

ConsumersUnion®

POLICY & ACTION FROM CONSUMER REPORTS

U.S. Department of Agriculture
Food Safety and Inspection Service
Patriots Plaza 3
1400 Independence Avenue SW
Mailstop 3782, Room 8-163B
Washington, DC 20250-3700

Submitted via www.regulations.gov

Consumers Union
National Consumers League
Center for Foodborne Illness Research & Prevention

Comments on Petition to Establish Beef and Meat Labeling Requirements: to Exclude Products Not Derived Directly from Animals Raised and Slaughtered from the Definition of “Beef” and “Meat”, Petition 18-01
Docket Number FSIS—2018—0016

Prepared by
Michael Hansen, Ph.D., Senior Scientist, Consumers Union

May 17, 2018

Summary

Consumers Union (CU), the policy division of Consumer Reports,¹ appreciates the chance to comment on Petition Number 18-01 submitted by the U.S. Cattlemen’s Association to the United States Department of Agriculture (USDA) Food Safety Inspection Service (FSIS) asking the agency to limit the definition of “beef” and “meat” to animals born, raised, and slaughtered/processed in the traditional manner. National Consumers League (NCL) and the Center for Foodborne Illness Research & Prevention (CFI) join in submitting these comments.

¹ Consumers Union is the policy and mobilization arm of Consumer Reports. Consumers Union is an expert, independent, nonprofit organization whose mission is to work for a fair, just, and safe marketplace for all consumers and to empower consumers to protect themselves. It conducts this work in the areas of food and product safety, telecommunications reform, health reform, financial reform, and other areas. Consumer Reports is the world’s largest independent product-testing organization. Using more than 50 labs, auto test center, and survey research center, the nonprofit organization rates thousands of products and services annually. Founded in 1936, Consumer Reports has over 7 million subscribers to its magazine, website, and other publications.

In general, the three consumer organizations submitting these comments share the concerns raised by the U.S. Cattlemen’s Association regarding labeling of “meat” products that do not come from an animal. We see significant potential for consumers to be misled by certain names and descriptive and promotional terms that may be used on some new lab-grown meat products coming on the market, as well as on insect-based and older plant-based products. That said, we disagree with U.S. Cattlemen’s Association that the solution is for FSIS to determine that “the definitions of ‘beef’ and ‘meat’ should be limited to animals born, raised, and processed in the traditional manner.” Rather, we urge USDA to include such products in the definitions of “beef” and “meat” and address both safety and appropriate labeling of such products.

Overall, we urge USDA to assert its regulatory authority over both the naming and the safety of the lab grown meat products. However, regarding naming and labeling of plant-based meat substitutes, the Food and Drug Administration (FDA) already has jurisdiction. USDA should confer with FDA regarding the potentially misleading labeling issues related to plant-based products.

Detailed comments

Lab-grown Meat

There is significant potential for consumers to be misled by new meat products that are derived from animal cells but are produced in a laboratory, rather than from an actual animal. While these products definitely would not have the same ratio of muscle, fat and connective tissue as regular meat products, they may have a similar appearance. Some consumers may be repelled by the notion of lab-grown meat, while others may be attracted to it for reasons of lowered animal cruelty/suffering, and potentially lower environmental impacts. Either way, in order to make informed buying decisions, consumers deserve to be informed in the marketplace about this new form of meat production, which differs radically from conventional meat production.

Several terms could effectively convey the nature of these new products, including "lab-grown meat," "synthetic meat," and "artificial meat," as well as their more specific counterparts, such as “lab-grown beef,” “lab-grown chicken,” and “synthetic pork.” USDA should designate a small number of terms for these products that make it clear that the product did not come from a living animal and was produced in a laboratory.

USDA should designate two terms, often used by the industry — "cultured meat" and "clean meat" — as not acceptable on these products since they could be misleading or misunderstood. "Cultured meat," while scientifically accurate, would likely not be meaningful to the average consumer—it is not a term in common usage and might suggest the product was regular meat that had been marinated or subjected to some other culinary process.

"Clean meat" would be extremely misleading as well. A primary concern consumers may have about meat related to cleanliness would be whether it contains bacterial contamination, as well as artificial chemicals or additives. With animal cells being cultured in a laboratory or produced on a larger scale, there is always the potential problem of microbiological contamination due to the growth media and nutrients that are necessary for the culturing of the meat product. In addition, there are numerous inputs for beef cell culture, such as use of fetal bovine serum, growth hormones, growth factors, and antibiotics, which could conceivably result in potential health impacts if excessive levels were found in the product. Finally, suggesting that this kind of meat product is "clean" suggests that traditionally grown meat is not. Thus, such food products should not be allowed to be labeled "clean meat."

