



Animal Welfare Institute

900 Pennsylvania Avenue, SE, Washington, DC 20003

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Jaina Nian
Agricultural Marketing Service
U.S. Department of Agriculture
1400 Independence Avenue SW
Washington, DC 20250-0201

Submitted via regulations.gov

Re: Comment on Docket No. AMS-22-0026, *Competition in Food Retail and Distribution Markets and Access for Agricultural Producers and Small and Midsized Food Processors*

Dear Jiana Nian:

The Animal Welfare Institute (AWI) submits these comments in response to the Agricultural Marketing Service's (AMS) request for information, docket number AMS-22-0026. AWI seeks to provide information to AMS regarding the role that label claims and labeling standards play in access to retail markets for agricultural producers. The current regulatory oversight of these claims harms small, higher-welfare and sustainable farmers because large, conventional farms have co-opted labels and marketing practices that should be reserved for producers that improve their practices.

AWI was established in 1951 to reduce the suffering caused by humans to all animals, including those raised for meat, poultry, and egg products. In furtherance of its mission, AWI promotes higher-welfare farming systems and works to raise awareness about the realities of conventional, intensive animal agriculture. AWI monitors the use of animal raising claims on product packaging, because we believe maintaining consumer confidence in labels is critical to supporting higher-welfare farming practices.

Based on more than a decade of research, AWI believes that the deceptive use of claims on meat and poultry products represents a major threat to the future of higher-welfare, sustainable farming in the United States. Consumers are extremely invested in the welfare of animals raised for food, and producers are eager to capitalize upon this interest. The USDA's current label approval system, however, does not guarantee that high-value, high-impact claims, such as "humanely raised" and "sustainably farmed," are substantiated.¹ Some producers use these claims without ever receiving label approval from the USDA. Moreover, because producers are allowed to create their own definitions for these claims, many do not make meaningful improvements to their production practices above what is required by baseline industry care standards.

Producers that use claims without approval and/or without improving their practices destroy markets by competing unfairly against products bearing similar claims that are produced under higher standards. When a producer is allowed to make high-value claims without adequate substantiation, it lowers the value of the claim for producers who invest in higher-welfare or sustainable production practices. Further, consumers who purchase these products are deceived because they perceive animal welfare and

¹ *Label Confusion 2.0: How the USDA Allows Producers to Use "Humane" and "Sustainable" Claims on Meat Packages and Deceive Consumers*, ANIMAL WELFARE INST., (Sept. 2019) <https://bit.ly/3nBKJrF> (update forthcoming 2022).

environmental stewardship claims, such as “humanely raised” and “sustainably farmed,” to mean that producers exceed minimum industry animal care standards.²

AWI strongly believes that the current lack of fair competition in the meat industry should be addressed by AMS by supporting farmers who wish to use alternative practices. While USDA-AMS oversees *voluntary marketing programs*, claims like “sustainable” and “humanely raised” are voluntary on the part of the producer, and AMS could take a greater role in ensuring that its actions do not drive producers to use unregulated claims such as these without substantiation.

For example, AMS could create a program for auditing humane farm animal care or sustainability to a standard that is higher than that of the conventional industry. AWI recommends consideration of third party certification programs with standards that are higher than that of the conventional industry, a requirement of 100% compliance with the program’s standards, and auditing on a regular interval of at least once every 15 months.³ AMS could also support farmers that wish to participate in such a program by creating a grant program for producers that wish to engage in alternative agricultural practices and market their products using AMS services.

AMS should also disallow producers from using the Process Verified Program for claims that imply producers exceed industry standards. For instance, the use of “cage free” for broiler chickens and “hormone free” for animals for which hormone use is forbidden by federal law. While not “false,” these claims are misleading to consumers because they imply other producers use these practices. The “One Health Certified” process verified point is also incredibly misleading, as it capitalizes on the CDC’s One Health initiative and consumer interest in animal welfare and antibiotic use while merely verifying compliance with conventional industry standards.

Finally, AMS should re-issue the Organic Livestock and Poultry Practices (OLPP) rule as expediently as possible, without substantial revisions. The OLPP rule was based on over a decade of input from interested parties, and its withdrawal may have violated the Administrative Procedure Act. The withdrawal of this rule allows organic mega-farms to continue exploiting loopholes that place their farms at extreme advantage over smaller producers and those that follow the true spirit of the NOP regulations for outdoor access.

Thank you for your consideration. If you have any questions or would like to discuss this comment, please contact me via email at erin@awionline.org or by phone at 202-446-2147.

Sincerely,



Erin Sutherland
Staff Attorney
Farm Animal Program

² Animal Welfare Inst., *Survey of Consumer Attitudes About the Claim “Humanely Raised”* (Oct. 2021) <https://awionline.org/sites/default/files/uploads/documents/survey-consumer-attitudes-claim-humanely-raised.pdf>.

³ Global Animal Partnership Step 2 could offer a benchmark to AMS for the minimum criteria for a program relating to animal care.