



# Consumer Federation of America

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## VIA ELECTRONIC SUBMISSION

Seth Murray  
Senior Advisor  
Office of the Chief Scientist  
U.S. Department of Agriculture  
1400 Independence Ave., SW  
Washington, DC 20250  
Email: [seth.murray@osec.usda.gov](mailto:seth.murray@osec.usda.gov)

Re: Docket No. USDA- 2017-01506, “Visioning of United States Agricultural Systems for Sustainable Production”

Dear Dr. Murray:

The Consumer Federation of America (CFA) appreciates the opportunity to submit these comments on the long-term health and viability of U.S. Agriculture and improving the economic, environmental, security, and health benefits to the U.S. through agriculture over the next 50 years. CFA is a national organization of more than 250 nonprofit consumer groups that was founded in 1968 to advance the consumer interest through research, advocacy, and education.

Transparency and meaningful engagement with consumers is critical to improving U.S. agriculture’s economic, environmental, security, and health benefits over the next 50 years. With the appropriate information and safeguards, consumers can transform markets to support better practices with unparalleled speed and efficiency. Conversely, a lack of consumer confidence undermines investment in innovation, forcing responsible producers to compete on an unlevel playing field and incur unnecessary expenses to differentiate themselves from bad actors. The U.S. Department of Agriculture (USDA) should take action now to support better consumer engagement. We acknowledge USDA’s preference for comments on “issues facilitating opportunities in the long-term for sustainable agricultural production” as opposed to “[s]hort term (less than seven years) and incremental solutions.” However, no solution will be viable in the long-term without consumer support, and what USDA and other federal agencies do now will dictate to a significant extent what sustainable agriculture opportunities are available in 50 years.

A logical starting point for enlisting the help of American consumers in improving “the long-term health and viability of U.S. Agriculture” is devising a national food policy that recognizes and expressly seeks to advance the “environmental, security, and health benefits” of U.S. agriculture, rather than simply the economic gains of a dwindling number of ever larger firms. CFA supports a national food policy that assures sufficient, nutritious, and safe food for all; supports sustainable agriculture practices; supplies foreign assistance commitments; and encourages worldwide

indigenous food production. National food policy should orient USDA and the other federal food agencies to prevent the federal government from working at cross-purposes with itself over the next 50 years.

Long-term success in fostering sustainable agricultural production will require food and agricultural programs that meet the safety, nutrition, and economic needs of consumers and the production sustainability needs of family farmers, while protecting and conserving the natural resources on which our food supply is based. Accordingly, sustainable agriculture should serve as a guiding principle for all federal agriculture programs including all research, extension, education, commodity, and marketing programs. The long-term success of these programs will also depend on their stability, with dramatic funding or organizational changes causing ripple effects far into the future.

### Food Safety

Food safety may offer the clearest example of why informed consumer support matters. Foodborne illnesses impose significant costs on food producers even when they do not share responsibility for an outbreak.<sup>1</sup> In general, most foods have a high “elasticity of demand,” meaning that consumers will make a substitution when they lose confidence in a particular type of food product. For this reason, food companies have supported passage of the Food Safety Modernization Act and the U.S. Food and Drug Administration’s implementation of the law, which includes much needed reforms, such as on-farm safety controls. Yet similar reforms for the meat and poultry products that USDA regulates have not been forthcoming.

In 2012 and 2013, two outbreaks of salmonellosis linked to chicken produced by Foster Farms led to 523 official reports to public health authorities in 29 states, and an estimated 15,000 illnesses nationwide that were not diagnosed. The outbreaks exposed weaknesses in USDA regulations and policies to assure the safety of meat and poultry.<sup>2</sup> In response, USDA has undertaken some targeted reforms, such as issuing performance standards for poultry parts in addition to whole carcasses. However, glaring deficiencies remain: the agency sets standards for salmonella contamination, but not on the basis of public health objectives; the agency lacks the authority to enforce standards for salmonella contamination, or to issue mandatory recalls; and controls on salmonella contamination before animals enter the slaughterhouse are nonexistent. The absence of these safeguards leaves consumers vulnerable to more frequent and severe outbreaks, and it encourages poor animal production practices that burden consumers with the task of neutralizing pathogens better controlled on the farm.

