

UNITED STATES DEPARTMENT OF AGRICULTURE
FOOD SAFETY AND INSPECTION SERVICES

Petition for Rulemaking

Submitted to:

FSIS Docket Clerk
Department of Agriculture
Food Safety and Inspection Service
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Petition:

To Amend Labeling Regulations under the *Federal Meat Inspection Act* and the *Poultry Products Inspection Act* to Require Third-Party Certification for the Approval of Animal Welfare and Environmental Stewardship Claims

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I. Introduction

The Animal Welfare Institute (AWI) submits this petition for rulemaking in compliance with United States Department of Agriculture (USDA) regulation 9 C.F.R. § 392 and the Administrative Procedure Act, 5 U.S.C. § 551 *et seq.* AWI respectfully requests USDA's Food Safety and Inspection Service (FSIS) to amend labeling regulations under the Federal Meat Inspection Act (FMIA) and the Poultry Products Inspection Act (PPIA) to require independent third-party certification for the approval of animal welfare and environmental stewardship claims on meat and poultry products. This action is necessary to 1) prevent the misleading and deceptive use of animal welfare and environmental stewardship claims, 2) provide for consistency and transparency in the label approval process, 3) meet consumer expectations for the label approval process, and 4) protect from financial harm those farmers making legitimate use of these value-added claims.

Animal welfare and environmental stewardship claims pertain to multiple facets of animal raising and production, as opposed to other meat and poultry labeling claims, such as "No Antibiotics Administered," "Free Range," or "Grass Fed," that typically relate to only one or two aspects of production.

The use of animal welfare claims has increased dramatically over the past decade, as consumers have become aware of and concerned about the well-being of animals raised for food.¹ Welfare claims currently appearing on products derived from animals include:

- Animal Compassionate
- Animal Friendly
- Humanely Raised
- Humanely Raised and Handled
- Humanely Raised on Family Farms
- Humanely Treated
- Raised in a Humane Environment
- Raised in a Stress Free Environment
- Raised with Care

The use of environmental stewardship claims has increased in recent years as well.

Environmental stewardship claims currently appearing on meat and/or poultry products include:

- Sustainable Agricultural Practices

¹ Eighty percent of respondents to a 2013 survey conducted by Harris Interactive for AWI agreed with the statement, "The well-being of animals raised on farms for food is important to me." *See* Exhibit 1. *See also* Exhibit 2, *Consumer Perceptions of Farm Animal Welfare and Welfare Labeling Claims.*

- Sustainable Farms
- Sustainably Farmed
- Sustainably Raised
- Sustainably Raised on Family Farms

To evaluate the approval of animal welfare and environmental claims, AWI conducted a review of the FSIS premarket label approval files for 25 claims appearing on the packaging of 19 meat and poultry products. The review revealed that FSIS is regularly approving the use of these claims with no supporting evidence whatsoever documenting the accuracy of the claims. FSIS was unable to locate any records related to 20 of the 25 animal welfare and environmental stewardship claims. For the other five claims, supporting evidence provided by FSIS consisted of as little as a one-sentence statement. Allowing the use of animal welfare and environmental stewardship claims with scant or no substantiation leads to misbranding of products, in violation of the FMIA and PPIA.

II. Interests of the Petitioner

Petitioner, AWI, is a nonprofit organization dedicated to reducing the sum total of pain and fear inflicted on animals by people. AWI aims to improve the welfare of animals used in agriculture through engagement with policymakers, scientists, industry, non-governmental organizations, farmers, veterinarians, teachers, and the public. Specifically, AWI seeks to eliminate factory farms, support high-welfare family farms, achieve humane slaughter, and improve transport conditions for all animals raised for food. AWI also works to educate consumers, government officials, and the food industry about animal production and raising claims used to market food products. The organization is headquartered in Washington D.C., and has supporters throughout the United States.

III. Requested Action

Pursuant to APA, 5 U.S.C. § 553(e), and USDA regulation 9 C.F.R. § 392, AWI respectfully requests that FSIS initiate rulemaking and promulgate regulations to amend the label approval process for animal welfare and environmental stewardship labeling claims on meat and poultry products. Petitioner specifically requests FSIS to:

- Approve animal welfare and environmental stewardship label claims only after certification has been obtained from an independent third party that has audited practices pertaining to the claim;
- Obligate third-party certifiers to publish the standards producers must comply with in order to obtain certification under the program;

- Require that all third-party standards for animal welfare and environmental stewardship claims exceed conventional meat and poultry industry standards related to the claim; and
- Not allow the Agricultural Marketing Service (AMS) to be used as a third-party certification program for animal welfare and environmental stewardship claims² unless the standards employed by AMS exceed those of the conventional industry and are published for public review and comment, or the standards employed by AMS mirror those of an established third-party certification program for animal welfare and/or environmental stewardship.

The purpose of the action requested here is to facilitate the use of informative, accurate meat and poultry label claims to ensure compliance with the FMIA and PPIA. Petitioners also make this request in order to promote a fairer market for farmers who are third-party certified and are disadvantaged by producers using holistic animal welfare and environmental label claims without providing substantiation for the claims.

IV. Legal Background

A. Federal Meat Inspection Act

Congress enacted the FMIA, in part, to ensure meat products are “properly marked, labeled and packaged.”³ The law expresses that meat products are a vital source of the nation’s food supply, and it is essential to the health and welfare of consumers in the United States to ensure that the products are wholesome and not misbranded.⁴

In order to ensure products are not misbranded, the FMIA gives authority to the Secretary of Agriculture to withhold the use of labels when they are believed to be false or misleading.⁵ If labeling is false or misleading, the product is not to be sold or offered for sale by any person or entity.⁶ Other markings or labels that are not false or misleading, and of which the Secretary

² In 2008 FSIS stated that the Agriculture Marketing Service (AMS), a division of the USDA, constitutes a third-party certification organization for purposes of approving animal raising label claims. Transcript of record, FSIS, Animal Raising Claims (Oct. 14, 2008) available at http://www.fsis.usda.gov/wps/wcm/connect/50bdbb61-f293-4e4c-90d5ac819a16ca03/Animal_Raising_Claims_101408.pdf?MOD=AJPERES.

³ 21 U.S.C. § 602.

⁴ *Id.*; see generally *Trends in Meat Consumption in the United States*, National Health Institute Public Access Manuscripts, 1, (2011) available at <http://www.ncbi.nlm.nih.gov/pmc/articles/PMC3045642/> (stating that meat and meat products are a substantial part of an average American’s diet— providing over 40 percent of daily protein intake).

⁵ 21 U.S.C. § 607.

⁶ *Id.* at (d).

approves, are permitted in commerce.⁷ The Secretary can also withhold misbranded products until the marking that makes them misleading is removed or modified.⁸

Meat products are misbranded when carcasses, parts of carcasses, meat or meat food products are labeled in a false or misleading way, or if the label implies a standard of identity the product does not conform with.⁹ According to Congress:

Unwholesome, adulterated, or misbranded meat or meat food products impair the effective regulation of meat and meat food products in interstate or foreign commerce, are injurious to the public welfare, destroy markets for wholesome, not adulterated, and properly labeled and packaged meat and meat food products, and result in sundry losses to livestock producers and processors of meat and meat food products, as well as injury to consumers. When meat products are misbranded they jeopardize the regulation of meat, damage public welfare, and unfairly destroy markets for products that are properly labeled.¹⁰

Mislabeled or deceptively packaged foods can be sold at lower prices and compete unfairly with properly labeled and packaged articles to the detriment of farmers and consumers. Congress found that products that are regulated under the FMIA are either in or affect interstate or foreign commerce, and that “regulation by the Secretary and cooperation by the States and other jurisdictions as contemplated by this chapter are appropriate to prevent and eliminate burdens upon such commerce, to effectively regulate such commerce, and to protect the health and welfare of consumers.”¹¹

B. Poultry Products Inspection Act

Similar to the FMIA, the PPIA’s goal is to ensure poultry products distributed to the public are “wholesome, not adulterated, and properly marked, labeled, and packaged.”¹² The misbranding of poultry products, such as meat products, can impair effective regulation of interstate commerce, damage or end the market for properly labeled poultry products, and harm consumers and public welfare.¹³ The statute provides authority for the USDA Secretary to withhold

⁷ *Id.*

⁸ *Id.* at (e).

⁹ 21 U.S.C. § 601(n)(1).

¹⁰ 21 U.S.C. § 602.

¹¹ *Id.*

¹² 21 U.S.C. § 451.

¹³ *Id.*

misleading labels from poultry products.¹⁴ PPIA mandates that, “no person shall...sell, transport, offer for sale... in commerce, (A) any poultry products which are capable of use as human food and are adulterated or misbranded....”¹⁵

C. FMIA and PPIA Implementing Regulations and Guidance

FSIS, the public health agency within USDA, is responsible for safeguarding the country’s marketable supply of meat, poultry, and processed egg products—ensuring that they are, “safe, wholesome, and correctly labeled and packaged.”¹⁶ Under FMIA and PPIA regulations, FSIS has the power to rescind or refuse approval of labels and marks.¹⁷ In order to be approved, companies must produce their final sketch label to FSIS unless the label is considered a “generically approved label.”¹⁸ Animal production labeling claims are not considered “generically approved” and therefore producers theoretically must submit information to FSIS for approval.¹⁹

FSIS has developed labeling guidance to protect consumers from misbranded meat, poultry, and egg products. One of these guidance documents pertains to animal production claims (including animal welfare and environmental stewardship label claims) and is titled *Animal Production Claims Outline of Current Process* (“The Guidance”).²⁰ The Guidance states that the validation process for approval of animal production claims is to: (1) evaluate labeling claims, (2) provide or deny labeling approval/return for additional supporting documentation, and (3) update and maintain files.²¹ According to The Guidance, examples of supporting documentation producers can provide include (1) affidavits and testimonials; (2) operational protocol, describing in detail the production practices employed; (3) feed formulas; and (4) certificates.²²

The Guidance attempts to further explain FSIS employees’ role in determining if a company’s testimonial evidence is sufficient to support a label claim through describing a six-step claims review process. However, no specific criteria are provided for determining whether an affidavit, testimonial, or operational protocol is adequate. The Guidance merely states, “The

¹⁴ 21 U.S.C. § 457(d).

¹⁵ 21 U.S.C. § 458.

¹⁶ *About FSIS*, FSIS, <http://www.fsis.usda.gov/wps/portal/informational/aboutfsis> (last visited Mar. 1, 2014).

¹⁷ 9 C.F.R. § 500.8(a).

¹⁸ 9 C.F.R. § 317.4(a).

¹⁹ Generic Label Approval, 78 Fed. Reg. 66827, 66829 (Nov. 7, 2013).

²⁰ FSIS, Office of Policy, Program, and Employee Development, *Animal Production Claims Outline of Current Process* <http://www.fsis.usda.gov/OPPDE/larc/Claims/RaisingClaims.pdf>.

²¹ *Id.*

²² *Id.*

documentation must support the claims.”²³ This is the only direction offered to determine if a claim is accurate. If the employee determines that the affidavit, testimonial, or protocol is lacking sufficient information to approve the claim, they may call the applicant to obtain more information.²⁴

In 2013, FSIS produced another document titled *FSIS Statement of Interim Labeling Guidance Documentation Needed to Substantiate Animal Production Claims for Label Submission* (“The Interim Guidance”) that is similar in content to The Guidance.²⁵ The Interim Guidance attempts to further explain the labeling process, but with little success. Under the section related to animal welfare and environmental stewardship claims, FSIS indicates a producer must show:

- (1) A detailed written protocol explaining controls for assuring the production claim from birth to harvest. If purchased, include protocol information from the supplier;
- (2) A signed affidavit declaring the specifics of the animal production claim(s) and that the claims are not false or misleading;
- (3) Products tracing and segregation mechanism from time of slaughter through further processing for wholesale or retail distribution;
- and (4) A protocol for the identification, control, and segregation of non-conforming animals/products.²⁶

The Interim Guidance further explains that animal welfare and environmental stewardship claims, “should be defined according to the company’s or producer’s standard and the label should clearly state for the consumer the condition under which the animal is raised or what the term means.”²⁷ According to The Interim Guidance, an example of a complying label is “Humanely Raised on Family Farms, without Confinement.”²⁸ FSIS explains that the claim “Humanely Raised on Family Farms, without Confinement” provides consumers with an explanation of how the company raised the animal.²⁹ This suggests that the concept of farm animal welfare is limited to the use or non-use of confinement methods for housing, while in fact confinement is only one among many different aspects of how the animal in question is raised.

²³ *Id.* at 2.

²⁴ *Id.*

²⁵ FSIS, *FSIS Statement of Interim Labeling Guidance Documentation Needed to Substantiate Animal Production Claims for Label Submission*.

