineering—

23 “(1) the agricultural product shall—

24 “(A) be subject to supply chain process
25 controls that address—

1 “(i) the producer planting a seed de-
2 veloped by means other than through the
3 use of bioengineering;

4 “(ii) the producer keeping the crop
5 separated during growth, harvesting, stor-
6 age, and transportation; and

7 “(iii) persons in direct contact with
8 such crop or agricultural products derived
9 from such crop during transportation, stor-
10 age, or processing keeping the agricultural
11 product separated from other agricultural
12 products derived through bioengineering;
13 and

14 “(B) be produced and handled in compli-
15 ance with a non-bioengineered food plan devel-
16 oped and approved in accordance with sub-
17 section (c); and

18 “(2) the labeling of such agricultural product
19 may not suggest either expressly or by implication
20 that agricultural products developed without the use
21 of bioengineering are safer than agricultural prod-
22 ucts produced from, containing, or consisting of a
23 bioengineered organism.

1 “(b) EXCEPTIONS.—An agricultural product shall not
2 be considered as not meeting the criteria specified in sub-
3 section (a) solely because the agricultural product—

4 “(1) is derived from animals that consumed
5 feed or a feed ingredient or received a drug or bio-
6 logical product that—

7 “(A) was developed with the use of bio-
8 engineering; and

9 “(B) has been authorized for such use;

10 “(2) contains minor amounts of a bioengineered
11 organism due to the inadvertent presence of such or-
12 ganism;

13 “(3) is produced with a bioengineered proc-
14 essing aid, enzyme, or microorganism; or

15 “(4) is derived from microorganisms that con-
16 sumed a nutrient source produced from, containing,
17 or consisting of a bioengineered organism.

18 “(c) NON-BIOENGINEERED FOOD PLAN.—

19 “(1) IN GENERAL.—A producer or handler
20 seeking certification under this section shall submit
21 a non-bioengineered food plan to the certifying agent
22 and such plan shall be reviewed by the certifying
23 agent who shall determine if such plan meets the re-
24 quirements of this section.

1 “(2) CONTENTS.—A non-bioengineered food
2 plan shall contain a description of—

3 “(A) the procedures that will be followed
4 to assure compliance with this section;

5 “(B) a description of the monitoring
6 records that will be maintained; and

7 “(C) any corrective actions that will be im-
8 plemented in the event there is a deviation from
9 the plan.

10 “(3) AVAILABILITY.—The non-bioengineered
11 food plan and the records maintained under the plan
12 shall be available for review and copying by the Sec-
13 retary or a certifying agent.”.

14 **SEC. 302. REGULATIONS.**

15 Not later than [____], the Secretary of Agri-
16 culture shall issue final regulations to carry out the
17 amendments made by section 301.

18 **SEC. 303. PREEMPTION.**

19 No State or political subdivision of a State may di-
20 rectly or indirectly establish under any authority or con-
21 tinue in effect as to any agricultural product in interstate
22 commerce any requirement for the labeling of agricultural
23 products of the type described in section 291B of the Agri-
24 cultural Marketing Act of 1946, as added by section 301,
25 that is not identical to the requirement of such section.