

67 FR 79552, *

FEDERAL REGISTER

Vol. 67, No. 250

Notices

DEPARTMENT OF AGRICULTURE (USDA)

Agricultural Marketing Service (AMS)

[Doc. No. LS-02-02]

United States Standards for Livestock and Meat Marketing Claims

67 FR 79552

DATE: Monday, December 30, 2002

ACTION: Notice and request for comments.

To view the next page, type .np* TRANSMIT.

To view a specific page, transmit p* and the page number, e.g. p*1

[*79552]

SUMMARY: These proposed minimum requirements for livestock and meat industry production/marketing claims, when adopted, will become the United States Standards for Livestock and Meat Marketing Claims. Some segments of the livestock and meat industries make claims to distinguish their products **[*79553]** from competing products and may request third-party verification by USDA to increase the credibility of their claims. Verification of such claims may be accomplished through examination of the product or through documentation and auditing of the production process. Specifically, USDA is proposing to establish minimum requirements for common production/marketing claims that may be used in voluntary USDA Certified or USDA Verified programs for the livestock and meat industries.

DATES: Comments must be received on or before March 31, 2003.

ADDRESSES: Written comments, suggestions for additional marketing claim standards, and other input may be submitted to Chief, Standardization Branch, Livestock and Seed Program, AMS, USDA, Room 2603-S, Stop 0254, 1400 Independence Avenue, SW., Washington, DC 20250-0254. Comments may also be sent by fax to (202) 720-1112, by electronic mail to: marketingclaim@usda.gov or filed via an on-line form through the AMS,

Livestock and Seed Program, Standardization Branch Web site at: <http://www.ams.usda.gov/lsg/stand/claimcomment.htm>. Comments should refer to Docket No. LS-02-02. All comments received will be made available for public inspection at the above address during regular business hours (8 a.m.-4:30 p.m.) and will be posted on the Internet at: <http://www.ams.usda.gov/lsg/stand/claim.htm>. Copies of these proposed United States Standards for Livestock and Meat Marketing Claims are available through the above addresses or by accessing the Web site at: <http://www.ams.usda.gov/lsg/stand/st-pubs.htm>.

FOR FURTHER INFORMATION CONTACT: Chief, Standardization Branch, on 202-720-4486 or Cara L. Gerken, Marketing Specialist on 405-433-5637.

SUPPLEMENTARY INFORMATION: Section 203 (c) of the Agricultural Marketing Act of 1946, as amended, directs and authorizes the Secretary of Agriculture "To develop and improve standards of quality, condition, quantity, grade, and packaging, and recommend and demonstrate such standards in order to encourage uniformity and consistency in commercial practices." USDA is committed to carrying out this authority in a manner that facilitates the marketing of agricultural commodities. One way of achieving this objective is through the development and maintenance of voluntary standards by AMS.

Participants wishing to become USDA Verified for marketing claims based on these standards must provide the documentation and records necessary to verify the accuracy of the claims. Since the USDA Verified programs are specific to each participant, a standardized format for the documents and records will not be established.

AMS is proposing the adoption of new United States Standards for Livestock and Meat Marketing Claims, in accordance with procedures published in the August 13, 1997, **Federal Register** and that are contained in Part 36 of Title 7 of the Code of Federal Regulations (7 CFR Part 36).

Paperwork Reduction Act

This notice codifies industry consensus standards which have been used in "USDA Process Verified" programs under the Quality Systems Certification Program (QSCP). The QSCP is included in the current services of the Meat Grading and Certification Branch in 7 CFR Part 54.4 (63 FR 72102, Dec. 31, 1998). The information collection reporting requirements for those services were approved under Office of Management and Budget (OMB) Control No. 0581-0124, dated June 2, 2000.

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the recordkeeping requirements and burden for the Livestock and Meat Marketing Claims Standards will be detailed in another anticipated rulemaking that will establish a new part in the Code of Federal Regulations for a Quality System Verification Program under the LS Program's Audit, Review, and Compliance Branch. AMS intends to have these recordkeeping burden requirements become a part of OMB Control No. 0581-0183. The Livestock and Meat Marketing Claims Standards recordkeeping burden will be incorporated when a request for a revision to and extension of OMB Control No. 0581-0183 is submitted to the Office of Management and Budget.

