

Chapter 1

Executive Summary

I. INTRODUCTION

Childhood obesity is a critical threat to public health.¹ In 2005, the federally appointed Committee on Prevention of Obesity in Children and Youth reported that approximately nine million children over six years of age were considered obese.² Nearly one in three U.S. children is overweight or obese.³ Children who are members of minority and low-income groups tend to be disproportionately affected.⁴

Because obese children currently do not consume enough healthy foods such as fruits and vegetables, success in the battle to end childhood obesity will depend, in part, on the degree of success farmers experience producing these healthy food crops, and marketing them in a manner that ensures they reach all children, including those who are most vulnerable.⁵ In this endeavor, it will be critical to achieve a balance between providing an affordable and accessible supply of fruits and vegetables and a fair return on investment to the farmers who grow them. Strategic marketing through rebuilding local and regional food systems—including direct marketing by farmers to consumers, including nutrition program recipients, and to schools—will help increase children’s consumption of fruits and vegetables and ensure that farmers receive a fair price for their production.

¹ U.S. Department of Health and Human Services, “The Surgeon General’s Vision for a Healthy and Fit Nation,” (2010), available at <http://www.surgeongeneral.gov>. See also “F as in Fat: How Obesity Policies Are Failing in America,” Trust for America’s Health and Robert Wood Johnson Foundation (2009), available at <http://healthyamericans.org/reports/obesity2009>.

² Committee on Prevention of Obesity in Children and Youth, *PREVENTING CHILDHOOD OBESITY: HEALTH IN THE BALANCE*, Koplan, et al., eds. (National Academies Press 2005).

³ Ogden, et al., “Prevalence of High Body Mass Index in U.S. Children and Adolescents, 2007-2008,” *Journal of the American Medical Association* (Jan. 20, 2010), 303(3):242-9.

⁴ Wang and Beydoun, “The Obesity Epidemic in the United States—Gender, Age, Socioeconomic, Racial/Ethnic, and Geographic Characteristics: A Systematic Review and Meta-Regression Analysis,” *Epidemiologic Reviews* 29:6-28 (2007).

⁵ “Access to Affordable and Nutritious Food: Measuring and Understanding Food Deserts and Their Consequences: Report to Congress,” USDA Economic Research Service (June 2009), available at <http://www.ers.usda.gov/publications/ap/ap036/>.

Farmers' decisions regarding which crops to produce and how to market them are greatly affected by federal agriculture and nutrition program policies, including those incorporated into the lengthy Farm Bills that are debated by Congress approximately every five years. The 2008 Farm Bill is the primary source of current federal law governing agriculture and nutrition programs.⁶ The Farm Bill budget is nearly \$300 billion for the years 2008 through 2012.⁷ Despite this expenditure on agriculture and nutrition programs, researchers have just begun to study the capacity of specific regions and the United States as a whole to produce and distribute enough fruits and vegetables to meet the need if every person were to eat the recommended servings under national dietary guidelines.⁸ Meeting the need will likely require that American farmers expand production and strategic domestic marketing of these healthy food crops.

This report strives to explain the key agriculture and nutrition programs included in the 2008 Farm Bill and makes recommendations for policy change in these programs to encourage farmers' production and to facilitate their strategic marketing of fruits and vegetables to make them more accessible to children. The principal questions that guide the discussion are: (1) "What are the ways in which Farm Bill programs currently discourage farmers from producing and strategically marketing fruits and vegetables?" and (2) "What policy changes could be made that would encourage farmers to do so?" For if farmers are to successfully play their important role in ensuring that our nation's children have ready access to healthy food, we must have federal agriculture and nutrition program policies that encourage rather than discourage such actions.

There is strong evidence that limited access to and consumption of fruits and vegetables contributes to childhood obesity. For this reason and because fruit and vegetable growers, particularly those producing on a smaller scale, face significant

⁶ Food, Conservation, and Energy Act of 2008, Pub. L. No. 110-246, 122 Stat. 1651 (June 18, 2008).

⁷ Johnson, et al., "The 2008 Farm Bill: Major Provisions and Legislative Action," at CRS-16, Congressional Research Service Report for Congress (Oct. 3, 2008), available at <http://ncseonline.org/NLE/CRSreports/08Jun/RL33934.pdf>.