²⁶ *Id.* at 2.

²⁷ *Id.* at 3.

²⁸ *Id.*

²⁹ *Id.*

As of the submission of this petition, The Interim Guidance has not been published on the FSIS “Claims Guidance” webpage, although The Guidance is currently available there.³⁰

D. Legal Definitions for “Humane” and “Sustainable”

Although FSIS regularly approves claims related to animal welfare, such as “Humanely Raised” and “Raised with Care,” no legal definitions exist for the terms “welfare,” “humane,” or “care.”³¹ Moreover, FSIS has never officially acknowledged that any particular set of animal care standards represents acceptable supporting evidence for the use of welfare-related claims.

Sustainability was addressed by the U.S. Congress in the 1990 Farm Bill. Under that law, “the term sustainable agriculture means an integrated system of plant and animal production practices having a site-specific application that will, over the long term:

- satisfy human food and fiber needs;
- enhance environmental quality and the natural resource base upon which the agricultural economy depends;
- make the most efficient use of nonrenewable resources and on-farm resources and integrate, where appropriate, natural biological cycles and controls;
- sustain the economic viability of farm operations; and
- enhance the quality of life for farmers and society as a whole.”³²

In 1996, U.S. Secretary of Agriculture Daniel Glickman issued a Memorandum on USDA sustainable agriculture policy. It stated:

USDA is committed to working toward the economic, environmental, and social sustainability of diverse food, fiber, agriculture, forest, and range systems. USDA will balance goals of improved production and profitability, stewardship of the natural resource base and ecological systems, and enhancement of the vitality of rural communities. USDA will integrate these goals into its policies and programs, particularly through interagency collaboration, partnerships and outreach.³³

³⁰ See *Claims Guidance*, FSIS, <http://www.fsis.usda.gov/wps/portal/fsis/topics/regulatory-compliance/labeling/Claims-Guidance> (last visited Mar. 1, 2014).

³¹ See Transcript of record, FSIS, Animal Raising Claims 44 (Oct. 14, 2008) available at http://www.fsis.usda.gov/wps/wcm/connect/50bdbb61-f293-4e4c-90d5-ac819a16ca03/Animal_Raising_Claims_101408.pdf?MOD=AJPERES.

³² 7 U.S.C. § 3103(19).

³³ USDA, Office of the Secretary, *Secretary’s Memorandum 9500-6: Sustainable Development* (Sept. 13, 1996) available at <http://www.usda.gov/oce/sustainable/Council%20Memorandum.pdf>.

According to USDA, “what specific practices meet long-term environmental, economic and social goals and constitute sustainable agriculture is still under debate.”³⁴ Consequently, FSIS has never officially acknowledged any particular set of principles and criteria as representing acceptable supporting evidence for the use of sustainability claims.³⁵ USDA notes that some groups have attempted to develop sustainability standards and/or provide certification services based on their standards, including the Food Alliance Certified program.³⁶

V. Factual Background

A. History of the Use of Animal Welfare and Environmental Stewardship Claims in Marketing Meat and Poultry Products

Approximately 9 billion animals are raised for food each year in the United States.³⁷ Most are confined to areas where they cannot express natural behaviors: birds cannot extend their wings, sows cannot easily stand up or turn around, and dairy cows are confined indoors to concrete for most of their lives.³⁸ Painful mutilations are routinely performed on animals to prevent them from harming one another in such crowded and stressful conditions.³⁹ Companies are able to maximize productivity when animals are given little space and their bodies have been genetically manipulated to grow faster.⁴⁰

In order to provide an alternative to these large-scale intensive confinement systems, groups advocating for humane livestock production have developed their own third-party, higher welfare certification programs. In 1989 AWI developed humane on-farm husbandry standards for pigs, which became the basis of the first USDA-approved animal raising label (called

³⁴ *Sustainable Agriculture: Information Access Tools*, USDA National Agricultural Library, Alternative Farming Systems Information Center, <http://www.nal.usda.gov/afsic/pubs/agnic/susag.shtml> (last modified Jul. 18, 2012).

³⁵ In Jan. 2014, McDonald’s announced its plan to begin purchasing “sustainable” beef and hopefully to eventually purchase beef exclusively from certified sustainable sources. The global fast-food chain acknowledged the transition could take time, first to define what sustainability means and, then to create principles and criteria for sustainable beef production and verifiable supply chains. J. Maday, *Now They Need a Definition*, Drovers Cattle Network (Jan. 8, 2014), <http://www.cattlenetwork.com/cattle-news/Now-they-need-a-definition-239323591.html>.

³⁶ *Sustainable Agriculture: Information Access Tools*, USDA National Agricultural Library, Alternative Farming Systems Information Center, <http://www.nal.usda.gov/afsic/pubs/agnic/susag.shtml> (last modified Jul. 18, 2012).

³⁷ In 2013, 8.6 million chickens were slaughtered for food. USDA, National Agricultural Statistics Service, *Poultry Slaughter 2013 Summary* (Feb. 2014) http://www.nass.usda.gov/Publications/Todays_Reports/reports/pslaan14.pdf.

³⁸ F. BAILEY NORWOOD & JAYSON L. LUSK, *COMPASSION BY THE POUND 100* (2011); A.F. FRASER & D.M. BROOM, *FARM ANIMAL BEHAVIOR AND WELFARE 1* (1998); BERNARD E. ROLLIN, *FARM ANIMAL WELFARE SOCIAL, BIOETHICAL AND RESEARCH ISSUES 76* (1995).

³⁹ BERNARD E. ROLLIN, *FARM ANIMAL WELFARE SOCIAL, BIOETHICAL AND RESEARCH ISSUES* at 64, 94.

⁴⁰ A.F. FRASER & D.M. BROOM, *FARM ANIMAL BEHAVIOR AND WELFARE* at 1; BERNARD E. ROLLIN *FARM ANIMAL WELFARE SOCIAL, BIOETHICAL AND RESEARCH ISSUES* at 133.

“Pastureland Farms”), placed on pork from animals raised according to AWI’s standards.⁴¹ The program was eventually revamped and expanded into the current Animal Welfare Approved high-welfare certification program.⁴² AWA was conceived “as a market-based solution to the growing consumer demand for meat, eggs and dairy products from animals treated with high welfare and managed with the environment in mind.”⁴³

Another U.S. welfare certification program—called Free Farmed—was launched in 2000 by the American Humane Association.⁴⁴ Humane Farm Animal Care launched the Certified Humane certification program a few years later. The goal of the Certified Humane program is to “improve the lives of farm animals by driving consumer demand for kinder and more responsible farm animal practices.”⁴⁵ Certification programs such as these provide consistent, verifiable animal welfare criteria that significantly exceed conventional industry standards.⁴⁶ This results in accurate product labeling that meets consumer expectations and, in turn, facilitates informed food purchasing decisions.

Today, five non-profit, third-party programs in the United States certify animal welfare claims on products derived from animals. They are American Humane Certified,⁴⁷ Animal Welfare Approved,⁴⁸ Certified Humane,⁴⁹ Food Alliance Certified,⁵⁰ and the Global Animal

⁴¹ *AWI Program to Encourage Farmers to Rear Pigs Humanely*, Animal Welfare Institute Quarterly 38 (Spring 1989) at 20.

⁴² *About*, Animal Welfare Approved, <http://www.animalwelfareapproved.org/about/> (last visited Mar. 1, 2014).

⁴³ *Id.*

⁴⁴ *Treatment of Farm Animals*, American Humane Association, <http://www.americanhumane.org/about-us/who-we-are/history/treatment-of-farm-animals.html> (last visited Mar. 1, 2014).

⁴⁵ *Overview*, Certified Humane, <http://www.certifiedhumane.org/index.php?page=overview> (last visited Mar. 1, 2014).

⁴⁶ *Standards and Forms*, Certified Humane, <http://certifiedhumane.org/index.php?page=standards> (last visited Mar. 1, 2014); *Guide to Understanding our Standards*, Animal Welfare Approved, <http://www.animalwelfareapproved.org/standards/guide/> (last visited Mar. 1, 2014).

⁴⁷ American Humane Certified is an auditing and labeling program administered by the American Humane Association, a non-profit organization. The program administers standards for beef cows, meat chickens, pigs, laying hens, veal calves, dairy cows, and turkeys. Products marketed under this label bear a seal reading “American Humane Certified.” See *Our Standards*, American Humane Certified, <http://thehumanetouch.org/our-standards> (last visited Mar. 1, 2014).

⁴⁸ The Animal Welfare Approved program is an auditing and labeling program administered by the Animal Welfare Institute, a non-profit organization. The program administers standards for family owned and operated producers of pasture-raised beef and dairy cows, meat chickens, laying hens, turkeys, pigs, goats, sheep, bison, ducks, and geese. Products marketed under this label bear a seal reading “Animal Welfare Approved.” AWA is the only third-party animal welfare certifier that doesn’t charge farmers for participating in the program. See *Standards*, Animal Welfare Approved, <http://www.animalwelfareapproved.org/standards/> (last visited Mar. 1, 2014).

⁴⁹ Certified Humane is an auditing and labeling program administered by Humane Farm Animal Care, a non-profit organization. The program administers standards for beef and dairy cattle, meat chickens, laying hens, pigs, veal calves, turkeys, sheep, and goats. Products marketed under this label bear a seal reading “Certified Humane Raised

Partnership.⁵¹ At present, a total of approximately 1 billion animals are being raised under these programs.⁵² While the programs are not in complete alignment with one another, all have addressed the demand for humanely raised products by developing standards based on the science of animal welfare and the concept of the “Five Freedoms,” originally conceived by the United Kingdom’s Farm Animal Welfare Council.⁵³ All have in common a baseline threshold for welfare that significantly exceeds the industry’s animal care guidelines.⁵⁴ These standards focus on benchmarks for welfare that have been identified by sound animal welfare science, as opposed to industry expedients, and all of the programs make their standards publicly available, allowing consumers to make informed purchasing choices.

These programs have grown significantly in the past decade, increasing the number of participating farmers and the number of animals raised under higher-welfare standards. Consumer concern for animal welfare has grown exponentially along with the success of these certification programs.⁵⁵ American consumers increasingly identify the welfare and protection of food animals as a major area of concern, both politically and as criteria for food selection.⁵⁶

and Handled.” See *Standards*, Certified Humane, <http://certifiedhumane.org/how-we-work/our-standards/> (last visited Mar. 1, 2014).

⁵⁰ Food Alliance Certified is an auditing and labeling program that focuses on sustainable agricultural practices and is administered by Food Alliance, a non-profit organization. The program administers guidelines for animal welfare as well as for conservation, fair labor, and sustainable crop production. The animal welfare standards cover beef and dairy cattle, meat chickens, bison, pigs, laying hens, sheep, and goats. Products marketed under this label bear a seal reading “Food Alliance Certified.” See *Certification Standards*, Food Alliance, <http://foodalliance.org/certification> (last visited Mar. 1, 2014).

⁵¹ The Global Animal Partnership program is an auditing and labeling program administered by Global Animal Partnership, a non-profit organization. Producers are certified according to a six-tiered scale, where a Step 5+ certification signifies that the producer has met the program’s highest standards. The program currently administers standards for beef cows, pigs, meat chickens, and turkeys. Notably, the program does not represent itself as “humane” certification program but rather as a welfare rating program. See *Our Standards*, Global Animal Partnership, <http://www.globalanimalpartnership.org/the-5-step-program/our-standards/> (last visited Mar. 1, 2014).

⁵² Approximately 950 million animals live on farms verified by American Humane Certified alone. *AHA Certification Covers Nearly 1 Billion Farm Animals*, Journal of American Veterinary Medical Association News (Oct. 16, 2013), available at <https://www.avma.org/news/javmanews/pages/131101i.aspx>.

⁵³ *Five Freedoms*, Farm Animal Welfare Council, <http://www.fawc.org.uk/freedoms.htm> (last modified Apr. 16, 2009).

⁵⁴ See Exhibit 21, *Comparison of Meat Chicken Welfare Standards under Industry and Third-Party Audit Programs*.

⁵⁵ See American Humane Association, Humane Heartland, *Farm Animal Welfare Survey*, <http://www.americanhumane.org/assets/humane-assets/humane-heartland-farm-animals-survey-results.pdf> (explaining that 89 percent of respondents were “very concerned” with farm animal welfare); Jayson L. Lusk, et al, *Consumer Perceptions for Farm Animal Welfare: Results of a Nationwide Telephone Survey* 13 (Okla. State University Working Paper Aug. 17, 2007) (explaining that 95 percent of respondents agreed with the statement, “it is important to me that animals on farms are well cared for.”).

