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SPECIAL CLAIMS AND THE APPROVAL PROCESS FOR NICHE MEAT PRODUCTION

With increasing demand for product transparency, a growing number of producers, processing plant operators, and packinghouse operators are interested in adding claims to the labels of their meat and poultry products to further characterize or add value to those products. Label claims become increasingly important for producers and plant operators selling to secondary markets, such as retail grocers, rather than direct to consumer. This guide provides information to producers about special claims and the requirements and documentation needed to support those claims. In addition to the special claims label information, the Code of Federal Regulations (CFR) (9 CFR § 317.2 [meat] and 9 CFR § 381.118 [poultry]) requires standard product information labels on all products, which can include up to eight additional items, such as *product name*, *inspection legend and establishment number*, *handling statement*, *net weight statement*, *ingredients statement*, *address line*, *nutrition facts*, and *safe handling instructions*.

WHAT IS A SPECIAL CLAIM?

Special claims allow meat and poultry producers to respond to consumer demand by adding claims or characteristics about their product even if the features, statements, or claims are not explicitly addressed by regulation. The U.S. Department of Agriculture (USDA), Food Safety and Inspection Service, Labeling and Program Delivery Division (FSIS, LPDD) or the North Carolina Department of Agriculture and Consumer Services Meat and Poultry Inspection Division (NCDA&CS MPID) review all meat and poultry label claims for approval along with a sample label submission, except for generic labeling (discussed below), to ensure that the approved claims are truthful and not misleading. Farmers who raise, slaughter, and



Example label showing multiple special claims.

process poultry under an on-farm poultry exemption are not eligible to apply for, and therefore use, special label claims because slaughter is occurring on their own farm rather than in a state- or federally-inspected facility (see MPID Notice 4-13).

The label itself and all point of sale and other advertising materials—including text descriptions and graphics on all point of purchase materials, such as brochures, printed graphics, and online materials—must accurately portray the label claim. Although approval is only required for labels on the actual wrapper or package, penalty may be imposed if non-approved labels are displayed on point of purchase or online materials. For more information on labeling and point of purchase claims, see USDA, FSIS, LPDD Policy Memo 114A, North Carolina General Statute 106-549.15 (12), and NCDA&CS MPID Notice 10-09.

Before getting started, make sure the claim is approvable before undergoing the approval process. Requirements for approvable claims include:

CLAIMS MUST BE TRUTHFULLY DESCRIBED

For example, the “Hormone Free” claim is un-approvable because the claim itself is not truthfully described since hormones are naturally occurring.

CLAIMS MUST NOT BE MISLEADING

For example, the “Raised without added hormones” claim may be used for beef and lamb production since hormones are approved for use in those production practices. The use of hormones for all pork and poultry production, however, is prohibited under regulation. If a “raised without added hormones” claim is added to the label of poultry or pork, it must be followed by the phrase “Federal regulation prohibits the use of hormones in pork/poultry” so as not to mislead the customer.

Examples of Special Claims

- Animal production claims
 - Raised with no hormones added
 - No antibiotics added
 - No animal by-products fed
 - Free range
 - Grassfed
 - Corn fed
 - Certified organic (by a USDA national organic authorized third-party certifying entity)
 - Vegetarian diet
- Breed claims
 - 100% Black Angus
 - Highland cattle



Examples of Un-approvable Special Claims

Certain claims are considered unacceptable and are therefore not legally permitted for use if they do not truthfully describe the product, if they may mislead the consumer or, in the case of organic, if the claims can only be used if certified by an approved third-party auditor. Some additional un-approvable special claims are listed in NCDA&CS MPID Notice 10-09, “Labeling and Point of Purchase Claims,” found at <http://www.ncagr.gov/meatpoultry/notices/10-09 Labeling and Point of Purchase Claims.pdf>.

Other Label Claims That Are Not Considered “Special”

- **Generic labeling**, such as a “whole chicken,” that does not bear any statements or claims, does not include changes in net weight, and that meets the standard label requirements stated in 9 CFR §317.2 or 9 CFR §381.121 regulation does not require approval for use on labels. Cooking instructions are another example of a generic label claim.
- **Nutritional labeling** must meet regulations according to 9 CFR

317.300-400 for meat products and 9 CFR 381.400-500 for poultry products.