Background

Since the late 1970's, some livestock and meat industry companies and individual producers have sought USDA services to increase the value of their products (live animals or meat products) by distinguishing them from competing commodity products. Advertising and promotions, which often highlight production and marketing practices, are examples of the methods companies and individuals have utilized to "set their products apart."

Since 1978 the Livestock and Seed (LS) Program has provided certification for a number of claims related to product traits of beef, pork, and lamb carcasses, with or without accompanying claims for breed. Validity was added to the claims because the product was "USDA Certified". Since 1996 the LS Program has offered a verification service to verify claims that cannot be ascertained by direct examination of the product. This verification program allows participants to declare "USDA Verified" for one or more system attributes such as feeding practices, or other pre- and post-harvest processes. Participants must have a documented quality management program covering all aspects of their system and must submit to periodic audits by AMS.

As multiple organizations began to seek USDA verification of the same or similar production practices, the LS Program determined it would be beneficial to establish minimum standards for common production/marketing claims. Certification service requests, along with information obtained during the administration of USDA Verified programs, led the LS Program to develop these proposed United States Standards for Livestock and Meat Marketing Claims. Standardization of these marketing and production claims will permit marketers and purchasers of these products to make informed decisions by using common trade language.

Many product labels that include these marketing claims must be submitted to the Food Safety and Inspection Service (FSIS), Labeling and Consumer Protection Staff (LCPS), for evaluation prior to use. LCPS is USDA's policy authority on domestic and imported meat, poultry, and egg product labeling, standards, and ingredients. Therefore, the LS Program and LCPS have cooperatively developed these marketing claim standards. Participants whose products or processes do not meet these minimum requirements will not be recognized as USDA Certified or USDA Verified by AMS, and LCPS will not approve labels citing certification of such claims. In addition, LCPS will refer to these standards as guidelines for approval of labels making such marketing claims.

The proposed marketing claim standards may be used in conjunction with existing regulations or voluntary USDA grade standards in USDA Certified and USDA Verified programs. Minimum breed claim criteria shall be established by national breed associations. Since National Pedigreed Livestock Council (NPLC) is the only [*79554] multi-species organization for livestock breed associations, AMS will refer to NPLC members as the designated national breed association. Breed associations that are not members of NPLC may petition AMS for the purpose of establishing a national breed claim program. If a national breed association does not have minimum breed claim criteria, breed claims must be traceable to a parent registered with the national breed association.

Based on LS Program experience with USDA Certified and USDA Verified programs, research into standard practices and procedures, and requests from the livestock and meat industries, AMS identified the need to establish minimum standards for marketing and production claims. In addition to relying on their own expertise, LS Program marketing specialists obtained input from a number of individual experts in government, industry, and academia while drafting these proposed standards and their corresponding thresholds.

AMS is seeking public comment on the following proposed United States Standards for Livestock and Meat Marketing Claims. New participants in USDA Certified or USDA Verified programs will be required to adhere to the United States Standards for Livestock and Meat Marketing Claims immediately. A current participant in USDA Certified or USDA Verified programs, whose system does not comply with these standards, will have 60 days from the final publication of these standards to bring their system into compliance. If a participant fails to bring their system into compliance, AMS will withdraw its USDA Certified or USDA Verified approval and notify LCPS that the basis for their label approval is no longer valid. USDA Certified or USDA Verified program participants who are notified their programs will be withdrawn may submit a written appeal, within 30 days of program withdrawal notification, to the Deputy Administrator, Livestock and Seed Program, AMS. The Deputy Administrator will respond promptly with a written decision which will be final. Unless otherwise noted, these standards apply to cattle, sheep, swine, their carcasses, and meat products.