⁵⁶ The welfare and protection of animals raised for food was seen as very or somewhat important by 79 percent of respondents to a survey managed by the Humane Research Council. Humane Research Council, *Animal Tracker – Wave 112* (2008), available at <http://www.humanersearch.org/content/animal-tracker-wave-1-june-2008>. 73 percent responded that they would support a law requiring that farm animals, including, pigs, cows, and chickens, be provided with enough space to behave naturally. *Id.* at 14.

Consumers are confused, however, about the meaning of animal welfare claims on labels,⁵⁷ the accuracy of which they are typically unable to verify for themselves.

Marketing claims related to environmental sustainability have increased as well. Currently, three programs certify environmental claims. They are USDA Certified Organic, Food Alliance Certified, and Naturally Grown Certified. Of the three, only Food Alliance looks at aspects of sustainability beyond the physical environment.⁵⁸ According to USDA's Certified Organic Production Survey, more than 27 million animals were raised under organic production in the United States in 2011.⁵⁹

Producers—both conventional and alternative—have observed the growth in humane and sustainable claims and understand the immense influence that such claims wield over food purchasing decisions. For example, in a 2010 study, 51 percent of consumers indicated that the claim “Humanely Raised” was very important or important in causing them to believe a food is ethically produced.⁶⁰ The claim ranked fourth highest among the 29 claims examined, while “Sustainably Produced” ranked 16th. Both ranked higher than the claims “Organically Produced,” “Fair Trade Certified,” “Free Range,” “Grass Fed,” and “From Small Family Farms.”⁶¹ In response to another survey that asked consumers what they wanted to know from farmers, 68 percent responded “ways they ensure animal care,” while 64 percent said “measures they take to protect the water,” and 61 percent said “how they make farming sustainable.”⁶²

The public is also willing to pay more for food that is labeled “Humanely Raised.” A 2007 survey by Public Opinion Strategies found that 58 percent of consumers would spend an additional 10 percent or more for meat, poultry, eggs, or dairy products labeled “Humanely Raised.”⁶³ This interest by the public makes humane and sustainable claims ripe for exploitation

⁵⁷ See Exhibit 2, *Consumer Perceptions of Farm Animal Welfare and Welfare Labeling Claims*.

⁵⁸ See generally Food Alliance, *Sustainability Standard for Livestock Operations* (2012) <http://foodalliance.org/livestock/FA-SS-02-%20livestock1113.pdf>.

⁵⁹ USDA, National Agricultural Statistics Service, *2011 Certified Organic Production Survey* (Oct. 2012) <http://usda01.library.cornell.edu/usda/current/OrganicProduction/OrganicProduction-10-04-2012.pdf>.

⁶⁰ Context Mktg., *Ethical Food: A Research Report on the Ethical Claims that Matter Most to Food Shoppers and How Ethical Concerns Influence Food Purchases* 5 (2010), <http://www.contextmarketing.com/sources/feb28-2010/ethicalfoodreport.pdf>.

⁶¹ *Id.*

⁶² Demeter Communications, *What “Indicator Consumers” Want to Know Most About How U.S. Foods Are Produced* 13(2010), http://demetercommunications.com/wpcontent/uploads/2011/05/FINAL.Demeter.SegemenTrak.Full_Report.June2010.pdf.

⁶³ *Frequently Asked Questions*, American Humane Certified, <http://www.humaneheartland.org/faqs> (last visited Mar. 1, 2014). Additionally, consumer surveys by the Animal Agriculture Alliance in 1993, 1998, and 2004 demonstrated that American shoppers are willing to pay more for food labeled “humanely raised.” In 2004, 31 percent of respondents were willing to pay 5 percent more and 23 percent were willing to pay 10 percent more. Animal Agric. Alliance & Nat’l Corn Growers Ass’n, *Consumer Attitudes about Animal Welfare: 2004 National Public Opinion Survey* 13(2004).

by companies attempting to lure the growing number of consumers who seek an alternative to products from factory-farming production systems.

Beginning in the mid-2000s, consumer preference for food from humanely-treated animals created a market for products with holistic animal welfare and environmental label claims such as “Humanely Raised,” “Humanely Handled,” and “Sustainably Farmed,” along with a variety of other claims.⁶⁴ In 2008, because of difficulties implementing a reliable labeling system, FSIS held a public meeting to review its policies on the approval of animal raising claims, including animal welfare.⁶⁵

In the *Federal Register* notice announcing the public meeting, FSIS recognized that its approval process doesn’t provide for consistent definitions of animal production label claims.⁶⁶

[W]hile FSIS’ approval of an animal raising claim depends on submissions that describe how the source animals were raised, animal producers and certifying entities may have different views on the specific animal production practices that qualify a product to bare a given animal raising claim on its label. Thus, the same animal raising claim may reflect different animal raising practices, depending on how an animal producer or certifying entity defines the basis for the claim.⁶⁷

At the meeting, FSIS described challenges facing the agency in regards to the regulation of animal raising claims. For example, FSIS acknowledged that agency staff do not go onto farms to ensure that label claims are aligned with on-farm practices.⁶⁸ Employees are basing the approval of animal raising claims solely on documentation submitted by the producers, such as affidavits, certifications, and operational protocol.⁶⁹ During the meeting FSIS proposed the

⁶⁴ The Kroger Co.’s Simple Truth line of products, launched in 2012, includes an unverified “humane” claim on its natural chicken. The company disclosed recently that sales of the Simple Truth line have grown at an “astonishing pace.” K. Nunes, *Kroger’s Simple Truth Simply Astonishing*, MeatPoultry.com (Mar. 7, 2014), http://www.meatpoultry.com/articles/news_home/Business/2014/03/Krogers_Simple_Truth_simply_as.aspx?ID=%7B5B0D1A89-35A3-4418-AD72-7C143D7886CB%7D.

⁶⁵ Product Labeling, 73 Fed. Reg. 60228, 60229 (Oct. 10, 2008). Environmental claims such as “sustainably farmed” were not specifically identified or discussed in the Register notice or at the meeting.

⁶⁶ *Id.*

⁶⁷ *Id.*

⁶⁸ Transcript of record, FSIS, Animal Raising Claims (Oct. 14, 2008) available at http://www.fsis.usda.gov/wps/wcm/connect/50bdbb61-f293-4e4c-90d5-ac819a16ca03/Animal_Raising_Claims_101408.pdf?MOD=AJPERES.

⁶⁹ FSIS, Office of Policy, Program, and Employee Development, Animal Production Claims Outline of Current Process <http://www.fsis.usda.gov/OPPDE/larc/Claims/RaisingClaims.pdf>.

solution of third-party certification for at least some animal production and raising claims;⁷⁰ however, FSIS has taken no publicly-noticed action since that time to implement this solution.

The lack of substantiation of animal raising label claims continues to be a problem. In fact, misleading and deceptive use of these claims has increased as more producers seek to take advantage of the market for value-added animal welfare and environmental products.

B. AWI's Review of the FSIS Label Approval Process for Animal Welfare and Environmental Stewardship Claims

Starting in 2011, AWI began monitoring use of these claims by alternative and conventional meat and poultry producers, as well as approval of the claims by FSIS. In the last three years, AWI has submitted to FSIS more than one dozen Freedom of Information Act (FOIA) requests to evaluate the agency's label approval process for animal welfare and environmental stewardship claims.⁷¹ These requests covered a total of 25 claims appearing on the labels of 19 meat and poultry products. All of the requests included the identity of the slaughtering and/or processing plant for the product in question, and most of the requests included a photo of the product label. No requests were submitted for products certified under a third-party animal welfare or environmental stewardship program.⁷²

FSIS responded that it was unable to locate any documents whatsoever related to 20 of the 25 animal welfare and environmental stewardship claims.⁷³ This suggests that FSIS did not require producers to submit any substantiation prior to issuing an approval for use of these claims on the products in question.

For the other five claims, FSIS provided very limited documentation. For example, for the label claim "Humanely Raised on Sustainable Family Farms,"⁷⁴ approved for use on turkey products produced by Diestel Turkey Ranch, FSIS provided 11 pages of documentation.⁷⁵ These documents included pictures of Diestel's product labels, safe handling instructions, recipes, one

⁷⁰ Transcript of record, FSIS, Animal Raising Claims 17, 27 (Oct. 14, 2008) available at http://www.fsis.usda.gov/wps/wcm/connect/50bdbb61-f293-4e4c-90d5-ac819a16ca03/Animal_Raising_Claims_101408.pdf?MOD=AJPERES.

⁷¹ See generally Exhibit 3, *Supporting Evidence for Approval of Animal Welfare and Environmental Label Claims*.

⁷² For this purpose, USDA Certified Organic was considered a third-party animal welfare or environmental stewardship program.

⁷³ See Exhibit 22, *Sample FSIS FOIA Response Letter*.

⁷⁴ For this purpose, AWI considered "Humanely Raised on Sustainable Family Farms" to be two separate claims—humanely raised and sustainable family farms.

⁷⁵ Letter from Leilani B. Hannie, FOIA Officer, FSIS, to Dena Jones, Farm Animal Program Manager, AWI, (Jan. 31, 2013) (On file with AWI).

page relating to antibiotics usage, safety procedures pertaining to Salmonella, and finally an affidavit containing just two sentences pertaining to the animal welfare claim.⁷⁶ The affidavit states: “All turkeys past the age of approximately 35 days are allowed outdoors access to range areas (range environment),” and “All our turkeys are humanely raised on our sustainable family farms.”⁷⁷ These two sentences were sufficient for FSIS label approval of the claim “Humanely Raised on Sustainable Family Farms.”

AWI received 180 pages in response to a FOIA request asking for information on the pre-market label approval process for Empire Kosher Chicken’s (“Empire”) claim, “Raised on Family Farms Using Sustainable Agricultural Practices.”⁷⁸ The evidence relating to this claim was comprised of an unsigned testimonial made by the company stating, “Empire Kosher’s poultry is raised on family farms....Our sustainable agriculture practices respect and protect our resources, just as we care for the wellbeing of our workers and animals.”⁷⁹ This exact statement is repeated several times throughout the label approval file with no further information elaborating on the claim. Another testimonial in Empire’s file states: “All producers under contract with Empire Kosher Poultry, Inc. can and are directly involved in the management of poultry produced on their farms.”⁸⁰

A third document from Empire offers five reasons it should be allowed to use the “sustainable agricultural practices” label claim: Many of its producers use manure in soil for crops; several producers use solar power, wind energy, or wood fuel for heating; Empire reduces transportation costs by increasing loads by 25 percent; Empire requires on-farm composting of litter; and all Empire animal feeds have phosphorus-reducing properties.⁸¹ While these statements may be true, and they certainly relate to certain aspects of environmental stewardship, no evidence is provided that these practices have been implemented on all farms supplying product for the Empire label.

AWI also requested pre-market approval information related to the Mid-Atlantic Country Farms (“Mid-Atlantic”) claims “Humanely Raised” and “Sustainably Farmed” on its chicken and turkey products. No documentation was received regarding use of the claims on Mid-Atlantic turkey products. As to use of the claims on its chicken products, AWI received no documentation on the “Sustainably Farmed” claim, while the documentation related to “Humanely Raised”

⁷⁶ *Id.* (containing documents received from FOIA request number 2013-00104 including affidavit from Pete Garcia, Quality Assurance Manager with Diestel Turkey, on file with AWI).

⁷⁷ *Id.*

⁷⁸ Letter from Leilani B. Hannie, FOIA Officer, FSIS, to Dena Jones, Farm Animal Program Manager, AWI (Aug. 9 2013) (on file with AWI).

⁷⁹ *Id.* (containing documents received from FOIA request number 2013-00235 including unsigned testimonial, on file with AWI).

⁸⁰ *Id.*

⁸¹ *Id.*

consisted of a one-page overview of the animal care and handling protocol of one of Mid-Atlantic's chicken farmers.⁸²

The last of the five claims for which documentation was received is “Humanely Raised on Family Farms,” which appears on chicken products sold by Allen Harim Foods (“Allen’s”). FSIS provided an animal welfare audit checklist that is based on the animal welfare guidelines of the National Chicken Council (NCC).⁸³ The NCC audit for Allen’s was accompanied by an affidavit describing the company’s animal welfare policy.⁸⁴

In October 2011, AWI submitted a challenge of Allen’s “Humanely Raised on Family Farms” claim to the National Advertising Division (NAD) of the Better Business Bureau.⁸⁵ AWI’s complaint was based on the fact that Allen’s was using a value-added animal welfare claim on products produced from animals raised under conventional industry animal care standards. In its complaint AWI compared the animal welfare standards of the National Chicken Council—cited by Allen’s as the basis of its “humane” claim—to those of several third-party animal welfare certification programs.⁸⁶ AWI also provided independent survey research demonstrating that a large majority of American consumers expect products with such a claim to have come from animals raised to a welfare standard higher than the conventional industry’s standard.⁸⁷ AWI urged NAD to recommend that Allen’s discontinue use of the misleading claim.⁸⁸

In 2012 NAD closed its inquiry into AWI’s challenge after Allen’s represented that the claim would be permanently discontinued. NAD noted that it believed removal of the claim “was necessary and appropriate.”⁸⁹ Nearly two years later, Allen’s was continuing to use the claim “Humanely Raised on Family Farms” on its chicken products.⁹⁰ In fall 2013 AWI brought this to

⁸² Letter from Leilani B. Hannie, FOIA Officer, FSIS, to Rachel Mathews, Farm Animal Policy Associate, AWI (Sept. 13, 2012) (containing documents received from FOIA request number 2012-00124, on file with AWI); see Exhibit 3.