WHO SUBMITS THE APPLICATION?

A UPC code, or universal product code, is a twelve-digit international standard bar code that has many uses for retailers. They can use UPCs to scan items through their cash registers, to identify products, to track sales, and to manage product inventory. By connecting your UPC to their inventory system for particular items stored at their warehouse, retailers can track quantity on hand.

Submitting a labeling claim requires time and collaboration between you and your processor. When you are preparing to use a label claim, allow yourself time to submit designed labels along with supporting documents (detailed below) to the management of the inspected facility where you take your animals for processing. Because label approvals are granted to processors for use, they do not belong to the farm or producer of the animal or meat product. The processor is therefore responsible for submitting label applications to the state or federal labeling division for approval and for housing the labels. Processors may reserve the right to charge for this additional service.

Each facility requires its own label approval, meaning that the label is approved for use only at a particular inspected establishment. If you process at more than one facility, each plant will require a separate label approval process. If you change establishments in the future, then you must undergo another label approval process with the new processor.

WHO APPROVES THE CLAIM ON THE LABEL?

Labeling approval occurs either on the state or federal level. The plant inspection status will determine if the approval application is submitted to the state or federal level.

The following state and federal entities are responsible for approval: Produce Marketing Association. 2013. "PLU Code Frequently Asked Questions." Accessed June 26, 2013. <http://www.pma.com/~media/pma-files/supply-chain-standards/plu-site-faqs-june-2013.pdf?la=en>.

- **State:** NCDA&CS Meat and Poultry Inspection Division (NCDA&CS MPID)—For more information, visit <http://www.ncagr.gov/meatpoultry/>.

OR

- **Federal:** USDA, Food Safety and Inspection Service, Labeling and Program Delivery Division (USDA, FSIS, LPDD)—For more information, visit <http://www.fsis.usda.gov/wps/portal/fsis/topics/regulatory-compliance/labeling/labeling-procedures/label-application-guidance>.

Does My Processing Facility Fall under State or Federal Inspection?

If you are unsure what jurisdiction your processing facility falls under, contact your processor directly. If your meat is being processed for resale, the plant will either fall under USDA (federal jurisdiction), NCDA&CS (state jurisdiction), or Talmadge-Aiken (USDA jurisdiction, but the inspectors are state employees). If you process meat at a USDA or Talmadge-Aiken (TA) processing plant, complete an FSIS Form 7234-1 application to submit to your processor. Plants that process "not for sale" items only (as in Custom Exempt plants that slaughter products marked "NOT FOR SALE" for personal use by private individuals only) may not apply for label claims.

IS THE CLAIM OVERSEEN BY A THIRD-PARTY ENTITY? CAN I APPLY FOR A CLAIM THAT IS NOT THIRD-PARTY APPROVED?

Special label claims may be overseen by independent, third-party auditors, or in other cases, you may self-support claims by providing documentation and justification to verify its truthfulness in the application. The processor then sends the application to FSIS, LPDD, or NCDA&CS MPID for approval. The different types of claim verification are:

- **Third-Party Auditor Verified.** Under third-party audits, the farm production claim is reviewed against a set of protocols to receive verification from that organization. To



Two common third-party claim certification labels.

ensure the claim is truthful, third-party verification requires a physical visit to your farm, processing facility, or packinghouse by the certifying agent's auditor. FSIS allows the label of meat or poultry products to bear a certified claim if the claim clearly identifies the certifying entity, such as "certified free range by [entity]".

- **Self-Supported Claim.** If a third-party auditor does not oversee the claim, then you must provide additional documentation to justify the accuracy of that claim on your meat or poultry products. Some claims have an existing set of legally approved and publicly published protocols, and some claims do not. This means that you, as the producer, must provide enough supportive documentation to justify the claim for final approval by the state or federal labeling division (see the section below for more details).
- **Either/Or.** Lastly, there are some claims that can be "either/or." This type of verification means a claim may be overseen by a third-party organization (where the auditor visits the establishment to verify that the claim truthfully represents their approved and published protocols), or you may include supportive documentation to justify the use of the claim (in this case, the claim would stand alone and would not bear the name or seal from a third-party organization).