⁸ As of this writing, the applicable national dietary guidelines are U.S. Department of Health and Human Services, U.S. Department of Agriculture; "Dietary Guidelines for Americans, 2005," 6th ed. (U.S. Government Printing Office 2005), available at <http://www.health.gov/dietaryguidelines>. See also, Meter, "Finding Food in Farm Country," (Crossroads Resource Center, 2001), available at www.crcworks.org; "Local Foodshed Mapping Tool for New York State," available at www.cals.cornell.edu/cals/css/extension/foodshed-mapping.cfm; Gussow, "Reflections on Nutritional Health and the Environment: The Journey to Sustainability," *Journal of Hunger & Environmental Nutrition*, 1:1, 3-26 (2006).

challenges under current federal agriculture policies, this report focuses on the production and strategic marketing of these important food crops. This focus is not intended to suggest that fruits and vegetables are the only healthy foods, just as the focus on policies that would make fruits and vegetables produced on small- to medium-sized farms more broadly accessible to feed children is not intended to suggest that there are no public health issues related to fruit and vegetable production on an industrial scale. Reports focusing on federal policy implications of these other aspects of our food system would also contribute to the discussion of healthy food systems in this country.

The goal of this report is to provide information to both the farm and public health communities that will further the understanding of existing federal agriculture and nutrition programs and recommended policy changes. As these diverse constituencies seek to form alliances to address shared goals, it is critical to develop shared language and understanding of these policies.

There are many opportunities for the farm and public health communities to work together.⁹ The 2008 Farm Bill programs are being launched now; some are already being modified based on early experience with implementation. Many of the program policy changes recommended in this report could be made by USDA without the need for additional direction from Congress in the next Farm Bill. However, to the extent that such policy amendments do not occur, Farm Bill action may be required. Now is the time to build consensus for policy change to improve existing programs as they are implemented and prepare for the next Farm Bill.

II. DEFINITION OF KEY TERMS

This report focuses on policies that will promote farmers' production and strategic marketing of fruits and vegetables. A couple of terms will be important to understand from the outset of this discussion.

“Specialty crops” is an umbrella term that includes fruits and vegetables. For some USDA programs, federal law defines “specialty crops” to include fruits and vegetables, tree nuts, dried fruits, and horticulture and nursery crops (including flowers).¹⁰ That fruits and vegetables are included in the term “specialty crops” can

⁹ Story, et al., “Food Systems and Public Health: Linkages to Achieve Healthier Diets and Healthier Communities,” *Journal of Hunger & Environmental Nutrition*, 4:3, 219-224 (2009); Jackson, et al., “Agriculture Policy Is Health Policy,” *Journal of Hunger & Environmental Nutrition*, 4:3, 393-408 (2009). See also, Prevention Institute, “Cultivating Common Ground: Linking Health and Sustainable Agriculture, (2004),” available at www.preventioninstitute.org.

¹⁰ Specialty Crops Competitiveness Act of 2004, Pub. L. No. 108-465, 118 Stat. 3882 (Dec. 21, 2004) (codified at 7 U.S.C. 1621 notes § 3). This definition is incorporated into

be explained, at least in part, by understanding that the number of acres devoted to production of fruits and vegetables in the United States is about 2.5 percent of the total cropland under production. According to the 2007 Census of Agriculture, of the nearly 310 million acres of harvested cropland in the U.S. in 2007,¹¹ only about 7.7 million acres were planted to fruits and vegetables.¹²

“**Direct marketing**” is used to refer to transactions through which an individual farmer, or an organization representing a group of farmers, sells crops directly to individual consumers or to firms representing groups of consumers, in a manner that is intended to lower the cost and increase the quality of food to such consumers while providing increased financial return to the farmers.¹³ The understanding of direct marketing has expanded to include not only sales from farmers to consumers, but also from farmers directly to restaurants, grocery stores, food cooperatives, and institutions such as hospitals and schools.¹⁴ In general, direct marketing involves sale of a crop directly to consumers without the intervention of an intermediary such as a wholesaler, retailer, packer, processor, shipper, or buyer.¹⁵ Direct marketing is one important method that fruit and vegetable farmers can use to strategically market their crops to reach children.

III. FOCUS OF ANALYSIS

The analysis in this report focuses on the most relevant provisions of the Farm Bill, including parts of the Commodity; Crop Insurance and Disaster Assistance;

the 2008 Farm Bill §§ 7311 (Specialty Crop Research Initiative), 10,001 (Definitions), 10,103 (Inclusion of Specialty Crops in Census of Agriculture), and 10,109 (Specialty Crop Block Grants).

¹¹ 2007 Census of Agriculture, Table 8, available at http://www.agcensus.usda.gov/Publications/2007/Full_Report/index.asp.

