



# Consumer Federation of America

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Food Safety and Inspection Service  
102 Cotton Annex Building  
300 12<sup>th</sup> Street, SW  
Washington, DC 20250

98-027R-14  
98-027R  
Arthur S. Jaeger

Re: Docket No. 98-27P

The Consumer Federation of America<sup>1</sup> wishes to respond to the Food Safety and Inspection Service's reopening of the comment period on a proposed rule on advanced meat recovery systems. According to FSIS' announcement, the comment period was reopened for two reasons:

- After the initial comment period, Agricultural Research Service scientists obtained substantially different iron test results on advanced meat recovery product than those obtained by FSIS and used in publishing the proposed rule.
- An ad hoc committee of meat industry representatives have presented "new" materials on worker safety and the economic impact of the proposed rule.

The additional materials presented by industry do not justify reopening the comment period and should be given little weight by FSIS in considering this rule. While industry may have produced some new *documents* on worker safety and the economic impact of the proposed rule, these are hardly new arguments. Consumer Federation of America staff has been aware of them since at least mid-1997. In addition, they are at best tangential to the issue.

This is and has always been a truth-in-labeling matter. AMR product has repeatedly been shown to include bone, bone marrow, and even spinal cord tissue in excess of limits under the FSIS definition of "meat." That definition, spelled out in 9 CFR 301.2

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<sup>1</sup>The Consumer Federation of America is an association of approximately 260 non-profit, pro-consumer groups, most of them national, state and local advocacy organizations and consumer-owned nonprofit cooperatives such as credit unions. These groups have a combined membership of more than 50 million people. The size and diversity of its membership enables CFA to speak for virtually all consumers. But, in particular, CFA looks out for those consumers who have the greatest need, especially the least affluent.

(rr), says that, to be called meat, AMR product must be comparable to hand-deboned meat.<sup>2</sup> FSIS' own tests in 1996 confirmed the difference between AMR product and hand-deboned meat, as did the more recent ARS tests.<sup>3 4</sup> Because of this difference, when consumers purchase food items including AMR product, they are purchasing a product that may not qualify as meat and, therefore, is mislabeled.

FSIS sought to correct this problem with a directive banning nervous system tissue in AMR product and a proposal ensuring that AMR product is comparable to hand-deboned meat in iron and calcium content. The proposed rule tightened the standard for calcium in AMR product and established a standard for iron.<sup>5</sup> The calcium standard determines the level of bone solids present while the iron standard tests for bone marrow. When it issued the proposed rule in 1998, FSIS said the current regulations are "confusing and need revision to prevent misbranding and economic adulteration." That remains true today and is the key issue in this rule making.

The economic analysis offered by the ad hoc committee contends that AMR product cannot meet FSIS' proposed iron standard and that this will force industry to abandon advanced meat recovery technology in favor of hand-held, vibrating Whizzard knives operated by individuals.<sup>6</sup> It puts the cost to industry of returning to Whizzard knives at more than \$200 million in the first year.

There is, however, another alternative. That is to produce AMR product as it is today

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<sup>2</sup> The relevant section of the Code of Federal Regulations (9 CFR 301.2 (rr)) focuses on the condition of the bones emerging from the AMR process. FSIS later concluded those criteria were inadequate. Subsequent directives have said that, to be called meat, AMR product must have the chemical characteristics of hand-deboned meat.

<sup>3</sup> See *Advanced Meat Recovery System Survey Project Report Summary*, prepared by the Food Safety and Inspection Service and dated February 20, 1997. The summary states: "The chemical analysis indicated that the composition of AMRS final product had, on the average, lower protein values, and higher fat, meat to protein ratio, calcium, bone residue, total iron, non-heme to heme ratio, cholesterol, ash, and saturated to unsaturated fatty acid ratio values than corresponding values for hand deboned product."

<sup>4</sup> See *Revised results of 1996 FSIS Advanced Meat Recovery (AMR) survey, based on Agricultural Marketing Service (ARS) procedure for analyzing iron*, available on the FSIS website with the announcement of the reopening of the comment period.

<sup>5</sup> See *Federal Register*, April 13, 1998, Docket No. 95-027P, Meat Produced by Advanced Meat/Bone Separation Machinery and Recovery Systems.

<sup>6</sup> For example, page 1 of the analysis, titled *Advanced Meat Recovery Systems—An Economic Analysis of Proposed USDA Regulations*, states: ""While available AMR systems likely could be adjusted to meet the newly proposed calcium standards, they could not meet the new iron levels, thus requiring abandonment of the system and return to the hand-held knives formerly used."

but label it in a way that distinguishes it from hand-deboned meat. FSIS already has a designation for "mechanically separated" meat, which can include bone, bone marrow, and concentrations of certain minerals above those found in hand-deboned meat.

Meat industry representatives have long argued that this is not a viable option because consumers will not purchase a product labeled "mechanically separated" meat. In addition, they point out, while a large amount of AMR product is now used in ground beef, FSIS rules specifically prevent mechanically separated meat from being used in ground beef. Mechanically separated meat, however, can be used in most other meat products, including sausage, hot dogs, and lunch meat. FSIS could also create a new category of product, specifically designed for the characteristics of AMR product and its uses.<sup>7</sup>

Either of these options is preferable to the status quo, which FSIS concedes results in confusion, mislabeling, and adulteration. The Consumer Federation of America is also aware that the poultry industry has been producing and selling "mechanically separated" chicken and turkey for years without the economic damage envisioned by the beef industry.

