

# National Standards for GM-Free Food Labels: A Good Idea

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The USDA and U.S. Congress are working to introduce a national certification program for GM-free food labels. It would function similarly to the existing National Organic Program. Consumers would gain from these regulations if they are introduced.

The public debate over genetically modified (GM) crops often centers on the question of whether or not food containing GM ingredients must be labeled in retail stores. This is the system in the European Union (EU), whereas in the United States labeling is voluntary under privately certified non-GM labels such as the Non-GMO Project, the Non-GMO True North, and the California Certified Organic Farmers (CCOF) “Organic is Non-GMO and More” labels shown in Figure 1.

Recently, the U.S. government has taken steps to standardize non-GM labeling across the nation with a government-backed voluntary certification system for GM-free food, similar to the existing U.S. certification system for organic foods. This legislation represents a middle ground on GM food labeling and it will benefit farmers, consumers, and the food industry.

Many of the groups who are opposed to the new government effort continue to support strict mandatory labeling, arguing that consumers have the “right to know” what they are eating and market-driven voluntary labels are inadequate. Alternatively, the main argument favoring a voluntary label is that GM ingredients pose no health risk and therefore compulsory labeling could serve as a false warning that GM food is unsafe, compared to conventional food. Mandatory labeling

could therefore push GM food out of the market. Voluntary GM-free labeling is superior to mandatory labeling because voluntary GM-free labels satisfy those consumers who are willing to pay for additional production and marketing costs. At the same time, voluntary labeling does not impose unnecessary costs on other consumers nor mislead them on the safety of certain foods.

Mandatory labeling in the EU is justified by policy makers in those member countries solely by the desire to provide informed consumer choice. It is not an issue about food safety. Ironically, in the EU, this objective has backfired as consumer choice has been reduced with mandatory labeling. GM food has disappeared from the retail shelves in the EU. Mandatory labeling had just the opposite effect of its stated goal. In previous research, we found additional evidence in Japan, another country that has adopted mandatory labeling, where it is difficult to find retail food products labeled as containing GM ingredients. Mandatory labeling also exists in Australia and New Zealand, where there is not much choice at the retail level.

In these countries, the processors and retailers have made the choice for consumers and they have decided not to sell food products with GM labels. Mandatory labeling provides food processors and retailers a choice, but it does not necessarily facilitate consumer choice. In fact, there is greater consumer choice in the United States, where there is no mandatory GM labeling.

In the United States, lawyers and food activists have sponsored numerous state-level initiatives to mandate the labeling of GM foods. Most recently, these battles were fought at the polls in California, Washington, Oregon and Colorado. National legislation requiring mandatory GM labeling has

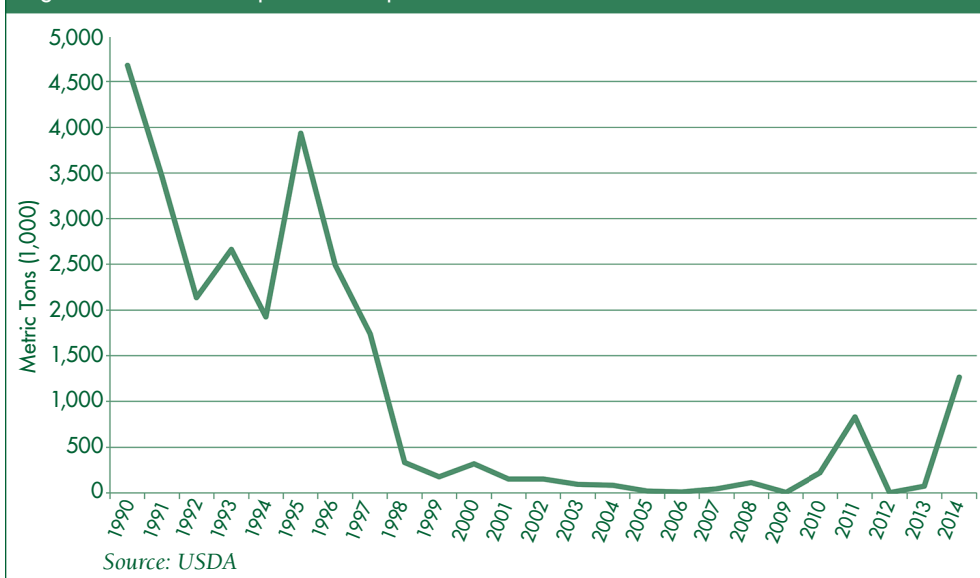
also been attempted. In 2013, Senator Barbara Boxer and Congressman Peter DeFazio introduced the “Genetically Engineered Food Right-to-Know Act” (H.R. 1699), which would have required GM labeling, but it failed. So far these efforts in numerous states to require labeling have been largely unsuccessful, with the exception of state-level regulations in Connecticut, Maine, and Vermont. Vermont’s mandatory GM labeling is scheduled to take effect in July 2016 while the labeling laws in Connecticut and Maine have no specific schedule for implementation.

In 2013, California’s Proposition 37: Mandatory Labeling of Genetically Modified Foods lost 51% to 49%. This was a contentious campaign that drew national and international attention as it brought forth strong arguments for and against mandatory labeling. The specifics of the initiative were very poorly designed and if it had passed, it would have disrupted the food market in California, which no doubt contributed to its defeat. It would have also negatively affected interstate commerce. Mandatory labeling encourages food processors to switch away from GM ingredients and avoid labels, especially for highly processed products. That might have been difficult in California and therefore, food companies would most likely have put a GM warning label on all food products as a way to avoid costly litigation. Food category choice in retail stores

Figure 1. Privately Certified Non-GMO Labels



Figure 2. U.S. Corn Exports to European Union



would have decreased if Proposition 37 had become law and any added labeling information would have been very imprecise. Proposition 37 would have also introduced a double standard for accidental GM purity in organic versus non-organic foods, favoring organic.