¹² 2007 Census of Agriculture: Specialty Crops, Table 1 (2009) (reporting just over 2 million acres of noncitrus fruits, about 1 million acres of citrus fruits, about 260,000 acres of berries, and about 4.4 million acres of vegetables, potatoes, and melons), available at http://www.agcensus.usda.gov/Publications/2007/Online_Highlights/Specialty_Crops/spec_crop.pdf.

¹³ See, Farmer-to-Consumer Direct Marketing Act of 1976, Pub. L. No. 94-463, § 3, 90 Stat. 1982 (Oct. 8, 1976) (codified at 7 U.S.C. § 300); Hamilton, *THE LEGAL GUIDE FOR DIRECT FARM MARKETING*, at 1 (Drake University Agricultural Law Center 1999).

¹⁴ Diamond, et al., “Emerging Market Opportunities for Small-Scale Producers: Proceedings of a Special Session at the 2008 USDA Partners Meeting” (2009), available at <http://www.ams.usda.gov/AMSV1.0/getfile?dDocName>.

¹⁵ See, e.g., 7 C.F.R. § 457.171 (2010) (Common Crop Insurance Regulations; Cabbage Crop Insurance Provisions).

Horticulture and Organic Agriculture; Credit; Conservation; Research; Rural Development; and Miscellaneous titles. This report does not assess the trade, forestry, energy, livestock, commodity futures, or trade and tax provisions titles of the Farm Bill. With a few exceptions, the report does not look outside the Farm Bill authorized programs, nor does it look beyond programs run by USDA.¹⁶ Thus, for example, it does not address marketing orders, research and promotion programs, or water usage issues related to fruit and vegetable production and marketing.

The Congressional Budget Office estimated the total cost of the 2008 Farm Bill at just under \$284 billion for the federal fiscal years from 2008 through 2012.¹⁷ Of that \$284 billion, about \$42 billion (15 percent) in projected spending will support payment programs for commodity crops, \$22 billion (8 percent) will support crop insurance, and \$189 billion (67 percent) will support the cost of nutrition programs. Thus, these three program categories are expected to account for about 90 percent of all Farm Bill spending.

Given these spending levels, we place our primary focus on these three program types. This report provides a more detailed analysis of the Crop Insurance and Disaster Assistance and Nutrition titles of the Farm Bill because they contain rich possibilities for policy change that promotes healthy food crop production and strategic marketing. The Crop Insurance and Disaster Assistance title is an overlooked driver of decision-making on individual farms and within many agriculture programs. The Nutrition title accounts for nearly two-thirds of Farm Bill spending, but it has often received little attention from farmers, despite the potential for nutrition programs to expand markets without depressing prices.

This report explains how commodity programs work and recommends targeted changes to the principal commodity program's direct restriction on planting fruits and vegetables. Yet, for two reasons, the commodity programs are not the focus of this report. First, the commodity programs have been subject to considerable previous analysis, leaving little ground uncovered. Second, the commodity programs have been the subject of considerable reform efforts in several recent Farm Bills, and have proven remarkably resistant to change. Thus, rather than focusing upon the commodity programs, this report attempts to focus attention on the multiple, often overlooked ways in which federal policies discourage farmers

¹⁶ For an overview of other relevant federal government authorities and programs, see Gosselin, "Beyond USDA: How Other Government Agencies Can Support a Healthier, More Sustainable Food System," Institute for Agriculture and Trade Policy (2010), available at <http://www.iatp.org/iatp/publications.cfm?refid=107172>.

¹⁷ Johnson, et al., "The 2008 Farm Bill: Major Provisions and Legislative Action," at CRS-16, Congressional Research Service Report for Congress (Oct. 3, 2008), available at <http://ncseonline.org/NLE/CRSreports/08Jun/RL33934.pdf>.

from producing and strategically marketing food crops such as fruits and vegetables, and makes recommendations for policy changes to address these problems.

This report draws attention to important policy issues such as: (1) the need to create a safety net to protect fruit and vegetable farmers from natural disasters in a manner comparable to programs that are available for farmers producing major commodity crops such as corn, soybeans, and wheat; (2) the failure to collect fruit and vegetable price and yield data to ensure a robust body of knowledge to guide policy regarding these important sectors of agriculture; (3) the failure to design crop insurance, disaster assistance, loan, and conservation programs to address the unique character of fruit and vegetable production and marketing; and (4) the ways in which expenditures on nutrition programs may be better directed to ensuring that children, including those from low-income households, receive healthy food.

