



POLICY & ACTION FROM CONSUMER REPORTS

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Food Safety and Inspection Service
U.S. Department of Agriculture
1400 Independence Ave, S.W.
Washington, DC 20250-3700

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**Comments of Consumers Union to the Food Safety and Inspection Service
on the "Labeling Guideline on Documentation Needed to Substantiate Animal
Raising Claims for Label Submissions"
Docket No. FSIS-2016-0021**

Consumers Union, the policy and mobilization arm of Consumer Reports,¹ welcomes the opportunity to comment on the updated version of the U.S. Department of Agriculture (USDA) Food Safety and Inspection Service (FSIS) compliance guideline on documentation needed to support animal raising claims on product labels. We appreciate FSIS's efforts to update its guidelines on animal raising labeling claims. However, the guidelines fall short in several ways, and FSIS should take additional steps to ensure that labeling claims on meat and poultry products are truthful and not misleading to consumers.

Truthful, accurate, and meaningful food labels are integral to a fair marketplace. Food labeling programs should:

1. Be backed by meaningful standards that meet consumer expectations and are not deceptive
2. Be verified by the government or by an independent third party
3. Be clear and consistent in meaning
4. Have publicly available standards

¹ Consumers Union is the policy and mobilization arm of Consumer Reports. Consumer Reports 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.

5. Be developed with broad input from consumers, industry, and all interested members of the public

In each of these five areas of meaningful labeling, FSIS should take the additional steps outlined in detail below.

1. Labels should be backed by standards that are truthful, not misleading, not deceptive, and meaningful. A standard should be set by FSIS for each animal raising claim

FSIS is responsible under federal law for ensuring that the labeling of meat and poultry is truthful and not misleading.² To uphold a fair marketplace for both consumers and regulated entities, FSIS should determine the standards that animal raising claims must meet in order not to be false or misleading. The current labeling guidelines set a consistent standard for some claims, but allow variations of others (e.g., Raised Without Antibiotics) while leaving still others entirely open for companies to define (e.g., Sustainably Farmed, Humanely Raised).

FSIS should not leave it up to companies to determine the standard for the labeling claims they make. Allowing companies to define their own standards for claims such as Sustainably Farmed and Humanely Raised leads to inconsistency in the meaning of the label. It also does not ensure that basic minimum requirements that meet consumer expectations for the label are met; for example, a majority of consumers expect a Humanely Raised label to mean that animals went outdoors, but a company could label meat from a continuously confined animal as Humanely Raised under the current labeling guidelines. Also, consumers do not think that companies should be allowed to set their own standard; in our 2016 survey, 94% of consumers said all companies should meet the same standards for labels on meat (rather than set their own standards).³

For claims that address a single issue, like Raised Without Antibiotics and Grass Fed, FSIS should define the claim, set the standard, and allow no variations with a lower standard (e.g., a Raised Without Subtherapeutic Antibiotics claim should not be allowed).

For **Grass Fed**, FSIS proposes to allow the claim when cattle "were only (100%) fed grass (forage) after being weaned from their mother's milk." We support this proposed standard. FSIS writes: "a producer may also use a USDA PVP (carried out by AMS) to verify their product meets their own grass-fed standard, as long as it meets FSIS' requirements for being truthful and not misleading." USDA's Process Verified Program (PVP) is a suitable verification system, but the Agricultural Marketing Service (AMS) should not allow different requirements to be met. The standard that is verified should be the FSIS standard, with no variations.

² Federal Meat Inspection Act, 21 U.S.C. 601 et seq.; Poultry Products Inspection Act, 21 U.S.C. 451 et seq.; Egg Products Inspection Act, 21 U.S.C. 1031 et seq.

³ Consumer Reports National Research Center. Food Labels Survey. 2015. Available online: greenerchoices.org/wp-content/uploads/2016/08/2016_CRFoodLabelsSurvey.pdf.

For other diet claims, FSIS should determine the requirements for each of these claims to ensure they are consistent.