### Worker Safety and Welfare

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<sup>1</sup> For example, the 2006 outbreak of E.Coli in spinach is estimated to have resulted in over \$400 million in lost sales across the leafy greens industry. Huifang Zhang, Thomas L. Marsh, Jill J. McCluskey. “A Generalized Event Analysis of the 2006 E. coli Outbreak in Spinach and Lettuce” [http://www.impact.wsu.edu/MarshFiles/E.coli\\_paper\\_V1.pdf](http://www.impact.wsu.edu/MarshFiles/E.coli_paper_V1.pdf). Likewise, rural peanut farmers suffered an estimated \$1 billion in lost production and sales after unsanitary conditions and fraud at one company—Peanut Corporation of America—caused an outbreak of deadly Salmonellosis in 2009. Associated Press. “Peanut industry: Recall price tag \$1 billion” (March 11, 2009) *available at*: [http://www.nbcnews.com/id/29634279/ns/business-going\\_green/t/peanut-industry-recall-price-tag-billion/#.V7M-ZJgrKUK](http://www.nbcnews.com/id/29634279/ns/business-going_green/t/peanut-industry-recall-price-tag-billion/#.V7M-ZJgrKUK).

<sup>2</sup> See The Pew Charitable Trusts. “Weaknesses in FSIS’s Salmonella Regulation” (Dec. 19, 2013), <http://www.pewtrusts.org/en/research-and-analysis/reports/2013/12/19/weaknesses-in-fsiss-salmonella-regulation>

Safe workers make safe food. Unfortunately, injury and illness rates in the food manufacturing industry are among the highest in the United States, with workers too often fearful to report unsafe conditions and work-related injuries and illnesses due to employer retaliation. At USDA, Food Safety and Inspection Service (FSIS) inspectors should play a more active role in ensuring worker safety, alerting the Occupational Safety and Health Administration to any perceived risk to worker health or safety including hazards such as too-fast line speeds, unreasonable workloads, infrequent breaks, and inadequate safety and health training. In meat and poultry slaughter facilities, maximum line speed regulations should protect workers and FSIS should discontinue waivers of line speed restrictions under the HACCP Inspection Model Program (HIMP), pending a conclusive determination from the National Institute of Occupational Safety and Health (NIOSH) that such waivers do not increase injuries. Similarly, USDA should employ NIOSH to study the effects on inspectors and workers of the chemicals used by poultry producers to “sanitize and disinfect” chickens in processing plants, a practice likely to increase with faster line speeds and expansion of HIMP.<sup>3</sup>

More broadly across U.S. agriculture, improving sustainability over the next 50 years will require a stable and professionally trained workforce. Building this workforce must start with rules that assure a dignified livelihood for the men and women that grow, harvest, and process food. CFA is proud to support the Equitable Food Initiative, which certifies the achievement of key standards for working conditions, pesticide use and food safety, and provides training and support to create mutual gains for workers and consumers. However, private sector efforts alone cannot transform the food system. In addition to creating market conditions that safeguard the integrity of labels like the Equitable Food Initiative’s, USDA and other federal agencies must pursue policies that recognize the critical role of agricultural workers in producing safe food in a sustainable manner.

### Antibiotics

Some of the most serious food safety threats have emerged as a result of inappropriate on-farm antibiotic use. Producers routinely give antibiotics to millions of animals through their feed and water, contributing to antibiotic resistance. This is an urgent and growing public health threat that costs the U.S. economy some \$55 billion, results in over 2 million illnesses, and leads to over 23,000 deaths annually, according to the Centers for Disease Control and Prevention (CDC). CDC estimates that 20 percent of serious resistance infections come from food and food animals. In just the last year, public health researchers have detected two new “superbugs”—carbapenem resistant enterobacteriaceae and colistin resistant bacteria with the *mcr-1* gene—on U.S. farms and in U.S. farm animals. These findings raise concerns that a post-antibiotic future, where even drugs of “last resort” are rendered ineffective, could be closing in.

To preserve the efficacy of life-saving drugs over the next 50 years, producers will need to use fewer antibiotics and use them in ways that minimize the development of resistance. Better data on antibiotic usage are critical to begin developing a robust strategy for achieving the reductions in use necessary to protect public and animal health. Investment in animal agriculture facilities today will have long-lasting impacts, with animal housing and other equipment commonly assumed to be

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<sup>3</sup> See GAO. Workplace Safety and Health: Additional Data Needed to Address Continued Hazards in the Meat and Poultry Industry. (Apr. 2016), <http://www.gao.gov/assets/680/676796.pdf>.

in use for ten to twenty years.<sup>4</sup> For this reason, CFA has supported proposals such as the Animal and Plant Health Inspection Service’s request for approval to collect antimicrobial use data from beef and pork producers via the National Animal Health Monitoring Service survey program. These efforts should go further, however, to include collection of quantitative, granular, farm-level use data on all major production species and production classes. Adequate usage data will help researchers compare antimicrobial use patterns with antibiotic resistance data, corroborate other state and national data collection efforts (e.g., sales data), and identify high-risk uses, among other valuable functions.