A note on the structure of the report may be helpful. As stated above, the report dedicates its most in-depth analysis to commodity programs, crop insurance and disaster assistance programs, and nutrition programs. The report begins by discussing programs related to agricultural production, and concludes with the programs related to food distribution. The opening sequence of chapters illustrates how the policy of making payments based upon historical production of certain commodities (which thus favors production of those commodities and disfavors production of fruits and vegetables) influences other farm programs. The commodity programs collect data about commodity prices and yields, which provides an actuarially sound basis for crop insurance, and these two types of income assurance then position commodity farmers to be looked upon favorably by agricultural lenders. A policy to encourage farmers to produce and distribute fruits and vegetables will require similarly mutually reinforcing types of support.

IV. SUMMARY OF POLICY DISCUSSION AND RECOMMENDATIONS

Recommendations for policy change are included at the end of each of the chapters discussing specific program areas. In addition, all of the recommendations are gathered together in the final chapter of this report. The following is a summary of key points in the report's analysis and recommendations for policy change.

A. Commodity Title

Previous studies and reports have already begun the analysis of the relationship between federal commodity programs and obesity rates, particularly the extent to which the current form of these programs has helped create a glut of cheap refined

grains, oils, and sweeteners which have become ubiquitous in the American diet.¹⁸ Covered commodities and their products are incorporated into the American diet directly as ingredients in processed foods, as well as indirectly when used as livestock feed in feedlots and confined animal feeding operations in order to produce inexpensive meats.¹⁹ The question of the larger impact of the commodity programs on obesity rates is beyond the scope of this report, which focuses on barriers and incentives for fruit and vegetable production. However, as these other studies have pointed out, one unavoidable result of federal farm policy promoting “cheap and plentiful” commodity crops is that the real prices of grain starches, oils, meats, and sweeteners have increased slowly over the past few decades, while fruits and vegetables have become more expensive, in relative terms, more quickly over time.²⁰

In general, farmers are prohibited from planting and harvesting fruits and vegetables on acres enrolled in the primary commodity payment program, known as the Direct and Counter-cyclical Program.²¹ Most harvested cropland in the United States is enrolled in these programs which make payments to farmers who have a history of growing crops such as corn, soybeans, wheat, oats, barley, rice, and

¹⁸ Muller, et al., “Considering the Contribution of U.S. Food and Agricultural Policy to the Obesity Epidemic: Overview and Opportunities,” IATP (Feb. 2007), available at <http://www.agobservatory.org/library.cfm?RefID=99608>; Institute for Agriculture and Trade Policy, “The Farm Bill and Public Health: An Overview” (Feb. 2007), available at <http://www.iatp.org/iatp/publications.cfm?accountID=421&refID=99606>; Muller, et al., “Aligning Food Systems Policies to Advance Public Health,” *Journal of Hunger & Environmental Nutrition*, 4:3, 225-240 (2009); Wallinga, “Today’s Food System: How Healthy Is It?,” *Journal of Hunger & Environmental Nutrition*, 4:3, 251-281 (2009); Jackson, et al., “Agriculture Policy Is Health Policy,” *Journal of Hunger & Environmental Nutrition*, 4:3, 393-408 (2009); Harvie, et al., “A New Health Care Prevention Agenda: Sustainable Food Procurement and Agricultural Policy,” *Journal of Hunger & Environmental Nutrition*, 4:3, 409-429 (2009); Sturm, “Affordability and Obesity: Issues in the Multifunctionality of Agricultural/Food Systems,” *Journal of Hunger & Environmental Nutrition*, 4:3, 454-465 (2009).

¹⁹ Jackson, et al., “Agriculture Policy Is Health Policy,” *Journal of Hunger & Environmental Nutrition*, 4:3, at 402 (2009). For popular accounts of how agricultural policy contributed to unhealthy American diets, see Pollan, *OMNIVORE’S DILEMMA: A NATURAL HISTORY OF FOUR MEALS* (Penguin Press, 2006); Schlosser, *FAST FOOD NATION* (Penguin Books, 2005).

²⁰ See chart at page 21 of Muller, et al., “Considering the Contribution of U.S. Food and Agricultural Policy to the Obesity Epidemic: Overview and Opportunities,” IATP (Feb. 2007), available at <http://www.agobservatory.org/library.cfm?RefID=99608>.

²¹ 7 U.S.C. § 8717. The Farm Bill created a pilot project to allow planting some vegetables for processing on base acres. 2008 Farm Bill § 1107(d).

cotton, and penalize farmers for growing fruits and vegetables on enrolled acres.²² The commodity programs, however, have effects that go well beyond the direct encouragement to grow nonperishable commodities and direct penalties for growing fruits and vegetables. For example, in the course of making payments under the commodity programs, USDA has developed a body of knowledge about historical yields and prices for the covered crops that enables the federal government and private entities to more confidently offer loans and financing, as well as crop insurance and other risk management tools, to farmers producing commodity crops.