- For **Grain Fed**, the requirement should be that the animal was fed only or primarily grain (for beef cattle, this means grains are fed mainly during the finishing phase), with no animal products (with the exception of milk prior to weaning), slaughter by-products, poultry litter or feces.
- **Vegetarian Feed** and **Fed No Animal By-Products** should also mean that the animals were never given animal products (with the exception of milk prior to weaning), slaughter by-products, poultry litter or feces.

For **Living/Raising/Raising Conditions** claims, FSIS gives examples including Cage or Crate Free, Free Range, Not Confined, Pasture Raised, Free Roaming, Pastured Fed [sic], Pasture Grown, and Meadow Raised. FSIS does not propose a common definition or requirements for these claims in its proposed guidelines. FSIS should write the requirements for each of these claims to ensure each labeling claim is meaningful and consistent.

- The **Free Range** and **Free Roaming** claims should be defined as giving animals access to the outdoors, with minimum outdoor space requirements to ensure that all animals can be outside, move freely, and engage in natural behaviors outdoors. The "outdoors" should be defined for ruminants as pasture or range, and for pigs and poultry as an area in the open air with at least 50% vegetated soil, outside a building or shelter where there are no solid walls or solid roof. FSIS should set minimum space requirements that allow for freedom of movement and engaging in natural behaviors, including rooting for pigs, foraging for chickens, and grazing on pasture for ruminants. The standards for these claims should also include minimum time periods that the animals can access the outdoors (e.g., at least eight hours per day or the length of natural daylight, whichever is shorter) and a minimum number of doors to the outside, such as at least 12 linear feet of door space per 1,000 ft² of floor space in a poultry house to ensure all animals have access to the outdoor area.
- **Crate Free** should be clearly defined, and should include a requirement for freedom of movement. "Turn around crates," which typically are just six feet by eight feet, should not be allowed for pork products labeled Crate Free.
- For **Pasture Raised**, **Pastured Fed** [sic], **Pasture Grown** and **Meadow Raised**, FSIS should set the standard to ensure that the animals are always on pasture (or "meadow") and are never confined in a feedlot.

For **Raised Without Antibiotics - livestock/red meat**, FSIS writes: "To use this claim, source animals cannot have been given antibiotics in their feed, water or by

injections. This includes ionophores, which are recognized as antibiotics by FSIS." We support this standard.

We do not support the variations that FSIS includes: **No Antibiotics Administered the Last 150 Days** and **Raised Without Sub-Therapeutic Antibiotics**. These variations would allow producers to meet a lower standard and create inconsistency.

If some version of the **Raised Without Sub-Therapeutic Antibiotics** claim is allowed, it should be clearly defined to ensure that antibiotics are used only for disease treatment, and that antibiotics at therapeutic levels are not used for disease prevention or disease control. This type of claim should mean that antibiotics are only used for treatment of clinically diagnosed illness. The best way for FSIS to avoid dilution of the "raised without antibiotics" claim or potential consumer confusion over the meaning of the term "sub-therapeutic" may be for the agency to approve only one, more descriptive version of the Raised Without Sub-Therapeutic Antibiotics claim, such as "raised without antibiotics except for treatment of clinically diagnosed illness."

For **Raised Without Antibiotics - poultry**, FSIS writes: "To use this claim, source animals cannot be administered antibiotics in their feed, water, or by injections. Animals cannot be administered ionophores, which are recognized as antibiotics by FSIS." The standard for poultry should include a prohibition on antibiotic use *in ovo* as well. FSIS suggests this prohibition is part of the standard by including it in the questionnaire to producers, but it should be explicitly prohibited. With this addition, we would support this standard.

No variations should be allowed. FSIS suggests it may accept variations when it writes in the "documentation needed" section that "a detailed written description explaining controls for ensuring that the raising claim is valid from birth to harvest; **or the period being referenced by the claim**" (emphasis added). Raised Without Antibiotics claims that only cover a certain time of the animal's life should not be allowed, especially for chickens, given their very short lifespan in commercial broiler production.