⁸³ Letter from René Cardwell, Deputy Director, FSIS, to Lindsay Vick, Farm Animal Program Intern, AWI (Feb. 13, 2012) (containing documents received from FOIA request number 2011-00195, on file with AWI).

⁸⁴ *Id.*; see Exhibit 3.

⁸⁵ Letter from Rachel Mathews, Esq., Farm Animal Policy Associate, AWI to Andrea Levine, Director, National Advertising Division (Nov. 18, 2011) (On file with AWI).

⁸⁶ Animal Welfare Institute, *Petition to Discontinue Allen Family Farms, Inc.’s “Humanely Raised on Family Farms” Label and Promotional Materials* (Nov. 18, 2011).

⁸⁷ *Id.* at 17.

⁸⁸ *Id.* at 22.

⁸⁹ Council of the Better Business Bureau, Inc., Allen Harim Foods “Humanely Raised” chicken, case # 5447 (Apr. 4, 2012).

⁹⁰ See *Why Nature’s Sensation Chicken*, Allen Harim Foods, <http://www.allenharimllc.com/index.cfm?ref=70100>; see also Letter from Georgia Hancock, General Counsel, AWI to Andrea Levine, Director, National Advertising Division, Better Business Bureau (Sept. 5, 2013) (On file with AWI).

the attention of NAD, which is currently investigating the issue. NAD has sent a letter to Allen's requesting that it address the fact that the company has not removed the claim from its packaging.⁹¹ NAD also informed Allen's that it would bring the matter to the attention of the appropriate regulatory agency if Allen's failed to address NAD's concerns.⁹²

When compared to all other label approval files requested by AWI, FSIS provided the most information on Allen's pre-market approval request for its humanely raised claim. However, the Better Business Bureau's National Advertising Division views Allen's claim as inappropriate. Moreover, NAD would likely consider many other animal welfare and environmental stewardship claims, approved by FSIS, to also be inappropriate.

VI. Arguments Supporting the Requested Action

A. The Current Process Allows for Misleading and Deceptive Use of Claims

Misleading and deceptive advertising occurs when the production of a specific product does not meet the definition of the marketing claim(s) being used. This is fairly straightforward when the claim in question is defined, either in law or policy, as with animal raising claims such as "Grass Fed" and "No Antibiotics Administered." However, in the case of holistic animal welfare and environmental stewardship claims, such as "Humanely Raised" and "Sustainably Farmed," no government definition exists.⁹³ In these situations, FSIS must define the claims in terms of 1) production standards developed by independent issue experts and/or 2) consumer perception of the claim.

All third-party animal welfare certification programs operating in the U.S. work with domestic and international animal welfare scientists who routinely provide expertise into the drafting and revision of the programs' animal care standards.⁹⁴ These scientific advisors typically have no financial interest in the operation of the certification program. The five third-party animal welfare certification programs in the U.S. are consistent in terms of setting a baseline definition of the care required for the raising of a particular species, as illustrated in Exhibit 21's

⁹¹ Letter from Jennifer Fried, NAD attorney, to Gary Gladys, President & CEO, Allen Harim Foods. Cc Georgia Hancock, Esq., General Counsel, AWI (Sept. 27, 2013) (on file with AWI).

⁹² *Id.*

⁹³ See FSIS, Office of Policy, Program, and Employee Development, *Animal Production Claims Outline of Current Process* <http://www.fsis.usda.gov/OPPDE/larc/Claims/RaisingClaims.pdf> (explaining what is theoretically needed to show compliance with animal production claims but not defining what is needed to meet certain animal welfare claims).

⁹⁴ For example, Certified Humane standards are developed by their Humane Farm Animal Care Scientific Committee. Humane Farm Animal Care Animal Care Standards, *Chickens*, (2009) <http://certifiedhumane.org/wp-content/uploads/pdfs/Std09.Chickens.2J.pdf>.

comparison of animal welfare standards for meat chickens.⁹⁵ All U.S. third-party welfare certification programs meet at least 9 of 13 welfare standards included in the comparison, while the National Chicken Council’s animal welfare guidelines meet only 3 of the 13 standards.⁹⁶

Several public opinion surveys have shown that consumers view the marketing claim “Humanely Raised” as indicating a standard of care higher than that of the conventional animal agriculture industry.⁹⁷ The current FSIS practice of approving use of the claim under conventional industry standards is clearly inconsistent with this perception. For example, FSIS has approved use of the claim “Humanely Raised” by poultry producers that operate under the standards of the National Chicken Council and the National Turkey Federation. However, in a survey commissioned in 2010 by AWI, 65 percent of consumers who frequently shop for chicken products said they felt “housing chickens in sheds with less than one square foot of space per bird” is “totally unacceptable,” and another 18 percent viewed it as “somewhat unacceptable.”⁹⁸ Large majorities also found other conventional practices—including continuous indoor confinement, unnatural lighting, and lack of access to fresh air and sunlight—to be equally unacceptable.⁹⁹

FSIS’ approval of the claim “Raised Cage Free” on chicken meat is also misleading and deceptive, according to consumers. In another 2010 survey commissioned by AWI, 84 percent of respondents said they thought the label “Raised Cage Free” on a package of chicken means that the chickens raised for the product were raised differently than the chickens raised for packages that do not have the claim, while just 4 percent of respondents thought that “Raised Cage Free” chickens were raised the same as other chickens.¹⁰⁰

In 2010 Perdue Farms voluntarily removed the claim “Humanely Raised” from all of its Perdue-branded chicken products after AWI publicized the results of its consumer survey described above and requested that Perdue cease use of the claim.¹⁰¹ A challenge brought by AWI before the NAD on Perdue’s use of the claims “Humanely Raised” and “Raised Cage Free” was

⁹⁵ See Exhibit 21, *Comparison of Meat Chicken Welfare Standards under Industry and Third-Party Audit Programs*.

⁹⁶ *Id.*

⁹⁷ *U.S. Poll on the Welfare of Chickens Raised for Meat 3* (April 2010)

<https://awionline.org/sites/default/files/uploads/legacy-uploads/documents/FA-HumanelyRaisedCagedFreeSurvey-081110-1281725036-document-23248.pdf> (showing 77 percent of frequent chicken shoppers believed products with a “humanely raised” label meant standards were “better than typical practices.”)

⁹⁸ *Id.* at 1.

⁹⁹ *Id.*

¹⁰⁰ *Id.* at 3.

¹⁰¹ However, Perdue continued to use the claim on its Harvestland brand chicken products.

administratively closed after a class action lawsuit was filed in the state of New Jersey.¹⁰² In closing the case, NAD offered several observations, including the fact that Perdue’s participation in the USDA Process Verified Program does not deprive NAD of jurisdiction in the matter, and that while the claim “Raised Cage Free” may be expressly truthful, it implies messaging about the treatment of chickens that the advertiser is responsible for substantiating.

[T]he fact that Perdue participates in the USDA Process Verified Program and the product receives a USDA Process Verified shield does not deprive NAD of jurisdiction or, by itself, resolve the issue of whether challenged claims are substantiated. Although NAD does not review language on labels and packaging that is mandated by federal law or regulation, or is “the subject of a federal government agency consent decree or order” NAD determined that the two challenged claims did not fall under this exclusion but noted the evidence concerning the USDA program and the Perdue Farms Poultry Welfare Program, the nature of third-party audits and the standard of care and treatment of Perdue’s chickens are, of course, relevant to the issue of whether the “humane raised” claim is truthful and accurate. NAD further observed that the claim “raised cage free,” although expressly truthful, may nevertheless communicate implied messaging about the condition and/or treatment of its chickens. Advertisers are responsible for substantiating not only express claims but also implied messages reasonably conveyed by their advertising. Whether the evidence constitutes a reasonable basis to support messages communicated by the claims “humanely raised” and “raised cage free” is an appropriate issue for advertising self-regulation.¹⁰³

As noted previously, AWI has also challenged use of the claim “Humanely Raised on Family Farms” by Allen Family Foods (now Allen Harim Foods). Like Perdue, Allen’s raises chickens under conventional industry standards.¹⁰⁴ NAD closed its inquiry into the AWI challenge after Allen’s represented that the claim would be permanently discontinued from its chicken packaging.¹⁰⁵ NAD’s case report for the Allen’s challenge notes that it believed removal of the

¹⁰² NAD *Policies and Procedures* mandate that if the claim before NAD is the subject of pending litigation the NAD proceeding must close. *The Advertising Industry’s Process of Voluntary Self-Regulation*, Administered by The Council of Better Business Bureaus, 2.2(B)(i) (revised Jan. 1, 2014).

¹⁰³ Council of the Better Business Bureau, Inc., Perdue Farms Inc. “Humanely Raised” and “Raised Cage Free” 6 (2010) (On file with AWI).

¹⁰⁴ Letter from Leilani B. Hannie, FOIA Officer, FSIS, to Rachel Mathews, Farm Animal Policy Associate, AWI (Sept. 13, 2012) (containing documents received from FOIA request number 2012-00124, on file with AWI); see Exhibit 3.

¹⁰⁵ Council of the Better Business Bureau, Inc., Allen Harim Foods “Humanely Raised” chicken, case # 5447 (Apr. 4 2012).

claim “was necessary and appropriate.”¹⁰⁶ This suggests NAD felt that use of the claim could be perceived as misleading and deceptive by consumers.

B. Inconsistency and Lack of Transparency in the Current Process Contributes to Consumer Confusion

Consumer Reports defines a good label as one that meets the following five criteria:

1) meaningful, verifiable standards; 2) consistency of meaning and of the verification process; 3) transparency, including the public availability of standards; 4) independence from users of the label; and 5) opportunity for public comment.¹⁰⁷ The current FSIS label approval process fails to meet any of these requirements.

There are three distinct problems pertaining to the consistency of the current labeling system that make it difficult for FSIS to provide accurate labeling that is aligned with the PPIA and FMIA. First, producers have different standards that allow for varying definitions of label claims. Second, The Guidance only requires a subjective review by FSIS employees to determine if a claim should be approved. FSIS employees may have different views on what practices qualify as “humanely raised” or “sustainably farmed.” Lastly, producers are not given consistent requirements to guide them in submitting an application. Is a one-sentence statement acceptable or is a lengthy protocol required? What aspects of production must be included?

This inconsistency is passed on to consumers; when consumers visit grocery stores to purchase meat and poultry products and see “Humanely Raised” or “Sustainably Farmed” labels they cannot know the individual producer’s—or FSIS’—interpretation of the claim. Inconsistency leads to consumer confusion and a large discrepancy between what consumers perceive and what is reality.¹⁰⁸ During the 2008 FSIS animal raising claims meeting, FSIS explained its desire for consumers to use these label claims to help them in their purchasing decisions.¹⁰⁹ However, allowing inconsistent and unverified claims to be placed on meat and poultry products undermines this goal; it leads instead to uninformed and confused consumer.

¹⁰⁶ *Id.*

¹⁰⁷ *What Makes a Good Eco-Label?*, Consumer Reports, <http://www.greenerchoices.org/eco-labels/eco-good.cfm>.

¹⁰⁸ A prime example of consumer confusion is use of the claim “Natural.” Although FSIS’ current definition of the claim does not cover any aspects of animal raising, 60 percent of consumers responding to one recent survey said they believe an “All Natural” label means improved animal welfare. See S. Muirhead, *Deficit of Trusted Sources, Conflicting Values Cause Disconnect*, Feedstuffs.com (Aug. 5, 2013), <http://feedstuffsfoodlink.com/story-deficit-trusted-sources-conflicting-values-cause-disconnect-0-100057>. Many “humane” and “sustainable” claims are found on “natural” lines of meat and poultry.