## Labeling

In recent years, significant changes in animal antibiotic use and other production practices have occurred as the result of consumer demand, rather than at the behest of regulators. USDA plays an important role in fostering a responsive food market by refereeing which claims producers may use to attract consumers. For example, the Poultry Products Inspection Act<sup>5</sup> and Federal Meat Inspection Act<sup>6</sup> give FSIS the duty to prohibit the sale of meat and poultry “under any name or other marking or labeling which is false or misleading.” Despite this mandate, FSIS approves animal raising and other labeling claims that are explicitly meaningless. For example, a company may sell chicken with the labeling claim “No hormones administered” so long as the claim is immediately followed by the statement “Federal regulations prohibit the use of hormones in poultry.”<sup>7</sup> More troublesome, the agency approves claims without meaningful standards (e.g. “humanely raised”),<sup>8</sup> and undercuts the viability of production practices that conform to reasonable consumer expectations.

Consumer demand for food grown in a way that improves economic, environmental, security, and health benefits for Americans can and should play a leading role in determining the future of the food system. However, USDA must create the conditions for markets to meet this demand. As we noted in previous comments to FSIS, more detailed definitions and standards for common labeling claims, increased requirements for third-party certification, and a publicly available online database of approved claims and supporting documentation would better protect consumers from misleading claims, and better promote production practices that actually conform to higher standards.

USDA should also build on the success of the National Organic Program (NOP) to leverage consumer power in improving the agricultural system. Consistent with the Organic Foods Production Act, certified organic farms and processors must follow a defined set of standards

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<sup>4</sup> See, e.g. Bob Dunaway. “Putting A Price Tag On A Hog Business” *National Hog Farmer* (Feb. 1, 1999), [http://www.nationalhogfarmer.com/mag/farming\\_putting\\_price\\_tag](http://www.nationalhogfarmer.com/mag/farming_putting_price_tag).

<sup>5</sup> 21 U.S.C. 457(c).

<sup>6</sup> 21 U.S.C. 607(d).

<sup>7</sup> <https://www.fsis.usda.gov/wps/wcm/connect/6fe3cd56-6809-4239-b7a2-bccb82a30588/RaisingClaims.pdf?MOD=AJPERES>.

<sup>8</sup> Animal Welfare Institute. *Label Confusion. How Humane and Sustainable Claims on Meat Packages Deceive Consumers*. (2014) available at: <https://awionline.org/sites/default/files/products/AWI-FA-FoodLabelReport-05072014.pdf> (“USDA approves the use of high-value claims, such as “humanely raised,” on products from animals raised under conventional industry standards. For example, USDA regularly approves use of the claim by poultry producers who operate under the woefully inadequate standards of the National Chicken Council and the National Turkey Federation.”).

governing soil and water quality, pest control, livestock practices, and allowable food additives. USDA verifies producers' adherence to those standards via annual onsite inspections by third parties.<sup>9</sup> Consumer confidence in the NOP's integrity has resulted in a rapidly growing, globally recognized standard, and a U.S. retail market for organic products valued at over \$39 billion.<sup>10</sup> It has also led to pressure to dilute the standards for what qualifies as "organic." Under the law, the National Organics Standards Board is tasked with defining "organic," and while not perfect, the Board's composition offers some assurance to consumers that the organic program will reflect considerations beyond mere profit motives. To ensure the continuing relevance of "organic" food for the next 50 years, USDA's Agricultural Marketing Service should work to implement and enforce the board's recommendations, first by finalizing the proposed rule to amend the organic livestock and poultry production requirements.<sup>11</sup>

## Biotechnology

Genetically engineered (GE) crops grow on millions of acres in the United States. Food from these crops appears to be safe, but new GMOs may contain allergens or pose other health risks.<sup>12</sup> GMOs remain controversial for other reasons as well. Widespread consumer demand for disclosure of ingredients from GE crops is rooted in legitimate concerns ranging from GE crops' ecological impacts, to their role in a rapidly consolidating food system, to ethical objections to genetic modification itself. Consumers should have a right to know whether foods contain GE ingredients, and they should not have to shop in certain stores or have access to a smartphone to exercise that right.

