“GE Food” Labels: Polls and Politics

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Genetically engineered (GE) crops are more popular than ever – at least among farmers. According to the International Service for the Acquisition of Agri-Biotech Applications, farmers in 28 countries cultivated a record 181.5 million hectares of GE crops during 2014. This represents an increase of more than six million hectares from the previous year. Once again, the United States led the pack with 73.1 million hectares, an increase of three million hectares from 2013. Some public opinion polls indicate that the increasing cultivation of GE crops parallels a rise in the American public’s distrust of food made from GE crops. Many polls focus on one aspect of this distrust: The notion that the government should establish mandatory labeling of food made from GE crops. In the United States, decisions about food labeling start with the Food and Drug Administration (FDA).

Clear Facts About GE Food Labels

The FDA ensures the safety and wholesomeness of most foods, an authority conferred by the Federal Food, Drug, and Cosmetic Act (FD&C Act). The FD&C Act authorizes the FDA to require information on a label only if the information is accurate and material.

More than two decades ago, the FDA considered if food produced from GE crops should be labeled to reveal that fact to consumers. In 1992, the FDA announced that the agency does not consider the method of development of a new plant variety to be generally material information. The FDA refused to require GE food labels. This decision reflects the FDA’s science-based approach to evaluate the safety of foods produced from new plants: Focus on the characteristics of food and its components, rather than the fact that a new method was used at some point to produce the food.

Advocates of mandatory GE food labeling promote the popular – albeit illusory – “consumers’ right to know.” Yet the FDA has stated that the FD&C Act does not provide the authority to mandate labeling based solely upon a consumer’s right to know the method of food production if the agency considers the final food product to be safe. The FDA has offered guidelines for companies to voluntarily label their food products to inform consumers that they do not use ingredients produced with biotechnology.

Murky Measures of Public Opinion

At least one poll indicates that Americans applaud FDA policy on labeling. During May 2014, the International Food Information Council Foundation announced the results of its consumer survey performed in March and April with 1,000 US participants. This poll indicated that 63 percent of Americans approve the FDA’s current voluntary policy for labeling GE foods. Only four percent named “biotech” as something they want information about on their food labels. About 70 percent said that they would be likely to buy “GE foods” that provide benefits lacking in conventional foods.

Other surveys paint a different picture of the public’s attitude about labeling. For example, an Associated Press-GfK poll revealed that 66% of Americans favor GE food labels. The survey of 1,010 US adults was performed online during early December 2014. GE food label advocates would require food manufacturers to put labels on products to indicate that they contain GE ingredients. Twenty-four percent of those surveyed said that they did not care, whereas 7% opposed labels. Although 66% voted in favor of labels, only 42% said that the presence of GE ingredients in food is extremely or very important in determining “whether a food item is a healthy choice or not.” Apparently, many people just like to have as much information as possible on their food labels.

Despite polls indicating that Americans want GE food labels, voters in recent years defeated ballot initiatives to require labeling in California, Washington, and Oregon. What do polls really say about GE food label preferences? Perhaps, very little.

Many factors can affect the results of a survey. “Respondents tend to want to please the pollster by answering in ways that they perceive are sought, even though they might not be aware of it,” says Los Angeles Times’ Karin Klein.

Klein suggests that polls also can prime respondents to answer in a certain way. This may explain why a recent Oklahoma State University survey revealed that eighty percent of respondents support mandatory labels on any food that contains DNA. The DNA question
appeared within a long list of questions about government policies regarding the safety of food. “So people who favor protective policies were in a way primed or lulled into saying yes,” Klein says, “unless they looked and questioned closely.”

Another factor that may explain the failure of GE food ballot initiatives, Klein suggests, is that respondents “didn’t think about any of the counter-arguments until there was an actual vote.” Some survey respondents support labeling even though a GE food label would not affect their decision to buy the product. They might feel differently about labeling if the survey included information about the increased cost of food under a labeling scheme.

**Vermont’s GE Food Labeling Law: Model or Muddle?**

Legislators from several states forged ahead with bills that require labels on food products that contain ingredients from GE crops. Maine and Connecticut passed GE label laws that will not take effect until neighboring states pass similar legislation. The Vermont General Assembly passed a GE label bill in 2014 that lacks a neighboring state proviso. Governor Peter Shumlin signed the bill – known as Act 120 – into law, while encouraging label advocates to support a fund to help pay legal expenses for the expected lawsuit.

The Grocery Manufacturers Association (GMA), the Snack Food Association, International Dairy Foods Association, and the National Association of Manufacturers filed a complaint at the US district court in Burlington during June 2014. Citing various Constitutional grounds for declaring Act 120 invalid, the plaintiffs asked the court to issue a permanent injunction that would prevent the defendants from enforcing or implementing any aspect of the Act.

“Vermont’s mandatory GMO labeling law,” the GMA asserted in a press release, “is a costly and misguided measure that will set the nation on a path toward a 50-state patchwork of GMO labeling policies that do nothing to advance the health and safety of consumers.”

Unless it is struck down, Act 120 will become effective on July 1, 2016. Meanwhile, Vermont attorney general William Sorrell issued proposed regulations designed to implement Act 120, and held a public meeting to discuss the rules in January 2015. The proposed regulations raised new potential problems.

In comments filed with the Vermont attorney general, the Washington Legal Foundation, a national public interest law firm and policy center, warned that the rules could create massive tort liability for food manufacturers. “Vermont’s law requiring labeling of food containing genetically modified ingredients is an unworkable ‘Frankenstatute’ that could lead to massive litigation every time food intended for shipment elsewhere accidentally finds its way into the state,” the foundation’s chief counsel stated in an issued release. “The labeling requirement is highly questionable to begin with, given the absence of any material difference between food that contains GM ingredients and food that does not. There is no reason to compound Act 120’s folly by permitting the plaintiffs’ bar to pile on.”

The problem highlighted by the Washington Legal Foundation shows the impracticality of relying on state-based laws to create a GE food labeling system. A practical system must originate from the FDA.

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**Selected Sources**