For **Raised Without Hormones** and **Raised Without Growth Promotants (Stimulants)**, FSIS suggests it would allow a variation of these claims even if growth hormones or growth promotants are administered for part of the animal's life. We urge FSIS to define the standard clearly and not allow variations that only cover a certain period of the animal's life. FSIS should also define "growth promotants" as any drug that can promote growth, and include antibiotics as well as beta-agonists and artificial growth hormones in this definition.

For claims that are broad, multi-faceted, and more difficult to define, like **Humanely Raised**, **Raised With Care**, **Sustainably Farmed**, and **Raised with Environmental Stewardship**, FSIS should set minimum standards to ensure that products with these labeling claims meet consumer expectations.

Raised With Care is vague, but if FSIS will allow it, producers should meet the same standards as Humanely Raised.

For **Humanely Raised**, FSIS should require certain basic animal welfare practices that the majority of consumers expect from a Humanely Raised label. Our 2016 consumer survey shows the percentage of consumers who believe the Humanely Raised claim *should* mean that:

- The farm was inspected to verify this claim (88%)
- The animals had adequate living space (86%)
- The animals were slaughtered humanely (80%)
- The animals were raised in houses with clean air (78%)
- The animals went outdoors (78%)
- The animals were raised without cages (66%)

Therefore, FSIS should at a minimum require that animals raised for meat and poultry products that bear a Humanely Raised labeling claim should meet these basic standards. Outdoor access for all animals should be required. Minimum space requirements that allow the animals freedom of movement should be required. Houses and barns should have clean air, so ammonia levels in houses and barns should be 10 ppm or lower. Gestation and farrowing crates for pigs, including "turn-around crates" that allow the pigs to turn around but do not allow freedom of movement, should be prohibited. FSIS should write these standards into its guidelines.

Producers should demonstrate to FSIS that the farms were inspected to verify that these standards were met. One way for producers to demonstrate to FSIS that these basic standards were met would be to obtain third-party certification from labeling programs that meet these requirements, such as Animal Welfare Approved and Global Animal Partnership Step 4, 5, or 5+.

For **Sustainably Farmed** and **Raised with Environmental Stewardship** claims, producers should demonstrate to FSIS that they have USDA Organic certification. The USDA Organic label is a meaningful, third-party verified label that specifically addresses sustainability in agriculture. Allowing other Sustainably Farmed or Raised With Environmental Stewardship claims to appear side-by-side USDA Organic products in the marketplace leads to unfair competition with producers who have implemented sustainability practices on their farms and obtained USDA Organic certification.

To be labeled USDA Organic, federal law and regulations require that producers implement practices that contribute to sustainability and environmental stewardship, including maintaining soil health,⁴ using no antibiotics (except for poultry until day two

⁴ "The producer must select and implement tillage and cultivation practices that maintain or improve the physical, chemical, and biological condition of soil and minimize soil erosion." (7 C.F.R. 205.203(a)) and "The producer must manage plant and animal materials to maintain or improve soil organic matter content

of life),⁵ using organically produced feed⁶ without synthetic fertilizers and without most synthetic pesticides, and managing manure responsibly.⁷

The USDA Organic label, and its comprehensive set of federal standards, came into existence specifically to ensure that consumers can identify agriculture products from farms that address sustainability and environmental stewardship. Setting those standards, and continually improving them, has been and continues to be a careful and public process. We do not need to go through this process again to define Sustainably Farmed or Raised with Environmental Stewardship under FSIS.

The USDA's organic labeling program has strong and comprehensive standards that specifically address sustainability and environmental stewardship in agriculture. Allowing other "sustainably farmed" claims on meat and poultry products that are not certified organic undermines the USDA Organic labeling program.

2. Labels that make animal raising claims should be third-party verified with on-farm inspection

Verification is a crucial component of meaningful labeling. Verification should be undertaken by the government or by a third-party entity free from conflict of interest, and include on-farm inspection for animal raising claims. Our 2016 survey shows that a majority of consumers erroneously think that the Humanely Raised label claim is currently verified with on-farm inspection, and 88% of consumers think Humanely Raised **should** mean that the farm was inspected to verify the claim.⁸

The AMS Process Verified Program could be an acceptable verification program, as long as the claim is verified to consistent standards set by FSIS. AMS should not allow companies to set their own standards through the Process Verified Program.