United States Standards for Livestock and Meat Marketing Claims

Claims Relating to Live Animal Production

Antibiotic Claims-Background: To reduce the risk of antibiotic residues, the Food and Drug Administration (FDA) requires withdrawal of antibiotics from animals for a specified period prior to harvest. Existing antibiotic-residue testing technology can detect residues that exceed the FDA's minimum thresholds. These tests do not have the sensitivity to verify "antibiotic-free" or that no antibiotics were ever administered. After an antibiotic is administered for treatment, the body slowly depletes the traceable residue. "Antibiotic-free" marketing claims are not allowed by LCPS; however, LCPS will allow "no detectable antibiotic residue" claims if the product is tested and the science-based test protocol is provided to LCPS. Since some consumers prefer meat products from animals that have not been fed and/or treated with antibiotics and some producers are willing to provide additional assurances of compliance with regulatory requirements, other limited product claims regarding antibiotic treatments are allowed by LCPS. When such antibiotic claims are made, they must be supported by feed formulations, pharmaceutical invoices, or other appropriate documentation, that verifies animals have not received antibiotics in feed or water and whether they have been treated for illness. Procedures for handling sick animals must be documented.

Claim and Standard:

. No antibiotics used, or Raised without antibiotics.-Livestock have *never* received antibiotics from birth to harvest.

. No subtherapeutic antibiotics added, or Not fed antibiotics. " Livestock are not fed subtherapeutic levels of antibiotics. They may receive treatment for illness provided the approved FDA withdrawal period is observed.

. No detectable antibiotic residue (analyzed by "method x").-LCPS requires additional information on the label that clearly informs the consumer/purchaser that the animal may have been treated with antibiotics. Livestock may receive antibiotics during the production phase, provided:

(1) All antibiotics are withdrawn at least 30 days beyond the minimum FDA withdrawal requirement (*e.g.*, if the FDA minimum withdrawal period is 10 days, the minimum

withdrawal period for the United States Standard for Livestock and Meat Marketing Claims would be at least 40 days); and,

(2) Livestock and meat products contain no detectible antibiotic residue as verified by statistical sampling analysis using a science-based testing protocol. The specific test protocol and sensitivity of that method must be disclosed ("method x").

Breed Claims. - Claims for breed of livestock must meet criteria established by an AMS-recognized U.S. breed association for the referenced breed. If the breed association does not establish criteria for this claim, animals must be traceable to a parent registered with a breed association.

Free Range Claims-Background: These claims relate to the practice of allowing livestock to have continuous and unconfined access to pasture throughout their life cycle. Producers must verify how livestock are cared for during normal and inclement weather conditions, birthing, or other conditions that would merit special protection. Since some consumers prefer products from animals that have been raised using these production practices, producers may seek to improve their returns by appealing to such market niches.

Claim and Standard:

. Free Range, Free Roaming, or Pasture Raised. " Livestock that have had continuous and unconfined access to pasture throughout their life cycle, including:

Cattle *-Shall never be confined to a feedlot.

Sheep *-Shall never be confined to a feedlot.

Swine *-Shall have continuous access to pasture for at least 80% of their production cycle.

* FSIS requires product labels from red meat species with these claims also include the following further qualifying statement: "Free Range-Never Confined to Feedlot."

Geographic Location Claims - Background: Producers, processors, and retail/foodservice operators may want to differentiate their products by identifying the geographic region where the product was produced. References to individual States, countries, or specific or general geographic areas (e.g., Dakotas, Western) will constitute geographic location claims.

Claim and Standard:

. Location of Raising (e.g., "Mid-Western Raised Lamb" or "Raised in Montana").-The livestock are raised/grown in the specified geographic location from birth to harvest.

. Location of Finishing (e.g., "Rocky Mountain Fed Lamb" or "Nebraska Fed Beef").-The livestock are fed/finished in the specified geographic location for at least the last 100 days prior to harvest.

Grain Fed Claims - Background: Livestock are finished on high concentrate rations (grain feeding) to enhance meat palatability. A high concentrate grain ration is any cereal plant product that meets or exceeds 60 [*79555] Mega calories (Mcal) Net Energy for gain (NEg) per 100 pounds of ration dry matter (1996 NRC for cattle, 1998 NRC for swine).