Eliminating the commodity program restriction on planting fruits and vegetables on program acres might seem an obvious solution to increase the supply of fruits and vegetables. Among fruit and vegetable farmers themselves, there is disagreement about the extent to which the fruit and vegetable planting restrictions in the commodity payment programs represent sound policy.²³ Some current fruit and vegetable farmers have opposed changes to the fruit and vegetable planting restrictions, due to concerns about the effect that changes might have on prices they receive for their fruit and vegetable crops. In particular, if supply increased and demand did not increase at the same rate, wholesale prices would likely fall, and some farming operations might no longer be profitable. These farms might cease production, which could result in a contraction in supply. Other fruit and vegetable farmers argue that eliminating the planting restrictions could dramatically increase access to land for fruit and vegetable farmers seeking to engage in direct marketing, which might not have any disruptive effect on national wholesale markets.

Beyond the planting restrictions under commodity program rules, other barriers rooted in agricultural policy and the practicalities of farming may play a significant role in dissuading farmers from switching to fruit and vegetable production.²⁴ Such barriers include: the need for specialized equipment and expertise, labor for harvesting, higher production costs, more complicated production practices, greater production and price risk, agronomic constraints (limited season, water, etc.), need to negotiate a processing or marketing contract, uncertain proximity to a processing

²² “USDA Enrolls 255 Million Base Acres in DCP & ACRE on 1.7 Million Farms,” USDA Press Release No. 0519.09 (Oct. 20, 2009).

²³ See, e.g., Hedin, “My Forbidden Fruits (and Vegetables),” *New York Times* (Mar. 1, 2008), available at http://www.nytimes.com/2008/03/01/opinion/01hedin.html?_r=1. Compare, Brim, Statement before the U.S. Senate Committee on Agriculture, Forestry and Nutrition (April 24, 2007), available at <http://agriculture.senate.gov/Hearings/hearings.cfm?hearingid=2723&witnessId=6359>.

²⁴ See, e.g., Johnson, et al., “Eliminating Fruit and Vegetable Planting Restrictions: How Would Markets Be Affected?” at 15, 37, Economic Research Report No. 30, ERS, USDA (Nov. 2006), at http://www.ers.usda.gov/publications/err30/err30_lowres.pdf.

plant or market for fresh produce, and difficulty accessing credit.²⁵ Yet the experience of states such as North Carolina and Kentucky in assisting farmers to transition from producing commodities such as tobacco to producing specialty crops is evidence that successful transitions can be made, if adequate policy and practical assistance are in place.

Our recommendations regarding commodity programs focus on developing targeted changes to the fruit and vegetable planting restrictions for incorporation in the next Farm Bill. An example of such a targeted reform is to allow acre-for-acre reductions in commodity program payments when fruits and vegetables are grown on the enrolled acres and would be direct marketed to consumers, local schools, grocery stores, or restaurants.

B. Crop Insurance and Disaster Assistance Title

Farmers are highly dependent upon, and vulnerable to, the vagaries of weather. This has enormous policy implications. According to a 2009 USDA fact sheet, “One-half to two-thirds of the counties in the United States have been designated as disaster areas in each of the past several years.”²⁶ Many fruit and vegetable crops are acutely sensitive to slight changes in the weather.²⁷ Creating a means for farmers to manage risk is essential if non-farmers are to embrace farming, and if farmers who suffer losses are to be able to continue farming.

Crop insurance is the most well-developed tool for managing weather-related risks. But it does not provide universal coverage. Where it is well-developed and supported by actuarial data, crop insurance is a highly effective risk management tool, allowing farmers to insure as much as 85 percent of their expected crop yields and up to 100 percent of their expected crop prices.²⁸ However, the crops for which

²⁵ Johnson, et al., “Eliminating Fruit and Vegetable Planting Restrictions: How Would Markets Be Affected?,” at 15, 37, Economic Research Report No. 30, ERS, USDA (Nov. 2006), available at <http://www.ers.usda.gov/publications/err30>.

²⁶ Farm Service Agency Fact Sheet, “Emergency Disaster Designation and Declaration Process” (July 2009), available at www.fsa.usda.gov/Internet/FSA_File/disaster09.pdf.

²⁷ The marketable yield of horticultural crops such as tomatoes, onions, and fruits is very likely to be more sensitive to climate change than grain and oilseed crops. Hauser, et al., “The Effects of Climate Change on U.S. Ecosystems,” at 7 (Nov. 2009), available at <http://www.usda.gov/img/content/EffectsofClimateChangeonUSEcosystem.pdf>.