¹⁰⁹ Transcript of record, FSIS, Animal Raising Claims 17 (Oct. 14, 2008) (Oct. 14, 2008) available at http://www.fsis.usda.gov/wps/wcm/connect/50bdbb61-f293-4e4c-90d5-ac819a16ca03/Animal_Raising_Claims_101408.pdf?MOD=AJPERES.

Transparency and accountability are essential to forging public trust in government operations. Government employees, and those they regulate, are given an incentive to act in compliance with applicable rules and regulations when conditions are put in place to ensure transparency and accountability. Meat and poultry product labels are theoretically used to help consumers make educated purchasing decisions. They are meant to allow consumers to have an active role in our economic system. If consumers do not know the meaning of label claims—and have no ability to access that information—an educated consumer base does not form and companies using misleading labels are given an unfair competitive advantage.

FSIS' current process for approving animal welfare and environmental label claims lacks transparency, both in the manner that information travels from producers to FSIS and how information travels from FSIS to consumers. USDA does not have the capacity to perform on-farm audits to determine if producers are in compliance with the claims they are requesting to place on their labels. This means label claims are only transparent to the producers themselves, who have a financial interest in promoting their products in the most marketable manner possible. Because FSIS is approving animal welfare and environmental claims without any evidence whatsoever, transparency is not simply being restricted, it is altogether lacking from the current process.

Third-party certification would help eliminate the flaws of the current label approval process. Congress established the National Organic Program, which provides third-party certification of federal organic production standards, in part to “assure consumers that organically produced products meet a consistent standard.”¹¹⁰ It is understood that allowing the claim “Organic” to be used with differing and oftentimes conflicting definitions leads to consumer confusion. As with USDA’s “Certified Organic” label, requiring third-party certification for animal welfare and environmental stewardship claims would minimize inconsistencies between what producers, FSIS, and consumers believe the claims mean.

Third-party certifiers also provide meaningful, verifiable standards. They do this by creating a definition for the label claim along with standards that detail the specific evidence required for approval under the program. They confirm compliance with the standards—first on the farm, and if appropriate, during transport and/or at slaughter. Third-party program standards are typically available online for all interested parties to review, thus providing transparency. True third-party programs are also independent of the companies they are certifying. And, finally, good third-party certification programs regularly review and revise their standards, and invite interested stakeholders, including the public, to participate in the process.

¹¹⁰ 7 U.S.C. § 6501(2).

C. The Current Process Does Not Meet Consumer Expectations

FSIS approves the claim “Humanely Raised” and its equivalent even when supporting evidence consists only of possible compliance with industry animal care standards, such as the National Chicken Council’s Animal Welfare Guidelines and Audit Checklist.¹¹¹ Claims based on industry standard are false and misleading because they imply that animals raised under the claim are treated in a more humane fashion than is typical of the industry, when in fact they are not. FSIS should only approve these label claims if producers (through independent third parties) can show they meet a standard above the industry.

A ruling by the National Advertising Division of the Better Business Bureau exemplifies why FSIS should construe animal welfare and environmental label claims to be above the conventional industry standard. Compassion Over Killing (COK), an animal advocacy group, requested NAD take action against the United Egg Producers’ *Animal Care Certified* certification program. COK contended that the claim was misleading because it, “communicate[d] a level of care and humane treatment for hens that [was] superior to the actual conditions permitted under the certification program.”¹¹² NAD agreed, stating it was reasonable for consumers to believe that these types of claims meant animals were treated with a “more humane level of care” than the industry standard.¹¹³

Public opinion surveys also show that consumers believe animal welfare label claims should represent a higher standard than the conventional industry. For example, in a survey commissioned by the American Humane Association, 95 percent of respondents indicated a belief that humanely raised labels signify better treatment of animals.¹¹⁴ In a 2013 public opinion survey commissioned by AWI, 86 percent of respondents said they believe producers should not be allowed to use the claim “Humanely Raised” on their packaging unless they exceed minimum industry animal care standards.¹¹⁵ In the same survey, 85 percent of those polled agreed the claim “Humanely Raised” meant more than providing farm animals with adequate food, water, and shelter; they thought it should also mean animals have adequate space, exercise areas, and social interaction with other animals.¹¹⁶

¹¹¹ See Letter from Leilani B. Hannie, FOIA Officer, FSIS, to Rachel Mathews, Farm Animal Policy Associate, AWI (Sept. 13, 2012) (containing documents received from FOIA request number 2012-00124, on file with AWI); see also Exhibit 3.

¹¹² Letter from Associate Director, Division of Advertising Practices, Federal Trade Commission to Al Pope, President and CEO, United Egg Producers (Sept. 30, 2005) available at http://www.ftc.gov/sites/default/files/documents/closing_letters/united-egg-producers-uep/uepstaffopinionletter.pdf.

¹¹³ *Id.*

¹¹⁴ American Humane Association, Humane Heartland, *Farm Animal Welfare Survey*, 12 <http://www.americanhumane.org/assets/humane-assets/humane-heartland-farm-animals-survey-results.pdf>.

¹¹⁵ Exhibit 1, *Consumer Perceptions of Animal Raising Claims Used on Meat Packaging*.

¹¹⁶ *Id.*

The two largest poultry producers in the United States, Tyson, Inc. and Pilgrim's Corp., both raise their chickens in accordance with NCC standards, yet neither uses animal welfare claims, such as "Humanely Raised," on their packaging. In fact, in 2011 Tyson, Inc. petitioned USDA to withdraw approval of the claim "Humanely Raised" on the packaging of its competitor, Perdue Farms, Inc.¹¹⁷ Tyson's petition explains that Perdue's label claims are misleading and that, "Perdue touts its raising practices as though they are unique from and superior to the practices of its competitors.... [C]onsumers are misled by the...[l]abels into believing that Perdue's practices are 'humane' in contrast to the supposedly 'inhumane' practices of its competitors."¹¹⁸

Consumers disagree with other aspects of FSIS' label approval process for animal welfare and environmental claims. In AWI's 2013 survey, 88 percent of consumers who frequently purchase meat or poultry products said they believe the government should require producers "to prove any claims such as 'humanely raised' or 'sustainably farmed' that they put on the their product label."¹¹⁹ And, by "prove," respondents were not referring to a brief affidavit or testimonial. Nearly 60 percent of survey respondents disagreed that a brief statement signed by the producer is acceptable proof of a claim.¹²⁰ Moreover, 87 percent of frequent purchasers of meat products said the use of claims such as "Humanely Raised" and "Sustainably Farmed" should not be allowed "unless the claims are verified by an independent third party."¹²¹

AWI's survey found that 62 percent of respondents who frequently purchase meat and poultry products do not feel confident that FSIS verifies label claims.¹²² Research conducted by AWI into FSIS' label approval process validates those consumers' concerns: FSIS in fact does not verify label claims, at least not those related to animal welfare and environmental stewardship.

D. Animal Welfare and Environmental Claims Cannot be Adequately Defined on the Label

FSIS' Interim Labeling Guidance explains that animal welfare and environmental stewardship claims, such as "Humanely Raised" and "Sustainably Farmed," can be approved if the label "clearly state[s] for the consumer the condition under which the animal is raised or what the term

¹¹⁷ Letter petition from Robert W. George, V.P. & Associate General Counsel, Tyson, Inc. to Administrators, USDA, FSIS (Mar. 18, 2011) available at http://www.fsis.usda.gov/wps/wcm/connect/0291205f-8e6e-4f23-a2a2-713708afcb16/Petition_Tyson_031811.pdf?MOD=AJPERES.

¹¹⁸ *Id.* at 4.

¹¹⁹ Exhibit 1, *Consumer Perceptions of Animal Raising Claims Used on Meat Packaging*.

¹²⁰ *Id.*

¹²¹ *Id.*

¹²² *Id.*

means...”¹²³ The Guidance offers the example, “Humanely Raised on Family Farms, without Confinement.”¹²⁴ While it may be possible to explain certain animal housing terms such as “Cage Free” or “Crate Free” on a product label, it is not at all practical to explain complex and comprehensive concepts such as animal welfare or environmental stewardship within the confines of a couple words, or even a few sentences, on the label.

“Without confinement” merely indicates that one form of housing an animal is prohibited. Even this very limited claim can be open to different interpretations, however. For example, “without confinement” could mean that the animal was not housed in an individual crate or cage, but it could also mean that the animal was not confined to a building or feedlot and was allowed access to range or pasture. As an illustration of this confusion, FSIS has approved labeling for chicken products from Crescent Foods that bear the claim, “Cage Free,” which is defined on the label as “never confined to chicken coops.”¹²⁵ But is a chicken coop a cage, or is it a barn? Merriam-Webster Dictionary online defines coop as “an enclosure with an open framework for keeping animals.”¹²⁶ This definition does not suggest a cage. By simple definition alone, the Crescent Foods’ “Cage Free” claim is misleading, yet it was approved by FSIS.

“Humanely Raised on Family Farms, without Confinement”—the example offered in The Interim Guidance of a proper label claim—fails to define “humanely raised.” Regardless of the meaning of confinement, “without confinement” refers only to the method of housing an animal, which is just one aspect of the holistic term “humanely raised.” In addition to housing, the animal care standards of third-party certification programs address many other aspects of animal welfare, including the following:

- Feed and water
- Facility design
- Floors and bedding
- Lighting
- Space allowance
- Thermal environment, air quality, and ventilation
- Environmental enrichment
- Access to range and pasture or exercise areas
- Handling methods
- Health care practices

¹²³ FSIS, *FSIS Statement of Interim Labeling Guidance Documentation Needed to Substantiate Animal Production Claims for Label Submission*.

¹²⁴ *Id.*

¹²⁵ Exhibit 8, *Crescent Foods “Humanely Treated, Cage Free” Label*.

¹²⁶ [http://www.merriam-webster.com/thesaurus/coop\[noun\]](http://www.merriam-webster.com/thesaurus/coop[noun]).

- Protection from rodents and predators
- Emergency euthanasia
- Transportation
- Slaughter

The concept of sustainability is even harder to define in a few words on a product label, because it is not an intuitively clear concept. In a study of attitudes towards sustainability claims on food products, European consumers were questioned about their concern for the following complex and diverse issues:

- The use of child labor in food production
- Deforestation of the rain forest
- Starvation and malnutrition in the world population
- The use of pesticides in food production
- Poor treatment of animals in food production
- Environmental damage caused by use of land and water
- The amount of food that is wasted
- Using too much of the world's natural resources for food production
- Poor working conditions and wages for food producers
- The amount of packaging used on products
- Packaging that is not recyclable
- Carbon emissions caused by food production
- The amount of energy used when cooking food products¹²⁷

The study found consumers have limited awareness and understanding of sustainability labels, and they link the term “sustainable” mostly to environmental issues.¹²⁸ However, the concept of sustainability can apply to many aspects of the food chain, from farming, transportation, processing, and retailing to post-purchase actions including storage, preparation, consumption, and disposal.¹²⁹ In discussing the limited understanding of sustainability claims among consumers, the study's lead author noted that credible labeling schemes “are a prerequisite for being able to turn good intentions into actions.”¹³⁰

¹²⁷ K.G. Grunert & S. Hieke, J. Wills, *Sustainability Labels on Food Products: Consumer Motivation, Understanding and Use*, 44 *Food Policy* 177-189 (Feb. 2014), <http://www.sciencedirect.com/science/article/pii/S0306919213001796>.

¹²⁸ *Id.*

¹²⁹ K.G. Grunert, *Sustainability and Responsibility in Consumer Food Choices*, Aarhus University, Denmark (Apr. 2012).

¹³⁰ *Id.*

In issuing The Interim Guidance, FSIS noted that the guidance “may be withdrawn or modified if information is received by FSIS that shows significant consumer confusion exists in this subject area.”¹³¹ The Interim Guidance clearly fails to provide a credible labeling scheme for either animal welfare or environmental claims, as described in this section and previous sections of the petition. Therefore, AWI requests that The Interim Guidance be withdrawn and rulemaking initiated to require third-party certification of all animal welfare and environmental stewardship claims.

E. FSIS Labeling Staff Lack the Expertise and Resources to Approve Animal Welfare and Environmental Claims

It is difficult for FSIS to properly evaluate animal raising protocols for labeling purposes, in part because it does not regulate food animal production.¹³² Significant problems arise from the fact that FSIS approves claims related to animal raising when its staff do not go onto farms or into slaughterhouses to witness production practices. FSIS acknowledges “[it] may not always have the relevant information needed to properly evaluate the animal raising practices described in a producer’s animal production protocol.”¹³³ Indeed, it could be argued that FSIS never has the relevant information to do so.

Lack of on-site verification is not unique to animal welfare and environmental claims; it also occurs in the approval of less comprehensive claims related to diet, living conditions, and the use of antibiotics and hormones. However, the approval of holistic claims such as those related to animal welfare and environmental sustainability are especially problematic, because, as noted previously, the claims in question address multiple aspects of production.