Claim and Standard:

. Grain Fed (e.g., Corn Fed, if corn is the primary ingredient).-

Cattle-

- (1) Average grain consumption must equal 50% or more of the ration;
- (2) NEg must average at least 60 Mcal per 100 pounds of ration dry matter;
- (3) Dry Matter Intake (DMI) during the finishing phase must be at least equal to: ((Cattle shrunk weight at the beginning of the finishing phase x 0.014) + 10 pounds). DMI tolerance cannot be less than 10% of this formula; and,
- (4) Minimum number of days on feed is 100 days for slaughter steers and heifers and 30 days for cows.

Lambs-

- (1) Average grain consumption must equal 50% or more of the ration; and,
- (2) Minimum number of days on feed for slaughter lambs is 50 days.

Swine-

- (1) Average grain consumption must equal: (a) 45% or more of the nursery phase (pig weight: 15-65 pounds) ration; and, (b) 65% or more of the finishing phase (pig weight: 65-300 pounds) ration.
- (2) Minimum number of days on feed for slaughter hogs is 60 days.

Grass Fed Claims-Background: This claim refers to the feeding regimen for livestock raised on grass, green or range pasture, or forage throughout their life cycle, with only limited supplemental grain feeding allowed. Since it is necessary to assure the animal's well being at all times, limited supplementation is allowed during adverse environmental conditions. Grass feeding usually results in products containing lower levels of external and internal fat (including marbling) than grain-fed livestock products.

Claim and Standard:

. Grass Fed.-Grass, green or range pasture, or forage shall be 80% or more of the primary energy source throughout the animal's life cycle.

Hormone Claims-Background: Hormones * are synthetic or naturally occurring compounds which have been shown to improve gain and feed efficiency, stimulate growth, and/or control reproductive activity. Since all plants and animals produce hormones, a "hormone-free" plant or meat product is a misnomer and a "hormone-free" marketing claim cannot be made. However, since some consumers prefer meat products from animals that have not received supplemental hormones and some markets restrict the sale of hormone-treated products, the following claims and standards will be recognized.

Claim and Standard:

. No supplemental hormones * used, Raised without supplemental hormones*, or No added hormones*.-The livestock have *never* received supplemental hormones from birth to harvest.

. No hormones* administered during finishing.-The livestock have not received supplemental hormones during the feeding/finishing period.

* The terms "hormone," "growth promotant," "growth stimulant," and "implant" are used interchangeably.

Livestock Identification Claims-Background: Livestock identification is used to establish ownership, ancestry, pedigree, or age; to trace origin of livestock; or to manage herd health, artificial insemination, and performance testing programs. Livestock identification from birth or a stated point of production through retail product outlets may also address consumer requests for more information about the characteristics of products they buy and increase returns to producers.

Claim and Standard:

. Source Verified.-Must include the following:

- (1) Method of livestock identification;
- (2) Location(s) where livestock are born, raised, fed, harvested, and processed; and,
- (3) Identification of the producer(s).

. Individual Animal Identification.-Must fulfill the Source Verified requirements and also have unique, individual animal identification. The American Information Number (AIN) system or other numbering scheme that provides for unique identification of animals and verification of program claims may be used.

Preconditioning Claims-Background: Preconditioning of animals by livestock producers can yield advantages in the livestock raising process by reducing animal stress, mortality rates, shrinkage, and the transition time required to start animals on feed.

Claim and Standard:

. Preconditioned for "x" days (where "x" is the number of days prior to sale/shipping).- Animals for which a preconditioning claim is made must receive the following treatments (as appropriate) at least 45 days prior to their sale/shipment:

- (1) Dehorning (when applicable);
- (2) Castration (if male);
- (3) Vaccinations;
- (4) Treatment for control of parasites;
- (5) Weaning; and,
- (6) Training to eat and drink from feed and water bunks.

Vitamin E Claims -Background: Inclusion of Vitamin E in feed rations, in the form of alpha-tocopheryl acetate, has been shown to improve product color and case life. Promotion of Vitamin E use is limited to livestock producers, packers, and wholesalers. Retail-marketing claims, such as "Vitamin E fed" or "Vitamin E enhanced," are not allowed by FSIS because consumers do not receive a supplemental level of Vitamin E by consuming Vitamin E-fed beef. Animal identification, reviewing feed rations and records, and testing feed samples and muscle tissue samples may be verification elements to support this claim.