### The Safe and Accurate Food Labeling Act

The U.S. Department of Agriculture (USDA) and the U.S. Congress may have found a way to put an end to these piecemeal attempts to mandate something that is working well on a voluntary basis. In May 2015, the USDA announced a new voluntary national non-GM process certification program that would allow foods to carry a “USDA Process Verified” label indicating that they are free of GM ingredients at a certain tolerance level. The USDA’s Agricultural Marketing Service will verify the production process.

Recognizing the importance of the USDA labeling initiative and the merits of a voluntary labeling system, a new food labeling law is making its way through Congress. Representative Mike Pompeo sponsored H.R. 1599 and it passed 275 to 150. If it gets through the Senate, it will solidify and improve consumer choice at the food store, simplify and standardize labeling standards,

and keep foods costs down. The bill would create a federal voluntary labeling standard for GM foods and labeling requirements for “natural foods.”

“The Safe and Accurate Food Labeling Act” of 2015 (H.R. 1599) prevents and invalidates any state laws that regulate the labeling of food as GM or natural. It will now come in front of the Senate for consideration. Under H.R. 1599, USDA will create a new non-GM certification program and a new label. In some respects, this program would be similar to the USDA’s organic certification program, in place for the past 25 years. One reason the national organic program was created was to remove the confusion and market disruptions associated with state-level programs—many of which had different rules. If H.R. 1599 passes, the USDA would establish national rules for non-GM, as they have for organic food. USDA would accredit firms to verify the non-GM process and USDA would create a new non-GM seal.

### Mandatory Versus Voluntary Labeling

The United States has criticized mandatory GM labeling used by other countries as being nothing more than international trade protection from foreign competition. This is especially the case in the EU where the details

of the labeling regulations are more stringent than in places like Japan or South Korea. The EU policies regarding approval of new GM crops and food labeling have been costly for EU consumers and EU trading partners such as the United States. As shown in Figure 2, U.S. corn exports to the EU have fallen sharply since the introduction of GM corn in the 1990s.

The American Medical Association has formally opposed the mandatory labeling of GM food. The National Academy of Sciences and the World Health Organization reached similar conclusions—there is no science-based justification for mandatory labeling of GM food. Because it will be interpreted as a warning, mandatory labeling would imply a food safety risk that does not exist, and this in itself would be misleading to consumers.

Supporters of mandatory labeling argue that labeling provides consumers additional information and allows them to avoid consuming GM food. But U.S. food consumers have that choice now. They can purchase from three different food categories: 1) conventional foods (which may or may not contain GM), 2) organic foods (non-GM), or 3) voluntarily labeled non-GM food that is not necessarily organic.

In the 1990s, Vermont passed a law requiring that milk from rBST-treated cows be labeled to better provide consumers information. The Second Circuit Court of Appeals then struck down the Vermont law, ruling that labeling cannot be mandated just because some consumers are curious. The court ruled “were consumer interest alone sufficient, there is no end to the information that states could require manufacturers to disclose about their production methods”... “Instead, those consumers interested in such information should exercise the power of their purses by buying products from manufacturers who voluntarily reveal

it.” (International Dairy Foods Association v. Amestoy 92 F.3d 67 1996).

Retailers now receive a price premium for selling voluntarily labeled non-GM food. Trader Joe’s products are sourced from non-GMO ingredients. Whole Foods’ private label 365 products are certified as ‘organic’ and are therefore non-GMO, at some (unknown) tolerance level. Whole Foods is going with voluntary GMO labels by 2018. In other words, voluntary labels are working in the United States and providing consumer choice.

The U.S. Food and Drug Administration (FDA) regulates most food labels, except for meat and poultry. The FDA has draft voluntary guidelines on GM labeling that forbid ill-defined “free of” claims, but the guidelines have never been confirmed. The private labels in Figure 1 have ignored these guidelines. According to the Federal Trade Commission (FTC), even if true, any claim that an item is free of a substance may be deceptive if: (1) the item contains substances that pose the same or similar environmental risk as the substance not present; or (2) the substance has not been associated with the product category. In other words, “free-of” claims may deceive consumers by falsely suggesting that competing products contain the substance or that the marketer has improved the product by removing the substance.

### A National Standard Would Prevent Deceptive Labels

Some grocery chains sell products with deceiving GM-free labels, such as pure organic maple syrup labeled as non-GMO (see Figure 3). There is no such thing as GM maple syrup, unless the Canadians are hiding something from us. By implication, this type of GM-free label suggests that the product with the label is somehow safer or of higher quality. In other words, it is a deceptive label, in violation of FTC guidelines,

Figure 3. Do We Need a Non-GMO Label on Maple Syrup?



and something that will hopefully stop if H.R. 1599 becomes law.

### Conclusion

The U.S. government is working towards establishing a uniform and voluntary national standard for the labeling of non-GM foods, as opposed to having multiple labeling systems across states. This approach will continue to give consumers a choice at the retail level and not hand over the choice between GM and non-GM to food processors and food retailers. Voluntary labeling dominates mandatory labeling when viewed on either a cost basis or consumer-choice basis.

A new survey by The Chicago Council on Global Affairs finds that Americans do not believe GM food is a huge concern; instead they are more focused on affordability, nutrition, and food safety. The Chicago Council study underscores why a uniform policy on GM-free labels is a good idea.

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### For additional information, the author recommends:

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