It is unrealistic to expect that FSIS office staff possess the expertise required to properly evaluate these claims. The complexity of assessing compliance with voluminous standards is one of the primary reasons for the existence of USDA Certified Organic and other food certification programs. Standards governing the National Organic Program run more than 25 pages in the Code of Federal Regulations.¹³⁴ The standards of animal welfare certification programs are equally complex. For examples, the meat chicken standards of the American Humane Certified

¹³¹ FSIS, *FSIS Statement of Interim Labeling Guidance Documentation Needed to Substantiate Animal Production Claims for Label Submission*.

¹³² Transcript of record, FSIS, Animal Raising Claims 15 (Oct. 14, 2008) available at http://www.fsis.usda.gov/wps/wcm/connect/50bdbb61-f293-4e4c-90d5-ac819a16ca03/Animal_Raising_Claims_101408.pdf?MOD=AJPERES.

¹³³ *Id.*

¹³⁴ 7 C.F.R. Part 205.

program are 37 pages long,¹³⁵ while Certified Humane's are 32 pages,¹³⁶ and AWA's are 28 pages in length.¹³⁷ The animal care standards of all these programs were developed in consultation with numerous domestic and international animal welfare scientists. Furthermore, all of the welfare certification programs cited in this petition regularly review and revise their standards based on the latest research findings.

FSIS must rely on the expertise and qualifications of these third-party certification programs to approve holistic claims such as "Humanely Raised" and "Sustainably Farmed." If no relevant certification program exists—as may be the case for sustainability claims—then FSIS should not approve the claim.

F. The Current Process Harms Farmers Making Legitimately Verified Claims

The FMIA and the PPIA both note that mislabeled products can sell for lower prices and compete unfairly with properly labeled products.¹³⁸ This is currently the reality with FSIS' process for approving animal welfare and environmental claims. As illustrated above, producers are being required to supply little or no supporting evidence in order to have their label claims approved. This negatively impacts farmers who are assuring the public that their products are properly labeled and meet a certain standard through their participation in third-party certification. Producers that choose to use third-party certification programs to verify their claims typically include a variety of fees, including application fees, inspection fees, and royalties for use of the program's logo. Additionally, their system of production is associated with higher costs, because they are raising animals and/or protecting the environmental to a higher standard.

Producers that make animal welfare and/or environmental claims, but do not adhere to higher standards and are not independently certified, are able to avoid both the cost of certification and better production systems and still reap the benefits of certification by selling products at a premium price. In a survey commissioned by the American Humane Association, 91 percent of respondents stated they were at least "somewhat willing" to pay more for humanely raised products; 74 percent of respondents said they were "very willing" to pay more.¹³⁹ In the same

¹³⁵ American Humane Association, *Animal Welfare Standards for Broiler Chickens* (2012) http://humaneheartland.org/index.php?option=com_content&view=article&id=3&Itemid=106&jsmallfib=1&dir=JSROOT/Animal+Welfare+Standards+Full+Standards.

¹³⁶ Humane Farm Animal Care Animal Care Standards, *Chickens*, (2009) <http://certifiedhumane.org/wp-content/uploads/pdfs/Std09.Chickens.2J.pdf>.

¹³⁷ Animal Welfare Approved, *Animal Welfare Approved Standards for Meat Chickens*, <http://animalwelfareapproved.org/wp-content/uploads/2013/04/AWA-standards-meat-chickens-2013-v2.pdf>.

¹³⁸ 21 U.S.C. § 602; 21 U.S.C. § 451.

¹³⁹ American Humane Association, Humane Heartland, *Farm Animal Welfare Survey*, <http://www.americanhumane.org/assets/humane-assets/humane-heartland-farm-animals-survey-results.pdf>.

survey, 62 percent of respondents stated they would pay over 10 percent more for humanely raised meat products.¹⁴⁰

Producers can opt out of third-party certification with no consequence, or they can circumvent certification altogether, yet still use claims such as “Humanely Raised” or “Sustainably Farmed.” For example, at one time the Humane Farm Animal Care program certified Applegate Farms under its “Certified Humane” label.¹⁴¹ The Certified Humane program audits producer compliance with comprehensive, species-specific, animal raising standards that are available to the public on its website.¹⁴² Applegate Farms eventually decided to stop paying for Certified Humane’s third-party certification but continued to make a “Humanely Raised” claim on its packaging.¹⁴³ When AWI requested FSIS provide label approval documents for three different Applegate products, all of which carry the “Humanely Raised” claim, the agency responded that it was unable to locate information regarding the claim on any of the Applegate products.¹⁴⁴

Applegate and other producers are able to use label claims that, to consumers, represent the equivalent message of an independent third-party certification. FSIS is currently allowing producers to use value-added label claims such as “Humanely Raised” and “Sustainably Farmed,” and to reap the economic benefits of using those claims, without independent verification that they are following relevant production standards. Using labels in this manner can result in misleading claims, and goes against the FMIA and PPIA by promoting unfair market practices and disadvantaging farmers who verify the veracity of the claims made on their products.

VII. Proposal

At the 2008 Animal Raising Claims public meeting FSIS indicated that the agency wished to determine the best way to guarantee that “the policies for evaluating and approving animal raising claims create a level playing field for companies that want to use these claims in marketing their products and that will allow consumers to use animal raising claims information

¹⁴⁰ *Id.* at 5.

¹⁴¹ *Producers who are Certified Humane*, Certified Humane, <http://www.certifiedhumane.org/index.php?page=producers-products>.

¹⁴² *Standards*, Certified Humane, <http://certifiedhumane.org/how-we-work/our-standards/> (last visited Mar. 1, 2014).

¹⁴³ Exhibit 6, *Applegate Farms “Humanely Raised” Label*.

¹⁴⁴ Letter from Leilani B. Hannie, FOIA Officer, FSIS, to Dena Jones, Farm Animal Program Manager, AWI (Feb. 4, 2013) (On file with AWI).

to assist in their purchase decisions.”¹⁴⁵ AWI proposes the following regulatory language to achieve this goal:

9 C.F.R. 317.4- Labeling Approval

(h) Animal welfare and environmental stewardship claims shall only be approved after the producer has obtained certification from an appropriate independent third-party program.

(A) Animal welfare claims include but are not limited to “Humanely Raised,” “Humanely Raised and Handled,” “Humanely Treated,” “Raised in a Humane Environment,” and “Raised with Care.” Environmental stewardship claims include but are not limited to “Sustainable Agricultural Practices,” “Sustainably Farmed,” and “Sustainably Raised.”

(B) Third-party certification standards shall be measurably above conventional animal agriculture industry standards.

(1) Conventional industry standards are defined by meat and poultry trade associations such as the National Chicken Council, National Pork Producers Council, and the National Cattlemen’s Beef Association.

(C) Approved third-party certifiers must audit compliance with standards relevant to the claim(s) on the farm, during transport, and/or at slaughter at least annually.

(D) Approved third-party certifiers must publish their standards on the Internet or in other media forums where the public can easily access them.

(1) FSIS must maintain copies of each approved third-party certifier’s current standards.

VIII. Conclusion

FSIS is approving the use of animal welfare and environmental stewardship claims with little or no supporting evidence from producers. Even if FSIS were to begin requiring proper substantiation of label claims, its Interim Guidance offers an impractical and inadequate solution, as it is impossible to convey complex, multi-faceted concepts such as animal welfare and environmental sustainability on product labels. The current FSIS label approval process results in misleading and deceptive labeling, considered product “misbranding” under the FMIA and

¹⁴⁵ Transcript of record, FSIS, Animal Raising Claims 16-17 (Oct. 14, 2008) available at http://www.fsis.usda.gov/wps/wcm/connect/50bdbb61-f293-4e4c-90d5-ac819a16ca03/Animal_Raising_Claims_101408.pdf?MOD=AJPERES.

PPIA. This misbranding frustrates consumers in their attempts to identify meat and poultry products that are consistent with their values. Moreover, farmers who invest resources in raising animals under improved welfare and/or environmental conditions are damaged by producers that are allowed to make value-added claims while merely employing standard production practices. Preventing this misbranding can be accomplished by requiring independent third-party certification of animal welfare and environmental stewardship claims such as “Humanely Raised” and “Sustainably Farmed.” Requiring third-party certification of these claims was supported by nearly 90 percent of consumers responding to a recent survey on meat and poultry labeling. FSIS should promptly draft and publish regulations to implement this solution.

Exhibit 1

Consumer Perceptions of Animal Raising Claims Used on Meat Packaging

In October 2013 the Animal Welfare Institute (AWI) commissioned a national web-based survey of perceptions of marketing label claims related to how animals raised for food are treated on farms. Specifically, the survey gathered data on consumer attitudes toward government regulation of marketing label claims such as “humanely raised” and sustainably farmed.”

1. Please indicate how strongly you agree or disagree with each of the following statements:

Total Sample Frequent Purchaser*

- | | | |
|---|-----|-----|
| a. The government should require meat and poultry producers to prove any claims like “humanely raised” or “sustainably farmed” that they put on their product label. | | |
| Strongly agree | 48% | 49% |
| Somewhat agree | 38% | 39% |
| Somewhat disagree | 9% | 9% |
| Strongly disagree | 4% | 4% |
| b. The government should not allow the use of claims like “humanely raised” or “sustainably farmed” on product labels unless the claims are verified by an independent third party. | | |
| Strongly agree | 47% | 50% |
| Somewhat agree | 39% | 37% |
| Somewhat disagree | 10% | 9% |
| Strongly disagree | 4% | 3% |
| c. Producers should not be allowed to use the claim “humanely raised” on their product labels unless they exceed minimum industry animal care standards. | | |
| Strongly agree | 47% | 49% |
| Somewhat agree | 39% | 39% |
| Somewhat disagree | 10% | 8% |
| Strongly disagree | 4% | 3% |
| d. The claim “humanely raised” means more than providing farm animals with adequate food, water and shelter; it also should include adequate space, opportunity to exercise, and social interaction with other animals. | | |
| Strongly agree | 43% | 45% |
| Somewhat agree | 41% | 40% |
| Somewhat disagree | 11% | 10% |
| Strongly disagree | 4% | 4% |

*Respondents purchasing packaged poultry or meat products 3 or more times per month.

- e. The well-being of animals raised on farms for food is important to me.
- | | | |
|-------------------|-----|-----|
| Strongly agree | 35% | 38% |
| Somewhat agree | 45% | 44% |
| Somewhat disagree | 14% | 13% |
| Strongly disagree | 6% | 5% |
- f. Humane treatment of farm animals is a factor which I consider when purchasing animal products like meat, poultry, eggs and dairy.
- | | | |
|-------------------|-----|-----|
| Strongly agree | 19% | 19% |
| Somewhat agree | 39% | 38% |
| Somewhat disagree | 28% | 29% |
| Strongly disagree | 14% | 13% |
- g. A brief statement signed by a producer should be acceptable as proof of a claim like “humanely raised” or “sustainably farmed” on a meat or poultry product.
- | | | |
|-------------------|-----|-----|
| Strongly agree | 10% | 10% |
| Somewhat agree | 32% | 31% |
| Somewhat disagree | 34% | 35% |
| Strongly disagree | 24% | 24% |
- h. I feel confident that the government verifies label claims used on meat and poultry products.
- | | | |
|-------------------|-----|-----|
| Strongly agree | 6% | 6% |
| Somewhat agree | 34% | 32% |
| Somewhat disagree | 39% | 40% |
| Strongly disagree | 21% | 22% |

2. I place the highest degree of trust in animal care label claims that are verified by...

	<u>Total Sample</u>	<u>Frequent Purchaser*</u>
The U.S. Department of Agriculture	37%	39%
A third-party animal welfare organization	35%	35%
An agriculture industry association	8%	7%
The producer themselves	5%	5%
None of these	15%	14%

*Respondents purchasing packaged poultry or meat products 3 or more times per month.

This survey was conducted online within the United States by Harris Interactive on behalf of AWI from October 10-14, 2013 among 2,027 adults ages 18 and older. This online survey is not based on a probability sample and therefore no estimate of theoretical sampling error can be calculated. For complete survey methodology, including weighting variables, please contact Dena Jones at 202-446-2146.

Exhibit 2

Consumer Perceptions of Farm Animal Welfare and Welfare Labeling Claims

American consumers are increasingly aware of, and concerned about, how animals raised for food are treated. Below are brief summaries of recent research conducted on consumer perceptions of farm animal welfare and labeling claims related to how farm animals are raised.

