



Animal Welfare Institute

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June 15, 2021

Dr. Melissa R. Bailey
Agricultural Marketing Service
United States Department of Agriculture
Room 2055-S
STOP 0201
1400 Independence Avenue SW
Washington, DC 20250-0201

Submitted via Regulations.gov

RE: Docket No. AMS-TM-21-0034; Supply Chains for the Production of Agricultural Commodities and Food Products; Notice; request for public comments

Dear Dr. Bailey:

The Animal Welfare Institute (AWI) submits these comments on behalf of our supporters in response to the Agricultural Marketing Service's (AMS) request for comments on docket number AMS-TM-21-0034. AWI was established in 1951 to reduce the suffering caused by humans to all animals, including those raised for meat, poultry, and egg products. In furtherance of its mission, AWI works to advance legislative and regulatory efforts to improve the conditions of animals used in agriculture while on the farm, during transport, and at slaughter.

AWI welcomes this opportunity to provide "(ix) specific policy recommendations important to transforming the food system and increasing reliance in the supply chain for the sector" as requested by AMS, specifically as they relate to "creating new market opportunities (including for value-added agriculture and value-added products), facilitating fair and competitive markets (including traceability and supply chain transparency), ... and supporting the needs of ... small to mid-sized producers and processors." We believe the recommendations provided below will not only improve the welfare of animals used in agriculture, but also help transform the food system in a way that reflects the demands of consumers and strengthens the resiliency of the food supply chain.

Creating New Market Opportunities for Value-Added Agriculture and Products

Countless consumer perception surveys demonstrate consumers are increasingly concerned with how animals raised for food are treated and the impacts the current industrial animal agriculture system has not only on animals, but the environment, communities, and workers as well.¹ These

¹ Animal Welfare Institute. "Consumer Perceptions of Farm Animal Welfare." (September, 2020) available at <https://awionline.org/sites/default/files/uploads/documents/ConsumerPerceptionsFarmWelfare.pdf>; Johns Hopkins Center for a

concerns often influence purchasing decisions, creating a market for higher welfare animal products that more closely align with consumer expectations for farm animal care and treatment. While higher welfare options are becoming more widely accessible, they remain outnumbered by meat, dairy and egg products produced on conventional concentrated animal feeding operations (CAFOs) that employ minimum, industry-level animal care practices that do not meet consumer expectations for humane farm animal care.

A significant barrier to higher welfare farming is the added costs associated with this model of production. These costs may include acquiring and maintaining large pasture acreage needed to sustain animals, providing animals higher quality feed, providing environmental enrichments, upgrading animal housing facilities, or lowering stocking densities and giving animals more space as opposed to maximizing production. To expand the current market for higher welfare products, and ease the financial burden associated with implementing more humane production practices, AWI recommends USDA create funding opportunities and financial incentives for producers to transition away from intensive, confinement-based production to pasture-based, higher welfare farming or crop production.

In addition to providing incentives and funding opportunities to cover production costs, USDA can create opportunities that allow these products to compete in the marketplace by also providing funding for producers to acquire and maintain third-party, animal welfare certifications to market their products in a way that will help consumers identify them as a more humane option. A 2016 consumer perception survey commissioned by the ASPCA found that 70% of respondents agreed that stores should carry a greater variety of animal welfare certified products, while 78% of respondents believed farm animal welfare assessments should be conducted by an independent third party or the government. Additionally, respondents reported low levels of trust in the animal agriculture industry, with only about half of respondents saying they trust the industry to treat animals well. The results of this survey demonstrate a greater level of trust in third-party animal welfare certifications and a willingness to pay more for certified products.² Funding opportunities that help producers not only offset the costs of implementing the higher welfare practices certification programs require, but also the costs of obtaining certification—such as application, audit, and inspection fees—would hopefully increase the availability of these products and labels on supermarket shelves.