²⁸ The 2008 Farm Bill authorized USDA to renegotiate the standard reinsurance agreement with private crop insurance providers, making crop insurance reform a topic of increasing debate, as both government costs and insurance provider returns have increased. 2008 Farm Bill § 12017 (codified at 7 U.S.C. § 1508(k)). Shields, “Renegotiation of the Standard Reinsurance Agreement for Federal Crop Insurance,” Congressional Research Service

there are well-developed data regarding prices and yields are, by and large, the same crops that benefit from the commodity programs. Thus, for many fruits and vegetables, there are no individual crop insurance policies available. Often these crops are only eligible for catastrophic coverage under the Non-insured Crop Disaster Assistance Program (NAP) that would cover at most 27.5 percent of the value of a total loss.²⁹ Precisely because crop insurance relies upon historical data, it presents a challenge in managing risk for the most innovative farmers—those who may wish to transition to growing fruits and vegetables, to pursuing organic certification, or to supplying crops to local consumers and institutions at retail prices.

The 2008 Farm Bill authorized a number of new disaster assistance programs, some of which are just beginning to grapple with these challenges. In particular, the Supplemental Revenue Assistance Payment Program (SURE) adds to crop insurance and NAP coverage. SURE begins to acknowledge that crop insurance and NAP have not provided universal coverage. Yet the fundamental problem remains of how to build rich price and yield data sets for crops that have traditionally been at the margins of these programs, including fruit and vegetable crops. This dilemma must be resolved if the United States is to create a set of mutually reinforcing incentives for farmers to grow fruits and vegetables.

Our recommendations for policy changes related to crop insurance and disaster assistance programs focus on the need for USDA to: (1) collect and use more accurate fruit and vegetable crop price and yield data that reflect each particular crop type, variety, production practice, and intended use or marketing channel; (2) provide crop insurance and disaster assistance program coverage for fruits and vegetables equivalent to that provided for nonperishable commodities; (3) allow fruit and vegetable farmers to purchase “buy-up” or increased coverage beyond that for catastrophic crop losses; (4) streamline acreage and production reporting and recordkeeping requirements; and (5) continue to develop and refine whole farm revenue crop insurance products. In addition, Congress and USDA should develop incentives for farmers to utilize farming practices (such as crop diversification, crop rotation, soil conservation, and crop type and variety selection) that increase resilience in the face of natural disaster and climate change.

Report for Congress (Dec. 9, 2009), available at <http://www.nationalaglawcenter.org/assets/crs/R40966.pdf>.

²⁹ One highly diversified farmer who sold organic vegetables at farmers’ markets, through community supported agriculture, and to restaurants and food cooperatives reported that his initial NAP payment following very severe losses represented about 2 percent of his expected income from the lost crops. NAD Director Determination No. 2008E000455 (October 22, 2008), available at www.nad.usda.gov.

C. Nutrition Title

Three types of nutrition programs are most relevant to farmers and their planting and marketing choices. The first type includes programs like the Supplemental Nutrition Assistance Program (SNAP, formerly known as the Food Stamp Program) and the Farmers' Market Nutrition Program, in which farmers may sell directly to program participants, who purchase the farmer's goods using program benefits. The second type of program includes those in which farmers sell their goods to USDA or another government entity for use in nutrition programs, such as The Emergency Food Assistance Program (TEFAP) and the National School Lunch Program. The third type of program awards grants to support food production and distribution in low-income communities, as in the Community Food Program.

Our analysis of these nutrition programs is guided by five central questions.³⁰ First, we examine which foods may be purchased with nutrition program funds, and whether the program is narrowly tailored to focus upon fresh fruits and vegetables. Second, we examine whether farmers are authorized to act as vendors. Third, we examine whether the nutrition program is most accessible to large-, medium-, or small-scale farmers. Fourth, we examine whether state, local, and private incentives to encourage use of nutrition program benefits for the purchase of fresh, local, healthy foods have been impeded by program regulations. Fifth, we examine whether the nutrition program requires or allows a preference for foods that are locally produced.