Americans care about how farm animals are raised

- In a survey conducted by Texas A&M University, 36% of consumers said that animal welfare was somewhat important to them, while another 22% said it was very important, and 11% said extremely important (for a total of 69%).
—Grimshaw K et al, *Consumer Perception of Beef, Pork, Lamb, Chicken, and Fish*, Meat Science, Vol. 96 (Jan. 2014), pp. 443-444.
- A survey of west coast consumers commissioned by the poultry company Foster Farms found that 49% completely agreed that they are more concerned about animal welfare and how animals are raised for food than they were 5 years ago. Also, 74% completely agreed that they would like more large producers to raise animals for food in a humane way.
—*Foster Farms First Major Poultry Producer in the West to Earn Humane Certification from American Humane Association Meats Increasing Consumer Demand for Humanely Raised Foods* (press release), Foster Farms, March 11, 2013.
http://www.fosterfarms.com/about/press/press_release.asp?press_release_id=138.
- In a survey conducted by the University of Nebraska, 70% of rural Nebraskans agreed or strongly agreed with the statement: “Animal welfare means more than providing adequate food, water and shelter; it also includes adequate exercise, space, and social activities for the animals.” Seventy percent of respondents thought that the welfare of animals is better protected on family farms than on large, corporate farms, and 77% agreed or strongly agreed that food safety is largely dependent on the care farm animals receive.
—Vogt R et al, *Animal Welfare: Perceptions of Nonmetropolitan Nebraskans*, University of Nebraska—Lincoln, Center for Applied Rural Innovation, July 2011.
- Technomic’s food industry trend tracking survey has documented that humane animal treatment is of increasing importance to consumers, with more than 50% now saying this is an important issue to them.
—*Center of the Plate: Poultry Consumer Trend Report*, Technomic, May 2011.
http://www.technomic.com/Reports_and_Newsletters/Consumer_Trend_Reports/dyn_PubLoad.php?pid=21.
- Animal welfare was cited as an issue of concern by a majority of respondents to a survey on restaurant social responsibility conducted in 2007. It was noted that animal welfare was the highest rated food-related issue, above locally-sourced foods and the offering of organic foods.

—*Market Brief: Tracking and Interpreting Chain Restaurant Trends*, Technomic Inc., July 2007. http://www.customerconnectireland.com/resources/amexMarketbrief_9-07%5B1%5D%20Copy.pdf.

- Ninety-five percent of respondents to a nationwide telephone survey conducted by Oklahoma State University agreed with the statement, “It is important to me that animals on farms are well cared for.”
—Prickett RW et al, *Consumer Perceptions for Farm Animal Welfare: Results of a Nationwide Telephone Survey*, Oklahoma State University, Department of Agricultural Economics, 2007. <http://asp.okstate.edu/baileynorwood/Survey4/files/InitialReporttoAFB.pdf>.
- In a 2004 survey conducted by researchers at The Ohio State University, 92% of Ohioans agreed that it is important that farm animals are well-cared for, and 81% said the well-being of farm animals is just as important as the well-being of pets.
– Rauch A & Sharp JS, *Ohioans Attitudes about Animal Welfare*, The Ohio State University, Social Responsibility Initiative, January 2005. http://ohiosurvey.osu.edu/pdf/2004_Animal_report.pdf.

Consumers support regulating farm animal care

- Research on mandatory labeling of animal welfare practices, conducted by university professors from Kansas State University and Michigan State University, found that 61.7% of survey respondents favored mandatory labeling of pork produced on farms using gestation crates, and 62.0% said they supported mandatory labeling of eggs produced using cages for laying hens. The researchers estimated that the typical U.S. shopper was willing to pay 20% higher prices for pork and egg products to obtain this type of mandatory labeling information.
—Tonsor GT & Wolf CA, *Mandatory Labeling of Animal Welfare Attributes*, Kansas State University, Department of Agricultural Economics, July 2011. http://www.agmanager.info/livestock/marketing/animalwelfare/AW-Labeling_FactSheet_07-19-11.pdf.
- In a survey conducted by agricultural economists at Oklahoma State University, approximately half of the respondents said they believe government should “force all food companies to indicate the level of animal care on their product labels.” More than half of the respondents said companies should be allowed to label their food “animal compassionate” if they adhere to high welfare standards. Also, of those with an opinion, 69% favored governmental bans on eggs produced under lower standards of animal care, even if they could easily find egg products that met their personal standards of care.
—Norwood FB & Lusk JL, *Compassion by the Pound: The Economics of Farm Animal Welfare*, Oxford University Press, 2011, pp. 341-343.
- The welfare and protection of animals raised for food was seen as very or somewhat important by 79% of respondents to a survey managed by the Humane Research Council in June 2008. A large majority (73%) would support a law requiring that farm animals, including pigs, cows and chickens, are provided with enough space to behave naturally.

—*Animal Tracker – Wave 1, An HRC-Managed Research Study*, Humane Research Council, June 2008. <http://www.humanespot.org>.

- Fifty-eight percent of Americans said they were very or somewhat concerned about the treatment of farm animals in a 2003 poll by Zogby International. Enacting laws to protect farm animals from cruelty was supported by 82% of those surveyed.
—*Nationwide Views on the Treatment of Farm Animals*, Zogby International for the Animal Welfare Trust, 2003. <http://civileats.com/wp-content/uploads/2009/09/AWT-final-poll-report-10-22.pdf>.

“Humanely raised” is an important food claim

- In a survey conducted for the Animal Welfare Institute, 86% of respondents said the government should require meat and poultry producers to prove claims like “humanely raised” and that the claims should not be allowed on product labels unless they have been verified by an independent third party. Also, 86% of respondents to the survey agreed with the statement, “Producers should not be allowed to use the claim ‘humanely raised’ on their product labels unless they exceed minimum industry animal care standards.”
— *Consumer Perceptions of Animal Raising Claims Used on Meat Packaging*, Harris Interactive Survey for the Animal Welfare Institute, Oct. 2013. (Available from AWI upon request.)
- The label claim “humanely raised” was ranked as the highest in importance over “organic,” “natural,” and “antibiotic free” among respondents to the 2013 Humane Heartland Farm Animal Welfare Survey conducted by American Humane. Ninety-five percent of the respondents indicated that a humanely raised certified label signified “better treatment of animals.”
—*Humane Heartland Farm Animal Welfare Survey*, American Humane Association, 2013, <http://www.americanhumane.org/assets/humane-assets/humane-heartland-farm-animals-survey-results.pdf>.
- In a survey of west coast consumers commissioned by the poultry company Foster Farms, 74% of respondents completely agreed that humane-certified foods should be more widely available for consumers.
—*Foster Farms First Major Poultry Producer in the West to Earn Humane Certification from American Humane Association Meats Increasing Consumer Demand for Humanely Raised Foods* (press release), Foster Farms, March 11, 2013. http://www.fosterfarms.com/about/press/press_release.asp?press_release_id=138.
- An overwhelming majority (91%) of consumers of Just Bare chicken said third-party humane certification of animal products is extremely or very important in an October 2010 survey. When these consumers were asked about how much trust they place in various levels of animal welfare claims, nearly two-thirds (62%) said they placed a high degree of trust in certification by a third-party animal welfare organization. Far fewer consumers indicated trust in certification by a government or industry association or trust in a company’s own records.

—*Common Questions*, Just Bare Chicken, Sept. 12, 2012.
<http://www.justbarechicken.com/faqs.cfm>.

- In a survey commissioned by the Animal Welfare Institute on the welfare of chickens raised for meat, 70% of all respondents, and 77% of frequent chicken meat shoppers, indicated they thought the claim “humanely raised” on a package of chicken meant that the animal was raised under a standard of care better than typical industry practice.
—*Poll on the Welfare of Chickens Raised for Meat*, Harris Interactive Survey for the Animal Welfare Institute, April 2010.
<http://awionline.org/sites/default/files/uploads/legacy-uploads/documents/FA-HumanelyRaisedCagedFreeSurvey-081110-1281725036-document-23248.pdf>.
- Fifty-one percent of consumers said the claim “humanely raised” was very important or important in causing them to believe a food is ethically produced. Of the 29 food claims studied, “humanely raised” ranked fourth highest, above “no antibiotics,” “produced in the USA,” “natural,” and “sustainably produced.”
—*Ethical Food: A Research Report on the Ethical Claims that Matter Most to Food Shoppers and How Ethical Concerns Influence Food Purchases*, Context Marketing, March 2010.
<http://www.contextmarketing.com/sources/feb28-2010/ethicalfoodreport.pdf>.
- When asked to identify their top three reasons for purchasing “natural” or “organic” meat, 38% of respondents to an online poll conducted by the American Meat Institute and the Food Marketing Institute chose “better health and treatment of the animal.” Animal treatment ranked third highest among nine meat selection criteria, above “freshness,” “better taste,” and “environmental impact.”
—*Top 3 Reasons for Purchasing Natural or Organic Meat*, Beyond the Farm Gate, Whole Foods Market, Issue 4, June 2010.
- In a national poll conducted by Harris Interactive for the World Society for the Protection of Animals, 58% of respondents indicated it is important to them to be able to purchase humanely labeled meat and eggs in their local supermarket, and approximately one-quarter of the sample said they had bought “organic” or “free range” animal products in the previous year.
—*Finding Animal Friendly Food: The Availability of Humanely Labeled Foods in U.S. Grocery Stores*, World Society for the Protection of Animals, Boston, MA, 2009.
- In a survey conducted for the International Dairy-Deli-Bakery Association, 55% of American consumers who were aware of the “humane treatment” food claim felt that the claim was very or somewhat important. Of 19 claims studied, only two (“locally raised or grown” and “antioxidants”) were seen by aware shoppers as being more important than “humane treatment certified.”
—*Health & Wellness: The Purpose-Driven Consumer* (Executive Summary), International Dairy-Deli-Bakery Association.
- Consumers responding to a 2007 Public Opinion Strategies survey ranked the “humanely raised” label as the most important food label, over “organic” and “natural.”
—*Frequently Asked Questions*, The Humane Touch, American Humane Association.
<http://www.humaneheartland.org/faqs>.

- Of more than 1,000 respondents to a 2007 Oklahoma State University survey, 52% said personal food choices have a large impact on the well-being of farm animals, and 49% said they consider the well-being of farm animals when they make food purchasing decisions.
—Prickett RW et al, *Consumer Perceptions for Farm Animal Welfare: Results of a Nationwide Telephone Survey*, Oklahoma State University, Department of Agricultural Economics, 2007.
<http://asp.okstate.edu/baileynorwood/Survey4/files/InitialReporttoAFB.pdf>.
- In a 2005 survey of Michigan residents conducted by researchers at Michigan State University, 92% of respondents rated “humane animal treatment” as “very important” or “somewhat important” as a factor when purchasing animal products. Humane treatment was rated as significantly more important than factors having to do with where the animal was raised or by whom.
—Conner DS et al, *Consumer Preferences for Pasture-Raised Animal Products: Results from Michigan*, *Journal of Food Distribution Research*, July 2008, pp. 12-25.
- When University of California, Santa Cruz, researchers asked central California shoppers to evaluate five potential food label claims, “humane” was most often the top-ranked choice, above “locally grown,” “living wage,” “U.S. grown,” and “small-scale farm.” Product labels were a preferred source of food information for 81% of the consumers.
—*What Do People Want to Know About Their Food?*, University of California, Santa Cruz, Research Brief #5, Winter 2005. <http://escholarship.org/uc/item/75s222dm>.

Consumers are willing to pay more for food that is “humanely raised”

- When asked, “what is the most you are willing to pay for high quality, humanely raised products,” 34% of respondents to a 2013 survey conducted by American Humane said 10-20% more, while 28% of respondents said they would pay 20-30% more.
—*Humane Heartland Farm Animal Welfare Survey*, American Humane Association, 2013,
<http://www.americanhumane.org/assets/humane-assets/humane-heartland-farm-animals-survey-results.pdf>.
- In a survey of poultry consumers conducted by Technomic, 38% indicated they are more likely to purchase and be willing to pay more for “humane” meats. Thirty-seven percent were more likely to purchase and pay more “organic” meats.
—*Custom Poultry Consumer Survey*, Technomic, Sept. 2012.
- One in four (24%) of respondents to a consumer survey commissioned by Whole Foods Market said they are willing to pay more for meats from animals raised under humane animal husbandry standards.
—*Americans Willing to Pay More for Food Without Artificial Ingredients, Meats Without Antibiotics/Added Growth Hormones* (press release), Whole Foods Market, Sept. 27, 2012.
<http://media.wholefoodsmarket.com/>.