An example of an "either/or" claim is the grassfed label. A third-party auditor, such as the American Grassfed Association, may certify grassfed practices according to a published set of protocols developed by that organization. In this case, the label will bear the organization's name as "American Grassfed Association" or "AGA". Approved, self-supported claims will bear a "Grassfed" claim on the label without a seal or the organization's name. It is important to note that, while both claims bear the grassfed label, self-supported claims do not necessarily adhere to the same mandatory criteria as third-party certification criteria, and they do not require an on-site inspection.



“Certified Organic by [entity]” is the exception to the self-certification rule. In order to use the organic claim on a label, third-party verification by a USDA National Organic Program authorized entity is mandatory. The claim “organic” cannot be used alone with self-supported documentation.

WHAT DOCUMENTATION DO I NEED TO SUBMIT TO MY PROCESSOR?

Forms

NCDA&CS MPID inspected facilities complete MPIS Form 11. USDA or TA inspected facilities complete FSIS Form 7234-1 (check box number 10 for special claims).

Supportive Documentation

A complete special label claim application includes:

- **Two copies of the state (MPIS Form 11) or federal (FSIS Form 7234-1) application form** (one for your processor to keep, and one for your processor to send to the labeling division).
- **Two sample copies of the label** exactly as you want it to appear on your product (this can be a hand sketch or a printed copy of the label). This sample should include the following label characteristics, including features, size, location, and indication of final color.
- **The following documentation:**
 - **Affidavits** declaring the specifics of the animal production claim(s). This documentation can include your own written testimonials explaining that the claims are not false or misleading.
 - **Animal production protocols**, such as protocol for the identification, control, and segregation of non-conforming animals/products (how you separate, control, and denote your animals/products that will receive a special claim from others). Depending on the claim, a legally defined and published set of protocols may exist or you, as the producer, may provide your own justification of production protocols to support the said claim.
 - **Other relevant documentation you may want to provide**, such as product tracing and segregation mechanisms from the time of slaughter and/or further processing through packaging and wholesale or retail distribution.
 - **If the claim is third-party certified**, the auditor/certifying entity must submit their standards and protocol records to the state or federal labeling division

in advance of the voluntary label claim review. You can contact the labeling agency directly to make sure they have a set of protocol records on file.

HOW LONG DOES IT TAKE TO PROCESS THE APPLICATION?

Allow at least one month for application processing. Remember to plan ahead. To check on the status of your label after submission, call either the USDA, FSIS Label Distribution Division at 301-504-0883, or the NCDA&CS Meat and Poultry Inspection Division at 919-707-3180.

WHERE DO I FIND A LIST OF SPECIAL LABEL CLAIMS?

No complete regulatory list exists for special claims because new claims may be created, justified, and approved for use, especially as they pertain to dynamic characteristics of animal production.

Some *non-regulatory* consumer information guides, such as Animal Welfare Approved’s *Food Labels Exposed, A Definitive Guide to Common Food Label Claims and Terms*, provide descriptions of some common product claims intended for consumers but not producers. To ensure your claims meet regulatory approval, call the NCDA&CS MPID (for state information) or the USDA, FSIS (for federal information).

The FSIS Labeling Compliance Guidance notice offers information about the types of labels that need to be submitted for approval, including specific examples of certain special statements. For more information, view the notice at <http://www.fsis.usda.gov/wps/wcm/connect/bf170761-33e3-4a2d-8f86-940c2698e2c5/Comp-Guide-Labeling-Evaluation-Approval.pdf?MOD=AJPERES>.

ONLINE RESOURCES FOR LABELING PROCEDURES

U.S. Department of Agriculture, Food Safety and Inspection Service. “FSIS Labeling Procedures.” Accessed November, 2014. <http://www.fsis.usda.gov/wps/portal/fsis/topics/regulatory-compliance/labeling/labeling-procedures>

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U.S. Department of Agriculture, Food Safety and Inspection Service. 2008. *Animal Raising Claims in the Labeling of Meat and Poultry Products*. Accessed July 15, 2013. http://www.fsis.usda.gov/PDF/Claims_Poretta_101408.pdf

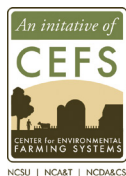
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