Not only should USDA ensure that lab-grown meats are labeled to let consumers know they have not been produced from animals born, raised and slaughtered in the traditional way, but USDA should also ensure that lab-grown meat is produced in a way to assure its safety. Although there may have been some discussion between USDA and FDA as to how to regulate such products (also known as "cellular agriculture"), we believe that USDA should exert regulatory authority over the production of such foods, since they are derived from food animals that are regulated by USDA under the Federal Meat Inspection Act (FMIA) and Poultry Products Inspection Act (PPIA).

We do not recommend that FDA be left responsible for the safety of these lab-grown meat products. Producers, if they fell under FDA jurisdiction, could use the broken GRAS (Generally Recognized As Safe) process, which allows companies to self-regulate the safety of food ingredients. Lab-meat industry representatives have already suggested in the media that premarket testing is not required and that they could prepare a GRAS notification: "Technically, as cultured meat is a whole food and not a food additive, no premarket approval would be required, although this would be product dependent. However, given the novelty of the process and the scrutiny pioneers will face, companies in the space are working closely with the FDA as they approach commercialization, and may put together GRAS determinations (which they can submit to the FDA in the hope of receiving a letter of no objection) *predicted one industry source*"² (*italics added*). CU holds that cultured meat products should be required to go through a premarket safety assessment and that the GRAS process is inadequate to assure safety.³ Proper safety review could best be accomplished by USDA asserting authority over these products.

Some members of Congress have become interested in how lab-produced meat should be regulated. In late March, Representative Rosa DeLauro asked GAO "to

² Watson, E. 2018a. Rep. DeLauro to GAO: Do we need a new regulatory framework for cellular agriculture? *Food Navigator USA*, April 2, 2018. At: <https://www.foodnavigator-usa.com/Article/2018/04/02/Rep.-DeLauro-to-GAO-Do-we-need-a-new-regulatory-framework-for-cellular-agriculture>

³ Neltner T. and M. Maffini. 2013. Generally Recognized as Secret: Chemicals added to food in the United States. National Resources Defense Council. At: <https://www.nrdc.org/sites/default/files/safety-loophole-for-chemicals-in-food-report.pdf>

investigate what regulatory framework, if any, exists for cell-cultured food products.”⁴ In addition, last week, the House of Representatives agricultural appropriations sub-committee approved language in an agricultural appropriations bill that tasks USDA with developing regulations for such food: “For fiscal year 2018 and thereafter, the Secretary shall regulate products made from cells of amenable species of livestock, as defined in the Federal Meat Inspection Act, or poultry, as defined in the Poultry Products Inspection Act, grown under controlled conditions for use as human food, and shall issue regulations for the manufacture and processing of such products, as well as other requirement necessary to prevent the adulteration and misbranding of these products.”⁵ We support this approach.

Plant-based meat substitutes

The U.S. Cattlemen’s Association petition also brings up the issue of labeling of various plant-based meat substitutes, many of which have been on the market for many years. “Veggie burger” is a term well known to consumers, especially ones seeking a plant-based substitute for a meat burger. Since the plant-based meat substitutes do not contain any meat, they do not fall under the purview of USDA. Rather, FDA has regulated the labels on these products in the past, and should continue to do so. Plant based meat substitutes are frequently labeled “imitation chicken,” or “imitation beef,” as required by FDA under 21 CFR 101.3(e). This is an effective way to convey to consumers—both to those who want to avoid animal products, and to those who want to avoid plant-based substitutes for animal products—the true nature of the product. The U.S. Cattlemen’s Association’s concerns with the labeling of plant-based meat substitutes should be taken up with FDA.

Conclusion

In sum, we believe that lab-grown meat products, derived from cells taken from animals and grown on a nutrient medium in a laboratory, should be clearly labeled. We believe that such products also should be required to go through a premarket safety assessment process and that premises where such products are produced should be inspected to ensure the safety of the food being produced therein. We therefore urge USDA to include such products in its definitions of “beef” and “meat” so that USDA can assert its regulatory authority, in terms of determining safety and labeling of such products.

We see significant potential for consumers to be misled by certain names and descriptive and promotional terms that may be used on some new lab-grown meat products coming on the market, and urge that USDA only allow a limited small number

⁴ DeLauro, R. 2018. Letter to Gene L. Dodaro, Comptroller General of the United States, dated March 28, 2018. At: https://delauero.house.gov/sites/delauro.house.gov/files/Cell_Cultured_Foods_GAO_Letter.pdf

⁵ Watson, E. 2018b. GFI ‘surprised and dismayed’ as ag appropriations bill tasks USDA with issuing new regulations for clean meat. *Food Navigator USA*, May11, 2018. At: <https://www.foodnavigator-usa.com/Article/2018/05/11/Cultured-meat-Good-Food-Institute-dismayed-as-appropriations-bill-tasks-USDA-with-issuing-new-regulations-for-clean-meat>

of terms that convey that the product did not come from a living animal and was produced in a laboratory. The terms “clean meat” and “cultured meat” should not be allowed.

Regulation of plant-based meat substitutes should remain with FDA.

Thank you for your consideration of our comments.