Our recommendations regarding nutrition programs address each type of program separately. Some of the key recommendations designed to promote production and strategic marketing of fruits and vegetables to encourage healthy diets for children focus on the need to: (1) increase overall funding and individual benefit levels for nutrition assistance programs, especially those that target benefits to purchases of fruits and vegetables; (2) amend SNAP regulations or USDA interpretation of the regulations to allow and promote incentive projects that encourage recipients to use benefits to purchase fruits and vegetables; (3) address cost and technology barriers to farmers' use of Electronic Benefit Transfer; (4) expand efforts to assist small farmer-owned cooperatives and rural businesses in winning federal contracts to supply fruits and vegetables; (5) require that an appropriate proportion of USDA procurement dollars be used to purchase fruits and vegetables; and (6) take actions that promote purchases of more fruits and vegetables from local farmers through the Farm to School programs.

³⁰ Compare "State Indicator Report on Fruits and Vegetables, 2009," a report by the Centers for Disease Control and Prevention, available at http://fruitsandveggiesmatter.gov/health_professionals.statereport.html and <http://www.fruitsandveggiesmatter.gov/downloads/StateIndicatorReport2009.pdf>.

D. Agriculture Loan Programs

In discussing USDA's farm loan programs, we explain how USDA's failure to collect and publish crop price data that accurately reflect prices paid for fruits and vegetables sold through the diverse marketing channels has made it difficult for fruit and vegetable producers to substantiate their income projections to obtain loan approval. Without loans to buy or rent land or to buy seed and equipment, much potential fruit and vegetable production will not take place. Our recommendations for policy change therefore focus on: (1) collection, publication, and use in the loan approval process of crop price and yield data that accurately reflect the particular marketing channels and production methods used by the loan applicant; (2) streamlining loan application and reporting forms for farmers producing multiple fruit and vegetable crops in a single growing season; (3) training Farm Service Agency staff and guaranteed lender representatives to more accurately assess fruit and vegetable farmers' loan applications; and (4) targeting and providing more effective technical assistance to fruit and vegetable farmers.

E. Conservation Programs

In the conservation programs chapter, we briefly describe some of the ways that USDA conservation programs fail to equitably address the needs of many fruit and vegetable farmers. Our recommendations for policy change focus on: (1) increasing and targeting a portion of the funding for working lands conservation programs to more effectively promote participation by fruit and vegetable farmers; (2) recruiting fruit and vegetable farmers and specialists to sit on advisory and decision-making committees for the conservation programs; (3) prioritizing funding of conservation practices used by fruit and vegetable growers; and (4) conducting outreach and training to promote greater conservation program participation by these farmers.

F. USDA Research Programs

In addressing needed research that could be funded or directly conducted by USDA's research agencies, we again recommend comprehensive collection of data on fruit and vegetable crop prices for all relevant production methods and markets, including wholesale, retail, and direct marketing channels. We also recommend increasing specialty crop research funding and devoting more, and appropriately directed, funding for research on different fruits and vegetables and for organic crop production.

Chapter 9 of this report sets out suggestions for additional research priorities.

G. Rural Development, Outreach, and Beginning Farmer Programs

After briefly summarizing important rural development, outreach, and beginning farmer development programs, we recommend: (1) quantifying fruit and vegetable farmers' participation in and benefits from these programs; (2) further targeting programs to fruit and vegetable production and strategic marketing; and (3) increasing financial and program support for these programs.

H. Increase Efforts to Collect Data Regarding Fruits and Vegetables

This report identifies the lack of comprehensive, accurate crop- and market-specific information about fruits and vegetables as one of the biggest obstacles to developing effective programs to promote their production and strategic marketing by farmers. The markets for fruits and vegetables are numerous and varied. It is crucial that Congress appropriate sufficient resources to enable USDA to immediately begin collecting, publishing, and using in program implementation decisions more detailed information about specific fruit and vegetable crop prices and yields. This data should accurately reflect crop types and varieties as well as any market-distinguishing production methods, such as organic production, and whether the crop is sold at wholesale, retail, or direct marketed, and for fresh use or for further processing.

I. Transparent, Participatory, and Fair Program Implementation

As the 2008 Farm Bill programs are implemented, it is important that USDA maintain a transparent, participatory, and fair process. USDA should engage in full notice and comment rulemaking procedures by publishing proposed rules for each program in the *Federal Register* seeking public comment before the rules are finalized.³¹ Even when authorized by Congress, truncating or omitting this public participation process is likely to result in less effective programs.

Administrative appeals also play an important role in ensuring that Farm Bill programs are administered fairly. Appeals enable individual farmers to seek redress from adverse agency decisions. This is especially true for fruit and vegetable farmers whose local USDA officials, due to their historically limited experience in dealing with fruit and vegetable production, may not properly account for the unique character of these types of farming operations. When numerous appeals related to the same issue are filed, they often point to a need for systemic policy change. In implementing Farm Bill-authorized programs, the Secretary of Agriculture should ensure the integrity of the administrative appeals system and provide meaningful oversight of agency implementation of appeal decisions.