Facilitating Fair and Competitive Markets

In order for the potential funding programs mentioned above to be effective in expanding the market and creating more opportunities for higher welfare products to compete in stores, the USDA must also fully address the proliferation of deceptive animal raising claims in the marketplace that the agency has failed to prevent through its label approval process.

As part of our work in helping consumers choose products that align with their personal preferences for humane treatment of farm animals, AWI regularly monitors animal raising

Livable Future. "Survey: Majority Of Voters Surveyed Support Greater Oversight Of Industrial Animal Farms." (2019) *available at* <https://clf.jhsph.edu/about-us/news/news-2019/survey-majority-voters-surveyed-support-greater-oversight-industrial-animal>

² Spain, C. Victor, et al. "Are they buying it? United States consumers' changing attitudes toward more humanely raised meat, eggs, and dairy." *Animals* 8.8 (2018): 128.

claims on product packaging by submitting public records requests for label approval files. We have also published two reports documenting our findings as they pertain to USDA's label approval process for "humane" and "sustainable" claims. AWI's analyses have consistently shown that USDA's current approval process 1) is inconsistent and lacks transparency, 2) does not meet consumer expectations, 3) leads to misleading and deceptive labeling, and 4) harms farmers who use accurate claims.³

Under the current process, the USDA relies solely on information supplied by producers when determining whether animal raising claims are accurate and should therefore be approved for use on product packaging. Claims related to animal welfare, such as "humanely raised" and "ethically raised," are routinely approved for use, despite there being no legal definitions for the terms "animal welfare" or "humane" and without on-site verification of production practices. Instead, USDA allows the use of these ambiguous claims, as long as a definition is provided on the package and regardless of whether that definition is comprehensive enough to substantiate the claim or is even relevant to the claim. This leads to inconsistency and confusion in the marketplace, as consumers are regularly confronted with these claims, while the animals used to produce the products are raised under conditions that vary drastically.

According to consumer perception surveys commissioned by AWI, a majority of consumers agree that producers should not be allowed to use the claim "humanely raised" on their product labels unless production practices exceed minimum industry animal care standards.⁴ However, due to problems with USDA's label approval process identified by AWI, it appears claims have been approved for products from animals raised under minimum industry standards, and/or claims have been approved without adequate or verifiable substantiation, making it difficult to ascertain whether the production practices used are equivalent to or exceed industry standards. AWI has identified several such problems with substantiation of "humane" claims, including: 1) overly vague affidavits; 2) outdated or expired documentation, including certifications; 3) documentation irrelevant to the claim; and 4) animal care operational protocols that are impossible to assess because they are either vague or completely redacted.

AWI has found that the USDA is not only approving animal raising claims that are potentially misleading to consumers, but some of these claims are not undergoing pre-market label approval at all. The USDA failed to provide AWI with label approval files or any sort of documentation

³ Animal Welfare Institute. "Label Confusion 2.0: How the USDA Allows Producers to Use "Humane" and "Sustainable" Claims on Meat Packages and Deceive Consumers" (September 2019) *available at* https://awionline.org/sites/default/files/publication/digital_download/19%20Label%20Confusion%20Report%20FINAL%20WEB%20II.pdf; Animal Welfare Institute. "Label Confusion: How "Humane" and "Sustainable" Claims on Meat Packages Deceive Consumers" (May 2014) *available at* <https://awionline.org/sites/default/files/uploads/documents/FA-AWI-Food-Label-Report.pdf>.