- Fifty-seven percent of consumers responding to a Context Marketing survey said they would be willing to pay 1% to 10% more “for food that promises to be produced to higher ethical standards.” Twelve percent were willing to pay 10% more.
—*Ethical Food: A Research Report on the Ethical Claims that Matter Most to Food Shoppers and How Ethical Concerns Influence Food Purchases*, Context Marketing, March 2010.
<http://www.contextmarketing.com/sources/feb28-2010/ethicalfoodreport.pdf>.
- A 2007 survey by Public Opinion Strategies found that 58% of consumers would spend an additional 10% or more for meat, poultry, eggs, or dairy products labeled as “humanely raised.”
—*Frequently Asked Questions*, The Humane Touch, American Humane Association.
<http://www.humaneheartland.org/faqs>.
- In a survey by The Ohio State University, 59% of Ohioans said they would be willing to pay more for meat, poultry, or dairy labeled as coming from humanely treated animals. Among those, 43% said they would pay 10% more, and 12% said they would pay 25% more.
—Rauch A & Sharp JS, *Ohioans Attitudes about Animal Welfare*, The Ohio State University, Social Responsibility Initiative, January 2005.
http://ohiosurvey.osu.edu/pdf/2004_Animal_report.pdf.
- Consumer surveys by the Animal Agriculture Alliance in 1993, 1998, and 2004 demonstrated that American shoppers are willing to pay more for food labeled “humanely raised.” In 2004, 31% of respondents were willing to pay 5% more, while 23% were willing to pay 10% more.
—*Consumer Attitudes about Animal Welfare: 2004 National Public Opinion Survey*, Animal Agriculture Alliance and National Corn Growers Association, April 2004.
http://www.animalagalliance.org/images/ag_insert/2004_Pub_Op_PR.ppt.
- Eighty-one percent of U.S. respondents to a Zogby International poll would be willing to pay more for eggs from chickens raised in a humane manner.
—*U.S. Public Supports Humane Treatment for Hens*, Zogby International for Farm Sanctuary, September 2000. <http://www.isecruelty.com/poll.php>.
- Forty-four percent of a sample of 1,000 Americans, surveyed in 1998, said they would try a “humanely raised” product if the cost was 5% more, while 20% would try the product if it was 10% more.
—*American Attitudes towards Farmers and Farm Animal Issues*, Opinion Dynamics for the Animal Industry Foundation, Arlington, VA, 1998.

Certain food labels confuse and mislead shoppers

- In a survey commissioned by CommonGround, more than half of moms agreed it is important to feed their families “hormone-free” poultry and pork even though it may cost more to do so. But in fact, USDA prohibits the use of hormones to raise chickens and pigs, and consequently there is no value to paying more for “hormone-free” labeled pork or chicken products.
—*Know Before You Buy: 5 Things Moms Get Wrong at the Grocery Stores*, CommonGround,
<http://www.findourcommonground.com>.

- More than half (53%) of moms surveyed by CommonGround agreed it is important to purchase food labeled “all natural,” whenever possible because it is a more nutritious choice for their family. However, the natural label does not include any standards regarding farm practices or the nutritional content of food.
—*Know Before You Buy: 5 Things Moms Get Wrong at the Grocery Stores*, CommonGround, <http://www.findourcommonground.com>.
- Only 2% of more than 2,000 Americans responding to a Harris Interactive Poll conducted for the Animal Welfare Institute were able to correctly identify the definition of “natural” when used on meat and poultry. Fifty-one percent mistakenly thought “natural” meant the product came from animals who were not administered hormones or antibiotics. (The “natural” claim indicates a product is minimally processed and has no artificial ingredients; the claim has no relevance to how the animals were raised or treated.) Seventy-one percent of the sample strongly or somewhat agreed that having both a “natural” and a “naturally-raised” label, where the labels have different meanings, could be confusing to consumers.
—*Natural Labeling Poll*, Harris Interactive Survey for the Animal Welfare Institute, October 2009. (Available from AWI upon request.)
- When Consumer Reports asked what consumers thought a “naturally raised” label on a meat product should mean, 85% said that the product came from an animal raised in a natural environment, 77% said it came from an animal that had access to the outdoors, and 76% said the label meant the animal had been treated humanely. (“Naturally raised” actually means the animal was not given antibiotics or hormones and was fed a vegetarian diet. The claim does not describe the housing or treatment of animals.)
—*Food-Labeling Poll 2008*, Consumer Reports, November 2008.
<http://www.greenerchoices.org/pdf/foodpoll2008.pdf>.
- Eighty-three percent of respondents to a 2007 food labeling poll by Consumer Reports said that the “natural” label on meat should mean “it came from an animal that was raised in a natural environment.”
—*Food Labeling Poll*, Consumer Reports, July 2007.
http://greenerchoices.org/pdf/Food%20Labeling%20Poll-final_rev.pdf.

Exhibit 3

Supporting Evidence for Approval of Animal Welfare and Environmental Claims

Company/Product Name	Label Claim	Affidavit/ Testimonial	Operational Protocol	Certificate(s)	No Documents Located
Allen Family Foods Nature's Sensation Chicken (Exhibit 4)	Humanely Raised on Family Farms	✓ ^A		✓ ^B	
Applegate Farms Naturals Chicken (Exhibit 5)	Humanely Raised				✓
Applegate Farms Naturals Salami (Exhibit 6)	Humanely Raised				✓
Applegate Farms Naturals Turkey (Exhibit 7)	Humanely Raised				✓
Crescent Foods Chicken (Exhibit 8)	Humanely Treated				✓
	Cage Free				✓
Diestel Turkey Ranch Turkey (Exhibit 9)	Humanely Raised	✓ ^C			
	Sustainable Family Farms	✓ ^D			
Empire Kosher Chicken (Exhibit 10)	Raised on Family Farms Using Sustainable Agricultural Practices	✓ ^E			
Fircrest Farms Chicken (Exhibit 11)	Sustainably Farmed				✓
Fork in the Road Hot Dogs (Exhibit 12)	Sustainable, Family-Farmed Beef				✓

FreeBird All Natural Chicken (Exhibit 13)	Humanely Raised				✓
Heinen's Own Beef (Exhibit 14)	Humanely Raised & Handled				✓
Heinen's Own Pork (Exhibit 14)	Humanely Handled				✓
Kroger Simple Truth Chicken (Exhibit 15)	Raised Cage Free in a Humane Environment				✓
Mid-Atlantic Country Farms Chicken (A & P store brand) (Exhibit 16)	Humanely Raised		✓ ^F		
	Sustainably Farmed				✓
Mid-Atlantic Country Farms Turkey (A & P store brand)	Humanely Raised				✓
	Free to Roam in a Stress-Free Environment				✓
Niman Ranch Canadian Bacon (Exhibit 17)	Humanely Raised				✓
	Sustainable U.S. Family Farms				✓
Niman Ranch Pork (Exhibit 18)	Humanely Raised				✓
	Sustainable U.S. Farms				✓
Petaluma Poultry Rocky the Range Chicken (Exhibit 19)	Sustainably Farmed				✓
Plainville Farms All Natural Turkey (Exhibit 20)	Humanely Raised				✓

^A Documentation consists of a 1-page letter written by Allen Family Food's Corporate Labeling and Product Specification Manager guaranteeing humane handling based on National Chicken Council (NCC) standards.

^B Documentation consists of an audit checklist based on NCC guidelines for animal welfare.

^C Documentation consists of a 2-sentence statement written by Diestel's Quality Assurance Manager.

^D Documentation consists of a 1-sentence statement from Diestel's Quality Assurance Manager.

^E Documentation consists of 3 testimonials including a 1-page statement containing 5 bullet points.

^F Documentation consists of a 1-page overview of animal care and handling protocol from one Mid-Atlantic poultry supplier.

Exhibit 4

Allen Family Foods “Humanely Raised on Family Farms” Label



Exhibit 5

**Applegate Farms “Humanely Raised” Label
(Chicken)**



Exhibit 6

Applegate Farms “Humanely Raised” Label (Salami)



Exhibit 7

**Applegate Farms “Humanely Raised” Label
(Turkey)**



Exhibit 8

Crescent Foods “Humanely Treated, Cage Free” Label



Exhibit 9

Diestel Turkey Ranch “Humanely Raised, Sustainable Family Farms” Label



Exhibit 10

Empire Kosher “Sustainable Family Farms” Label



Exhibit 11

Fircrest Farms “Sustainably Farmed” Label



Exhibit 12

Fork in the Road “Sustainable Family Farmed” Label



Exhibit 13

FreeBird “Humanely Raised” Label



Exhibit 14

Heinen's Own "Humanely Raised & Handled" Label
(Beef)

Heinen's Own "Humanely Handled" Label
(Pork)



Exhibit 15

Kroger “Raised Cage Free in a Humane Environment” Label



Exhibit 16

Mid-Atlantic Country Farms “Humanely Raised, Sustainably Farmed” Label



Exhibit 17

Niman Ranch “Humanely Raised, Sustainable U.S. Family Farms” Label



Exhibit 18

Niman Ranch “Humanely Raised, Sustainable U.S. Farms” Label



Exhibit 19

Petaluma Poultry “Sustainably Farmed” Label



Exhibit 20

Plainville Farms “Humanely Raised” Label



Exhibit 21

Comparison of Meat Chicken Welfare Standards under Industry and Third-Party Audit Programs

Chicken Welfare Standard		NCC	AHC	AWA	CH	FA	GAP ^B
Health Care	Sick birds segregated and treated or humanely killed		✓	✓	✓	✓	✓
	Leg health addressed through genetics &/or feeding regimes			✓	✓		✓
	Beak trimming prohibited			✓	✓		✓
Food and Water	Equal access to food and water for all birds	✓	✓	✓	✓	✓	✓
Housing	Opportunity to go outdoors <i>OR</i> environmental enrichment indoors			✓	✓	✓	✓
	Indoor stocking density 6.5 lbs per square foot of space or less			✓	✓	✓	✓
	Clean, dry litter/bedding available at all times		✓	✓	✓	✓	✓
	Minimum light intensity level of 10 lux (1 foot-candle)		✓	✓	✓	✓	✓
	Minimum of 6 hours dark period every 24 hours		✓	✓	✓	✓	✓
	Maximum recommended ammonia level below 25 parts per million	✓	✓	✓	✓	✓	✓
Handling	Hired workers trained in humane methods of chicken handling	✓	✓	✓	✓	✓	✓
	Birds caught in dim light		✓	✓	✓	✓ ^A	✓
	Birds carried round the body or by both legs		✓	✓	✓		

Abbreviations:

NCC = National Chicken Council, AHC = American Humane Certified, AWA = Animal Welfare Approved, CH = Certified Humane, FA = Food Alliance, GAP = Global Animal Partnership

Notes:

^A For bird handling, producers must meet at least 7 of 11 criteria, which include catching birds in low light and carrying no more than 3 birds in one hand.

^B Chart indicates requirements of Step 2 of the GAP program; higher standards exist for Steps 3 through 5+.

Exhibit 22
Sample FSIS FOIA Response Letter



United States
Department of
Agriculture

Food Safety
and Inspection
Service

Washington, D.C.
20250

JUN 03 2013

Ms. Dena Jones
Animal Welfare Institute
900 Pennsylvania Avenue, SE
Washington, D.C. 20003

RE: FOIA-2013-00236
Fork in the Road

Dear Ms. Jones:

This letter is in response to your Freedom of Information Act (FOIA) request to the Department of Agriculture's Food Safety and Inspection Service (FSIS), dated May 10, 2013, requesting copies of all documents and material related to the pre-market label approval process for the claim "sustainable, family-farmed beef" for Fork in the Road hotdogs, from January 1, 2011, to May 10, 2013.

In responding to a FOIA request, the FSIS search will include responsive records in its control on the date the search began.

Please be advised that a search by knowledgeable staff in FSIS failed to locate any documents that would be responsive to your request.

You may appeal this determination within 45 days from the date of this letter. Your appeal should include copies of your original request and this response, as well as a discussion of the reasons supporting your appeal. The envelope should be plainly marked to indicate that it contains a FOIA appeal. If you decide to appeal, please send your appeal to:

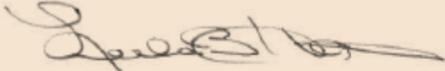
Alfred V. Almanza
Administrator
U.S. Department of Agriculture
Food Safety and Inspection Service
1400 Independence Avenue, SW.
Room 1140, South Building
Washington, D.C. 20250-3700

Your FOIA request, including your identity and the information made available, is releasable to the public under subsequent FOIA requests. In responding to these requests, FSIS does not

Ms. Dena Jones
Page 2

release personal privacy information, such as home addresses, telephone numbers, or Social Security Numbers, all of which are protected from disclosure under FOIA Exemption 6.

Sincerely,



Leilani B. Hannie
FSIS FOIA Officer
Executive Correspondence
and Issues Management Staff

Enclosure