CFA recognizes that many consumers are comfortable with genetically engineered ingredients, and that companies will continue to develop new GE crops. However, to ensure that this technology contributes to a better food system over the next 50 years, significant reform of the federal regulatory system for GE crops must take place. Currently, USDA, the Environmental Protection Agency, and the Food and Drug Administration conduct a fragmented, incomplete review of GE organisms. A mandatory pre-market approval process for GE crops should certify that they are not just free of allergens and otherwise safe for human consumption, but also that there is adequate oversight of ecological hazards associated with their use. These include the development of resistant pests and weeds and overuse of chemical herbicides.<sup>13</sup>

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<sup>9</sup> "Organic Agriculture," *USDA.Gov*, last modified June 2, 2016, <http://www.usda.gov/wps/portal/usda/usdahome?contentidonly=true&contentid=organic-agriculture.html>.

<sup>10</sup> "Organic Agriculture," *USDA.Gov*, last modified June 2, 2016, <http://www.usda.gov/wps/portal/usda/usdahome?contentidonly=true&contentid=organic-agriculture.html>.

<sup>11</sup> "Organic Livestock and Poultry Practices Proposed Rule," *AMS.USDA.Gov*, last modified April 6, 2016, <https://www.ams.usda.gov/sites/default/files/media/NOP%20Livestock%20Poultry%20Practices%20Proposed%20Rule%20QAs.pdf>.

<sup>12</sup> See National Academies of Sciences, Engineering, and Medicine. 2016. *Genetically Engineered Crops: Experiences and Prospects*. Washington, DC: The National Academies Press. doi:<https://doi.org/10.17226/23395>. ("There is one case in which that approach was used and a GE crop with allergenicity issues was detected early and prevented from being commercialized, and a second case in which a GE crop was withdrawn from the market based on the possibility that it included a food allergen."). *Id.* at 203.

<sup>13</sup> See Gregory Jaffe. "Genetically Engineered Foods and their Regulation: the Way Forward after Twenty Years of Adoption." *Regulatory Focus* (2016), available at: <https://cspinet.org/sites/default/files/attachment/Jaffe%20RF%202016%2008%20GE%20Foods%20FINAL.pdf>

Greater scrutiny, including more rigorous safety review, and stricter disclosure requirements should apply to food from animals that are genetically engineered. Many Americans find genetic engineering of animals to be offensive, and do not wish to consume food products from those animals. Labeling should give them ready access to information to determine whether a food is consistent with their values. Additionally, a U.S. government advisory body dedicated to exploring the ethical concerns and social and economic impacts associated with genetic engineering of animals would be useful to suggest guidelines for acceptable use of this technology.

### Market Concentration

Economically harmful concentration has taken hold in the food production, processing, distribution, and retailing sectors. Left unaddressed, or worse, further encouraged, this market concentration will create a serious obstacle for improving U.S. agriculture over the next 50 years. The Farmer Fair Practice Rules issued by USDA's Grain Inspection, Packers & Stockyards Administration last December (the "GIPSA rule") represent an important step in turning back the tide of corporate concentration.<sup>14</sup> According to USDA estimates, the four largest U.S. poultry processors control 51 percent of the broiler market, 57 percent of the turkey market, and over half of poultry growers have just one or two processors in their state or region on which they must depend.<sup>15</sup> This concentration leaves family farmers vulnerable to unfair, uncompetitive and retaliatory practices. The GIPSA rule, if allowed to be enacted,<sup>16</sup> would help level the playing field by clarifying the commonsense proposition that violations of the Packers and Stockyards Act need not require a showing of harm to the entire market. Related proposed rules on poultry grower ranking systems and unfair practices should similarly go forward. These actions should contribute to an overall federal government effort to vigorously enforce anti-trust laws and protect consumers and farmers alike from anticompetitive practices.

CFA appreciates the opportunity to submit these comments and looks forward to continuing our work with USDA to promote sustainable agricultural practices that give consumers ample access to safe and nutritious food over the next 50 years and beyond.

Sincerely,

Thomas Gremillion  
Director  
Food Policy Institute  
Consumer Federation of America

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<sup>14</sup> USDA. Press Release: USDA Announces Farmer Fair Practices Rules - Clarifications for Industry & Protections for Farmers, Release No. 0263.16 (Dec. 14, 2016), <https://www.usda.gov/media/press-releases/2016/12/14/usda-announces-farmer-fair-practices-rules-clarifications-industry>.

<sup>15</sup> *Id.*

<sup>16</sup> The Trump Administration has extended the comment period on the rule. *See* Grain Inspection, Packers and Stockyards Administration, Proposed rule: Extension of comment period 82 *Fed. Reg.* 9533 (Feb. 7, 2017), <https://www.federalregister.gov/agencies/grain-inspection-packers-and-stockyards-administration>.