



Consumer Federation of America

December 5, 2016

Dr. Daniel L. Engeljohn
Assistant Administrator,
Office of Policy and Program Development
Food Safety and Inspection Service
U.S. Department of Agriculture
1400 Independence Ave., SW
Washington, DC 20250

RE: Food Safety and Inspection Service Statement of Labeling Guideline on Documentation Needed to Substantiate Animal Raising Claims for Label Submissions (Docket Number FSIS-2016-0021)

Dear Dr. Engeljohn:

Consumer Federation of America (CFA) appreciates the opportunity to submit these comments on the Food Safety and Inspection Service (FSIS) updated guideline on documentation needed to support animal-raising claims on product labels. As we noted in our joint comments with other members of the Keep Antibiotics Working coalition, FSIS should implement stricter standards that prohibit the use of labeling terms without a commonly recognized meaning, and the agency should make available a list of approved labeling claims, along with the information submitted to FSIS in support of those claims, in a searchable online database that is open to the public. We write separately to underscore the importance of these reforms to all animal-raising claims, not just those that relate to antibiotic use.

CFA supports FSIS' efforts to ensure that consumers receive meaningful and accurate information on product labels. This guideline helps to promote that objective by clarifying that producers may only use the claim "grass fed" on beef from cattle "that were only (100%) fed grass (forage) after being weaned" and that "have continuous access to pasture during the growing season until slaughter." The guideline also clarifies that producers may only use the claim "raised without antibiotics" for products from animals that were never given any antibiotics, including ionophores, "from birth to harvest." Additionally, as our joint comment points out, the agency should clarify that these requirements include a prohibition on the use of inovo antibiotics for poultry.

These clarifications will contribute to a well-functioning market for products that support more humane and environmentally sustainable animal husbandry practices. However, the guideline indicates that FSIS will continue to approve empty, confusing, or otherwise "false and misleading"¹ animal-raising claims that undermine consumer choice. In particular, the guideline allows producers to make vague animal welfare and environmental stewardship claims such as "Humanely Raised" or "Sustainably Farmed" without providing consumers with the information to evaluate whether those claims are meaningful. For these claims, the guideline requires "an explanation of the meaning of the claim on the label," but the one example it gives

¹ See Poultry Products Inspection Act, 21 U.S.C. 457(c) ("No article subject to this chapter shall be sold or offered for sale by any person in commerce, under any name or other marking or labeling which is false or misleading"); Federal Meat Inspection Act, 21 U.S.C. 607(d) (same).

of an adequate explanation of these claims only raises more questions. Specifically, the guideline indicates that a producer might accompany the term “Humanely Raised” with the explanation that “Cattle are grass fed on our family farms according to our strict animal welfare practices (weblink to animal welfare practices).” With the exception of the term “grass fed,” this sample explanation provides little assurance of anything beyond standard industry practice. Many large confined animal feeding operations are family owned, and nothing in the guideline prohibits a producer from defining “strict animal welfare practices” as, for example, compliance with industry trade association guidelines that tend to describe widely adopted practices, rather than prescribe higher standards.

This type of permissive definition of the “humanely raised” claim was specifically cited in a recent 2014 study by the Animal Welfare Institute (AWI).² The AWI study presents the information received in response to Freedom of Information Act requests for FSIS approval documentation of 25 claims appearing on the labels of 19 meat and poultry products. Disconcertingly, FSIS reported that it was unable to locate any documents for 20 of the 25 claims. Documentation for the remaining five claims included one—“raised on family farms using sustainable agricultural practices”—that “was approved on the basis that ‘many’ (but apparently not all) of the company’s suppliers participate in a few practices related to environmental stewardship.”³ We agree with the authors of the AWI study that, at least for claims that FSIS declines to define in detail, the agency should require transparent certification by an independent third-party.

The AWI study also points to the need for making a list of approved labeling claims, and the information submitted to FSIS in support of those claims, available to the public in a searchable online database. As noted in our joint comments, a database would both allow individual consumers to better understand the basis for a given labeling claim, and help the agency to leverage consumers and the private sector to guard against fraudulent or deceptive practices. As the guideline indicates, FSIS does little to verify that labeling claims remain accurate after agency approval, with FSIS in-plant personnel simply confirming that establishments maintain an FSIS label approval on file. Greater transparency would give more meaning to this inspection task, helping to ensure that maintaining an FSIS label approval on file is synonymous with actual higher standards.

Animal-raising claims are an important tool for promoting sustainability and animal welfare. The average consumer, however, does not have time to exhaustively vet whether a labeling claim is accurate or even meaningful. FSIS has an important role to play in empowering each American consumer to support the practices that most reflect his or her values. The measures we are recommending—more detailed definitions of common labeling claims, increased requirements for third-party certification, and a publicly available online database of claims and supporting documentation—fall well within the agency’s authority to protect consumers against false and misleading animal-raising claims.

Thank you for considering these comments.

Sincerely,



Thomas Gremillion
Director, Food Policy Institute
Consumer Federation of America

² Animal Welfare Institute. *Label Confusion. How Humane and Sustainable Claims on Meat Packages Deceive Consumers*. (2014) available at: <https://awionline.org/sites/default/files/products/AWI-FA-FoodLabelReport-05072014.pdf>.

³ *Id.* at 5.