For **Sustainably Farmed** and **Raised With Environmental Stewardship** claims, producers should demonstrate they have USDA Organic certification, which requires verification including annual on-farm inspections.

in a manner that does not contribute to contamination of crops, soil, or water by plant nutrients, pathogenic organisms, heavy metals, or residues of prohibited substances." (7 C.F.R. 205.203(c)).

⁵ "The producer of an organic livestock operation must not: (1) Sell, label, or represent as organic any animal or edible product derived from any animal treated with antibiotics, any substance that contains a synthetic substance not allowed under §205.603, or any substance that contains a nonsynthetic substance prohibited in §205.604." (7 C.F.R. 205.238(c)(1))

⁶ "The producer of an organic livestock operation must provide livestock with a total feed ration composed of agricultural products, including pasture and forage, that are organically produced and handled by operations certified to the NOP." (7 C.F.R. 205.237(a))

⁷ "The producer of an organic livestock operation must manage manure in a manner that does not contribute to contamination of crops, soil, or water by plant nutrients, heavy metals, or pathogenic organisms and optimizes recycling of nutrients and must manage pastures and other outdoor access areas in a manner that does not put soil or water quality at risk." (7 C.F.R. 205.239(e))

⁸ Consumer Reports National Research Center. Food Labels Survey. 2015. Available online: greenerchoices.org/wp-content/uploads/2016/08/2016_CRFoodLabelsSurvey.pdf.

For **Humanely Raised** claims, producers have numerous options for third-party verification including on-farm inspection, such as USDA's Process Verified Program and private labeling programs such as Certified Humane, Global Animal Partnership, and Animal Welfare Approved. As with USDA PVP, these programs would be acceptable for the verification component; it is up to FSIS to ensure that minimum standards are met to ensure the label is truthful and not misleading.

3. Labeling should be clear and consistent

To ensure consistency, FSIS should define the standards for animal raising claims. Allowing companies or producers to define the claims leads to inconsistency.

Variations of claims should be allowed, but only if they have the same meaning and meet the same standard (e.g., **No Antibiotics Administered** should be an acceptable variation of Raised Without Antibiotics). However, variations should **not** be allowed if it means allowing the producers to meet a lower standard. For example, variations like **Raised Without Antibiotics For the Last 150 Days** create inconsistency and should not be allowed.

Also, while PVP is a suitable verification program, companies using the program for verification should meet the standard set by FSIS. AMS currently allows companies to set their own standards for verification, which can lead to inconsistency between label standards set by FSIS and label standards approved by AMS. FSIS should have primary and overriding authority over labeling claims, and all labeling claims should be consistent in meaning by meeting the FSIS standard.

4. Standards should be publicly available

FSIS, after it determines the standards for labeling claims, should make these standards easily accessible to the public. All label claims and requirements for minimum standards that ensure the label is truthful and not misleading should be available in one document on the FSIS website.

5. Label standards should be developed with broad public input and go through notice and comment.

FSIS should continue to engage with stakeholders to set meaningful and consistent standards for labeling claims. We urge FSIS to continually revise and improve the guidelines based on public comment. Particularly for the Humanely Raised labeling claim, FSIS should ask the public how it should be defined to ensure it is truthful and not misleading to consumers.

Conclusion

In closing, we are concerned that the FSIS labeling guideline for animal raising claims continues to allow companies to set their own standards for some claims, such as


Sustainably Farmed and Humanely Raised. We are also concerned that FSIS allows variations of claims such as Raised Without Antibiotics that allow producers to meet a lower standard. We are also concerned that on-farm inspection for claims such as Humanely Raised and Sustainably Farmed is not required under the current guideline.

We urge FSIS to take the following steps to ensure animal raising claims on meat and poultry labels are not false and not misleading to consumers:

- Set a standard for each animal raising claim
- Require verification by the government or by an independent third party
- Create consistency by requiring that FSIS standards be met
- Make standards publicly available
- Ensure standards are developed with broad input from consumers, industry, and all interested members of the public

Thank you for your consideration of our comments.

Respectfully submitted,



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