The ad hoc committee's worker safety document details the problems experienced in the meat packing industry with cumulative trauma disorders and notes that reports of carpal tunnel syndrome dropped with the introduction of AMR systems.<sup>8</sup> Certainly, Whizzard knives, under certain circumstances, are problematic and meat plant workers should have a safe and healthy workplace. But none of these issues is the key concern here.

The issue is providing consumers with a product that is labeled accurately. The Consumer Federation of America simply asks that AMR product live up to the requirements of FSIS' own policy statements and directives. That is, if it is to be labeled "meat," AMR product should be comparable to hand-deboned meat. FSIS Directive 7160.2, issued in April 1997, said: "...meat includes product derived by recovery systems that remove muscle from bones by a mechanical means that results in product that has the functional and chemical characteristics of meat. In other words, the product

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<sup>7</sup> It would have been helpful if the ad hoc committee's economic analysis also addressed the option of alternative labeling for AMR product.

<sup>8</sup> For example, page 3 of the document, titled Worker Safety Issues Related to Advanced Meat Recovery, says: "In 1994...AMR systems became widely used in the industry. That same year, reported cases of carpal tunnel syndrome by butchers and meat cutters dropped by 38 percent. Although it is not likely that the entire decline can be attributed to the introduction and use of AMR systems, they did allow the industry to rely less upon hand held vibrating knives."

is comparable to product derived by hand deboning. In particular the product's content of hard bone and related components is to be comparable to that of product derived by hand deboning."

Industry basically agrees with the proposed calcium standard of 130 mg per 100 grams of product. That is 20 mg below the current standard but still well above the calcium content of hand-deboned meat. According to USDA's 1997 survey of AMR product, lean meat that is free of bone contains less than about 20 mg of calcium per 100 grams.<sup>9</sup>

Industry strenuously objects to the proposed iron content standard. This issue is complicated by the discrepancy in the iron test results between FSIS and ARS. The discrepancy suggests that FSIS' calculations understated the iron content in both AMR and hand-deboned meat, resulting in a proposed iron protein ratio that is overly restrictive.

Industry representatives indicate that AMR product typically has about five mg of iron per 100 grams of product. This is consistent with the ARS test findings, which show iron content for AMR product ranging from about 4.3 mg to 7.5 mg per 100 grams of product. At the same time, like FSIS, ARS found significantly less iron in hand-deboned meat. The iron content for hand-deboned meat in the ARS tests ranged from 1.7 mg to 4.9 mg per 100 grams of product. FSIS' Handbook 8 indicates iron values for most meat cuts of 1.8 mg per 100 grams.

The Consumer Federation of America strongly supports an iron-protein ratio test to determine the level of bone marrow in both AMR product and hand-deboned meat. It leaves to FSIS what method—dry ash, wet acid, or something else—is used to determine the iron level. Whatever the method or standard, however, FSIS should require iron levels in AMR product comparable to those of hand-deboned meat.<sup>10</sup> This standard should be applied using the same methodology in all AMR plants.

Industry argues that a strict iron standard would result in reduced yields and huge economic losses. But an FSIS *Background* dated March 1997 says AMR technology

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<sup>9</sup> *Advanced Meat Recovery System Survey Project Final Report*, prepared by the Food Safety and Inspection Service, February 21, 1997, page 9.

<sup>10</sup> Industry representatives cite soon-to-be-published USDA research suggesting that AMR product may include higher iron levels than hand-deboned meat even with no marrow present. Such research seems highly relevant in that it might provide a rationale for more iron in AMR product versus hand-deboned meat. CFA would like to see this research when it becomes available.

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removes only about one to 1.5 pounds more beef from a carcass than hand deboning.<sup>11</sup> The ad hoc committee's economic analysis puts the added yield from AMR systems at 1.5 pounds per head for fed cattle, four pounds per head for cows, and two pounds per head for hogs.

Industry sees this yield loss triggering irrevocable harm. CFA questions whether losing 1.5 to four pounds of meat per carcass is an economic calamity for industry. In addition, while industry assumes this meat is lost, nothing prevents a processor from selling this additional meat at a slightly reduced price as mechanically separated meat. In addition, some of industry's yield loss is in marrow and other constituents that do not belong in meat in the first place. So this loss could also be viewed as eliminating a windfall based on an adulterated product. CFA feels it is more important to provide consumers with an accurately labeled product than to protect industry's profits.

Under the Federal Meat Inspection Act, FSIS has the responsibility to ensure that AMR products are properly labeled. FSIS should either issue a final rule that assures that AMR product approximates hand-deboned meat, or order that AMR product be labeled in an alternative manner that does not suggest equivalence with hand-deboned meat.

Sincerely,



Arthur S. Jaeger  
Assistant Director

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<sup>11</sup> *FSIS Releases Survey of Advanced Meat Recovery Systems*, "Backgrounder" distributed with a March 21, 1997, FSIS Constituent Update