



# National Bioengineered Food Disclosure Standard: FAQs

## **What is the National Bioengineered Food Disclosure Standard (NBFDS)?**

The NBFDS is a federal rule published on December 21, 2018 that requires mandatory disclosure of genetically engineered ingredients in certain foods. The rule uses a very narrow definition of “bioengineered,” which exempts many ingredients that consumers widely consider to be GMOs. For example, under the rule, a cooking oil made from GMO canola is not considered “bioengineered,” and is therefore exempt from labeling, simply because the finished product isn’t testable.

## **How is the NBFDS perceived by the public?**

Consumer groups have largely [rejected](#) the rule as insufficiently meaningful and transparent. Commonly cited concerns include the narrow definition of bioengineered food, the allowance of inaccessible disclosure methods (such as QR codes), and the use of opaque terminology.

## **Are Non-GMO Project Verified Products automatically exempt from the NBFDS?**

While Non-GMO Project Verified products are not automatically exempt, the Non-GMO Project is confident that Verified products will meet and exceed the requirements for compliance with the NBFDS. In its commentary on the final rule, Agricultural Marketing Service (AMS) states that “USDA has tried to minimize the impact the NBFDS will have on...voluntary absence claims.”

## **Will the NBFDS generate expenses for my Non-GMO Project Verified products?**

The final rule explicitly states that [Non-GMO Project participants are not expected to incur costs in association with this law](#) according to a previously conducted regulatory impact analysis. Thus, it appears that the rule has been drafted with the intention that documentation related to Non-GMO Project Product Verification will fulfill the necessary requirements to avoid disclosure.

## **How do I tell if the NBFDS applies to my products?**

Applicability rules are very complicated, especially for products that contain meat or eggs. Please review [sections B and C under Applicability](#) for full details.

**Examples of products the NBFDS applies to:** Human food, chewing gum, vitamins and supplements, some wine and beer, and enzymes.

**Examples of products the NBFDS does not apply to:** Meat, eggs, multi-ingredient food with meat or egg as the first ingredient, prepared food, pet food, animal feed, GMO-derived products without intact DNA, untestable GMOs, distilled spirits, some wine and beer, and non-food items.

## **Will products of new genetic engineering techniques such as CRISPR or TALEN require a disclosure?**

The NBFDS limits its definition of bioengineering to recombinant techniques that result in detectable modified material in the finished food. It appears unlikely that products of techniques like gene editing would be subject to disclosure under NBFDS, but the final rule is not explicitly clear.

**Is there an exemption for my small food manufacturing business?**

Very small food manufacturers, defined as those with annual receipts of less than \$2.5 million, are exempt from the NBFDS. Such manufacturers may choose to make a voluntary disclosure if desired.

**What is the penalty for failing to comply with the NBFDS?**

The NBFDS does not provide for civil penalties such as fines. If a problem is discovered during an audit, regulated entities have the opportunity to have a hearing. The AMS can publish the results of an audit after such a hearing.

**Will the Non-GMO Project help my brand demonstrate compliance to the AMS?**

Individual brands will be responsible for submitting documentation to AMS if they are audited. It appears that the law has been drafted with the intention that documentation related to Non-GMO Project Product Verification materials will fulfill the necessary requirements to avoid disclosure.

**If one of my products has a BE disclosure and another is Non-GMO Project Verified, can I advertise them together?**

This is currently permitted as long as the Non-GMO Project Verified mark is only used in association with Verified products and/or the advertisement contains a disclaimer as to which product(s) are Non-GMO Project Verified. As a reminder, all marketing materials utilizing our trademarks must be sent to our [marketing department](#) for review and approval. If the advertisement needs to be altered in any way, our marketing team will let you know.

**Can I write “Non-BE” or “Not bioengineered” on my Non-GMO Project Verified products?**

No, this type of language is not permitted on Non-GMO Project Verified products or related marketing materials. The NBFDS states “the focus of the NBFDS is on BE claims and not on absence claims.” Non-GMO Project participants do not need to make claims using the AMS' confusing language because their Verified products already communicate a higher-level commitment to GMO transparency. The Non-GMO Project Verified mark means a product is compliant with North America's most trusted and rigorous Standard for GMO avoidance—a significantly more meaningful designation than “non-BE” or similar.

**When do my products need to be in compliance with the NBFDS?**

Implementation begins January 1, 2020; some companies will choose to start using a BE disclosure at this time. Mandatory compliance takes effect on January 1, 2022. All applicable food products must bear a bioengineered disclosure by this date.

**Why should I remain in the Non-GMO Project Product Verification Program if the United States government is labeling bioengineered ingredients?**

Non-GMO Project Verified remains the most technically rigorous and the most trusted label for GMO avoidance. The USDA's law does not cover most refined ingredients, products of new genetic engineering techniques, meat products, pet food, animal feed, or personal care items. The consumers who care about true ingredient transparency will continue to look for the Non-GMO Project Verified seal.

According to Michael Hansen, Senior Scientist at Consumer Reports, “The overwhelming majority of consumers want genetically engineered food to be clearly labeled, but this rule fails to give consumers the information they deserve. Consumers can, however, rely on labels such as ‘Non-GMO Project Verified’ which will tell them if a food does not contain GMO ingredients.”

We are grateful for your commitment to providing consumers with the highest quality third-party verification for non-GMO food and products. Together, we will keep working to provide consumers with a meaningful way to know what is in their food.