Claim and Standard:

. Cattle have been fed supplemental levels of Vitamin E. (Promotion of Vitamin E use is limited to livestock producers, packers, and wholesalers.)-(1) Minimum of 50,000 International Units (IU)/head during feeding period (IU tolerance = +/-15%); (2) Minimum feeding period of 30 days; and, (3) Minimum carcass alpha-tocopheryl acetate concentration from the neck muscle (rectus capiti dorsalis major) not less than 3.2 micrograms ($[\mu]g$) alpha-tocopheryl acetate/gram (g) of tissue. (Alpha-tocopheryl acetate concentration tolerance = +/-15%).

Claims Relating to Product (Meat) Characteristics

Aged Meat Claims-Background: Aging is the process by which meat (carcasses or cuts) is held at a controlled temperature for a specified period, beginning at the time of harvest, to allow enzymatic activity to degrade complex proteins and promote the development of flavor and tenderness. When product is "dry aged" humidity control is also a critical element of the aging process.

Claim and Standard:

. *Aged Meat Products.* -Type of aging and length of postmortem aging (in days) must be specified. The actual number of days aged and type of aging (dry or wet) may also appear on the retail label.

Beef.-Must be wet aged for a minimum of 21 days or dry aged for a minimum of 35 days.

Electrical Stimulation Claims-Background: Electrical stimulation improves muscle tenderness by minimizing cold shortening, increasing enzyme activation at higher carcass temperatures (thereby accelerating the aging process), and by physical disruption of muscle fibers through extreme muscle contractions. It further results in an accelerated rate of **[*79556]** postmortem pH decline as well as an accelerated onset of rigor mortis.

Claim and Standard:

. *Electrically Stimulated Beef.*-The electrical stimulation applied to the carcass must meet the following minimum requirements:

- (1) The cross product of voltage and amperage (voltage multiplied by amperage) must be ≥ 500 ; and,
- (2) Consist of at least three cycles with a minimum pulse of ≥ 1.5 seconds "on" and ≥ 1.0 second "off."

Tenderness Claims-Background: Although individual perceptions vary, for most consumers

increased tenderness and juiciness, as well as flavor intensity, contribute to an increase in overall palatability. Of all the palatability attributes, tenderness is the most critical to consumers. Results of objective measurements (e.g., mechanical measures, such as Warner-Bratzler Shear [WBS] or Instron tests) or subjective evaluations (e.g., taste panel scores) can be used to develop quantitative ranking systems which provide a relative level or degree of tenderness. Factors such as degree of doneness, physical size of a sample, and orientation of muscle fibers (among others) can dramatically affect the results of tenderness evaluations. Therefore, specific details of evaluation techniques and conditions used to establish tenderness claims must be fully documented.

Claim and Standard:

. "Company X's" Tender "Species."-A tenderness management system must include at least 3 of the following controlled elements and must be statistically verified ($P \leq 0.05$) to meet an objective tenderness evaluation of a WBS score ≤ 4.0 kg, using a 1/2 inch (1.27 cm) core, when cooked to 160[degrees]F (71[degrees]C).* The objective tenderness evaluation must be revalidated on an annual basis.

Controlled Elements: (1) Genetics; (2) Age of livestock; (3) Feeding management; (4) Electrical stimulation; (5) Aging; (6) Ingredients added to enhance tenderness; (7) Instrument assessment (e.g., validated carcass sorting system, pH values, etc.); or, (8) Mechanical (e.g., blade tenderization, etc.).

* Protocol shall be as established in the 1995 edition of the American Meat Science Association's Research Guidelines for Cookery, Sensory Evaluation, and Instrumental Tenderness Measurements of Fresh Meat. (Available from the National Cattlemen's Beef Association, Centennial, CO.)

Dated: December 20, 2002.

A.J. Yates,

Administrator, Agricultural Marketing Service.

[FR Doc. 02-32806 Filed 12-27-02; 8:45 am]

BILLING CODE 3410-02-P