⁴ Animal Welfare Institute. "Survey of Consumer Attitudes About Chicken Welfare" (October 2020) *available at* <https://awionline.org/sites/default/files/uploads/documents/SurveyConsumerAttitudesChickenWelfare.pdf>. This perception of the claim has remained consistent for the past 10 years: *See* Animal Welfare Institute. "Survey of Consumer Attitudes About Animal Raising Claims on Food (Part II)." (Oct. 2018) (82% of meat, poultry, egg or dairy purchasers agree) *available at* <https://awionline.org/sites/default/files/uploads/documents/FA-AWI-survey-on-animal-raising-claims-Oct-2018.pdf>; Animal Welfare Institute. "Survey of Animal Raising Claims Used on Meat Packaging." (October 2013) (88% of frequent meat or poultry product purchasers agree) *available at* <https://awionline.org/sites/default/files/uploads/documents/fa-meatlabelingpoll-041714.pdf>; Animal Welfare Institute. "U.S. Poll on the Welfare of Chickens Raised for Meat." (April 2010) (77% of frequent chicken purchasers agree) *available at* <https://awionline.org/sites/default/files/uploads/legacy-uploads/documents/FA-HumanelyRaisedCagedFreeSurvey081110-1281725036-document-23248.pdf>.

for a total of 39 out of 72, or roughly 54%, of the label claims that were the subject of record requests submitted by AWI over the past several years.

Without making significant changes to its label approval process, the USDA will continue to fail in preventing deceptive and misleading animal raising claims from entering the market. This not only harms consumers who are paying a premium for what they think is a product that comes from an animal that is raised humanely, but it also puts producers who are utilizing higher welfare production practices at a disadvantage. These producers—who are often small to mid-sized, independent farmers—incur higher production costs, while some also take an additional step to assure consumers their products comply with higher standards by obtaining third-party certification. Producers making similar claims without raising their animals in a manner that aligns with consumer expectations, and who are not independently certified, are able to avoid these additional costs while still charging a premium and reaping the financial benefits of the claim.

To address many of the issues associated with the current label approval process, the USDA should update *its Labeling Guideline on Documentation Needed to Substantiate Animal Raising Claims for Label Submissions*, and only approve animal welfare claims, such as “humanely raised,” if certification has been obtained from an independent third party that has audited the farm and has standards that exceed conventional industry standards. Doing so will expand the market for higher welfare animal products, facilitate fair and competitive markets, and support the needs of smaller producers.

Supporting the Needs of Small to Mid-Sized Producers and Processors

An additional issue that is greatly impacting small- and mid-sized producers is access to slaughter. Consolidation within the meat industry over the last few decades has drastically reduced the number of federally inspected slaughterhouses, while the number of animals these plants slaughter has significantly increased. Since 1990 alone, the number of federally inspected livestock slaughter plants in the United States has decreased from 1,268⁵ to 858. In addition to becoming increasingly consolidated, slaughter facilities, particularly within the cattle industry, have become geographically concentrated in areas close to feed production, leaving many areas of the country with few options.⁶ Lack of local, federally inspected slaughter plants has been an ongoing concern for a number of years; however, the COVID-19 outbreak demonstrated just how harmful consolidation of this sector within the supply chain can be in the wake of an emergency. With the closure of dozens of slaughterhouses, small producers struggled to compete for access to slaughter capacity that was even more limited than usual. Consequently, animals quickly backed up on farms, creating an animal welfare crisis.

It is important that the USDA remain committed to investing in increased access to local slaughter capacity as part of the agency’s recently announced plan for supply chain investments

⁵ U.S. Department of Agriculture, National Agricultural Statistics Service. “Overview of the United States Slaughter Industry.” (October 27, 2019) available at <https://downloads.usda.library.cornell.edu/usda-esmis/files/b5644r52v/jd473028z/7w62fc23r/SlauOverview-10-27-2016.pdf>.

⁶ U.S. Department of Agriculture, Economic Research Service. “Consolidation in U.S. Meatpacking Industry.” (February 2000) available at https://www.ers.usda.gov/webdocs/publications/41108/18011_aer785_1_.pdf?v=0.

and the Biden Administration's Build Back Better initiative.⁷ This will not only help producers, but it also has the potential to improve animal welfare by decreasing transport times.

Additionally, as part of these investments in small- and mid-sized facilities, AWI recommends USDA strongly encourage these establishments to develop written robust systematic humane handling and slaughter plans to ensure compliance with the Humane Methods of Slaughter Act and applicable regulations. Providing funding or other resources such as guidance or technical support may also be beneficial.