³¹ Where time is of the essence, an interim final rule may be published, allowing for timely program implementation, yet still providing opportunity for public participation.

J. Partners in Promoting a Multi-Program Approach

USDA's "Know Your Farmer, Know Your Food" initiative gathers information about a wide variety of USDA programs at a central website location in an effort to create new economic opportunities by better connecting consumers with local producers and to support a national conversation about the importance of understanding where food comes from and how it gets to our plates.³² This initiative may help enable farmers and their communities to tap existing program resources in creative ways to better grow crops for human consumption, build new marketing systems, and satisfy research needs. Yet it is important to be mindful of obstacles that continue to discourage farmers from growing fruits and vegetables. The very profusion of small, experimental programs can obscure the bigger picture which includes a lack of sufficient resources dedicated to programs that promote production and strategic marketing of fruits and vegetables. For farmers to successfully play their important role in fighting childhood obesity, more resources from Congress and USDA must be directed toward fruit and vegetable production and marketing.

State and local policy approaches also contribute to increased production of healthy foods by farmers and gardeners.³³ Nongovernmental organizations make substantial contributions toward information-sharing through publications, conferences, and e-mail listservs.³⁴ USDA should continue to seek opportunities to partner with nongovernmental organizations in these efforts, and to replicate and expand successful state and local efforts.³⁵

V. RESEARCH METHODS

This report began with traditional legal research, and then moved into policy analysis. We reviewed the fifteen titles of the Farm Bill and studied the conference report by the managers of the Farm Bill. We examined analyses from agricultural lawyers and agricultural economists. We monitored the *Federal Register* for regulations implementing Farm Bill provisions and compared them to the Farm Bill

³² Available at www.usda.gov/knowyourfarmer.

³³ Bailkey, et al., "Food and Agriculture Related Policies and Practices to Benefit Limited Resource Farmers," (Community Food Security Coalition, 2007), available at www.foodsecurity.org/LRPreport.pdf.

³⁴ For an excellent example, see Baker, et al., "Grassroots Guide to the 2008 Farm Bill," (Sustainable Agriculture Coalition, 2009).

³⁵ For an example of one such collaborative effort, see Krome, et al., "Building Sustainable Farms, Ranches, and Communities: Federal Programs for Sustainable Agriculture, Forestry, Entrepreneurship, Conservation and Community Development" (2009), available at http://attra.ncat.org/guide/Building_Sustainable.pdf.

language in order to evaluate USDA’s interpretation of key program requirements, such as those governing program eligibility and benefits.

All of our review, assessment, and analysis was informed by the Farmers’ Legal Action Group’s mission to support family farmers.³⁶ Accordingly, we incorporated into our research dialogue with farmers and farm advocates—in person, via telephone, and electronically through e-mail and a number of dynamic listservs—that captured the rapidly developing conversation and experience of those who are creating successful experiments in healthy food production and marketing.³⁷

VI. CONCLUSION

There are many opportunities for public health advocates and the farming community to work together and build support for national policies to achieve the broadly shared goal of ensuring a plentiful supply of healthy foods for our children. The rapidly growing support for and re-emergence of local and regional food systems, through which farmers are selling their produce directly within their local communities, is leading to new policies that will further promote this healthy trend in food production and distribution.

This is an opportune time to conduct research, engage in dialogue, form relationships with new partners, and build consensus to improve implementation of the 2008 Farm Bill and develop policy goals for the next Farm Bill.

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³⁶ Carpenter, “The Importance of Family Farms Today,” Farmers’ Legal Action Group (2006), available at http://www.flaginc.org/pubs/arts/CLE_SC.pdf. See also, Schneider, “A Reconsideration of Agricultural Law: A Call for the Law of Food, Farming, and Sustainability,” 34 *Wm & Mary Env’tl. L. & Pol’y Rev.* (forthcoming 2010). For a classic articulation of reasons to support family farming, see Strange, *FAMILY FARMING: A NEW ECONOMIC VISION*, (University of Nebraska Press and Institute for Food and Development Policy, 1988).

³⁷ Among the most useful weekly e-mails and listservs we reviewed and participated in are: National Sustainable Agriculture Coalition Weekly Update, <http://sustainableagriculture.net>; COMFOOD, www.foodsecurity.org/list.html; Refugee Agricultural Partnership Project, www.ised.us/projects/rapp; and Growing Food and Justice, www.growingfoodandjustice.org.