Contingency Planning for Future Emergencies

The COVID-19 pandemic, which had a devastating impact on countless lives and disrupted almost every aspect of American society, also shed light on some of the glaring issues within the food system and supply chain. The livestock and poultry sectors experienced significant disruption as dozens of slaughterhouses across the country were forced to close due to infections among workers, creating a surplus of healthy, market-weight animals on farms with no place to go.⁸ Due to insufficient slaughter capacity, millions of chickens and pigs were depopulated using a number of methods including ventilation shut down plus, water-based foam, sodium nitrite, CO2 boxes, and captive bolt guns. In some cases, slaughterhouses were used to essentially euthanize animals, rather than slaughtering them for consumption purposes.⁹

Major takeaways from this crisis include: 1) the livestock and poultry sectors have not adequately prepared for national or regional emergencies that have the potential to impact the supply chain, limit slaughter capacity, or otherwise prevent animals from being moved to slaughter; 2) both producers and state and federal officials were not prepared for a non-animal health emergency that would require large-scale depopulation of animals; and 3) consolidation within the industry, particularly as it relates to slaughter capacity as mentioned in the previous section, compromises the entire supply chain.

Given that additional emergency scenarios, such as human or animal disease outbreaks are likely to occur in the future, it is critical that the USDA work with both farmers and slaughter establishments to better prepare for future emergencies that may again limit slaughter capacity and impact the supply chain. USDA should provide guidance and/or support to producers to ensure they have contingency plans in place that, at minimum, 1) identify situations that might restrict or limit the movement of animals to slaughter for a prolonged period of time, including a public health emergency, infectious disease outbreak, animal quarantine, natural disaster, or other regional or national emergency that may trigger the need for implementing a contingency plan; 2) identify alternate options for placement of the animals, such as alternate housing facilities, alternate slaughterhouses, or alternate sales markets; and 3) identify situationally appropriate methods for depopulating animals if no practicable alternative exists, including

⁷ U.S. Department of Agriculture. "USDA to Invest More Than \$4 Billion to Strengthen Food System." (June 8, 2021) available at <https://www.usda.gov/media/press-releases/2021/06/08/usda-invest-more-4-billion-strengthen-food-system>.

⁸ See van der Zee, B., T. Levitt, and E. McSweeney. "Chaotic and crazy": meat plants around the world struggle with virus outbreaks." The Guardian. (May 11, 2020) available at <https://www.theguardian.com/environment/2020/may/11/chaotic-and-crazy-meat-plants-around-the-world-struggle-with-virus-outbreaks>.

⁹ Crews, J. "Animal welfare report: The COVID curveball." Meat & Poultry. (November 18, 2020) available at <https://www.meatpoultry.com/articles/24123-animal-welfare-report-the-covid-curveball>.

necessary equipment, options for acquisition of the equipment, and a chain of command to carry out the procedures.

In addition to contingency planning, the COVID-19 outbreak demonstrated a significant need for the availability of more humane depopulation methods. It was particularly alarming to learn that in response to the pandemic-related supply chain disruptions, ventilation shutdown—a process in which the airflow in a facility is turned off and the heat is increased with the animals trapped inside, causing them to die by hyperthermia (heat stroke) or suffocation—was used to depopulate pigs in at least one documented instance. Use of such a grossly inhumane method is troubling under any circumstance; however, this instance was particularly unacceptable given that the animals were healthy, not suffering from disease, and did not pose any risk of disease transmission to humans or other animals. It is critical that the USDA work to increase the availability of more humane depopulation methods to help ensure that especially egregious methods, such as ventilation shutdown, are not utilized in the future. This may include ensuring that the National Veterinary Stockpile is fully equipped with supplies and equipment necessary to depopulate animals using the most humane methods possible, in addition to supporting research into alternative, more acceptable methods of killing animals.

Thank you for the opportunity to provide input and for consideration of our comments.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Allie Granger". The signature is written in a cursive, flowing style.

Allie Granger
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Animal Welfare Institute