

Using the Claim "Certified Organic By..." on Meat and Poultry Product Labeling

Congress passed the Organic Foods Production Act (OFPA) of 1990 to (1) establish national standards governing the marketing of certain agricultural products as organically produced products, (2) assure consumers that organically produced products meet a consistent standard, and (3) facilitate commerce in organically produced fresh and processed food.

USDA's Agricultural Marketing Service (AMS) is developing regulations for the use of the term "organic" on the labeling of food products. A proposed rule discussing this important issue was published on December 16, 1997, in the Federal Register (62 FR 65850) which resulted in about 280,000 public comments. In response to the proposed rules, commenters raised many complex issues. AMS is planning to reissue a proposed rule that will address these issues and seek further comment. Furthermore, the National Organic Standards Board (NOSB), formed as a result of the OFPA, continues to advise AMS on promulgating OFPA regulations.

Allowance of "Certified Organic By..."

The AMS decision to seek further public comment will further delay the final regulation on "organic agricultural products." As a result, a number of meat and poultry producers have expressed a desire to market meat and poultry products bearing the claim "certified organic by" a certifying authority or entity until the issuance of a final rule that defines the term "organic." In consideration of the circumstances, the Department will permit the use on the label of a meat or poultry product a factual statement that the product has been "certified organic by (a certifying entity)." The certifying entity must have (1) standards for what constitutes an agricultural product that is "organically" produced, and (2) a system for ensuring that products it certifies meets those standards.

FSIS is the agency in USDA that has the responsibility for assuring that the labeling of meat and poultry products is truthful and not misleading. Labeling bearing claims, such as "certified organic by (a certifying entity)," are evaluated by FSIS prior to use.

Because the term "organic" has not yet been defined by USDA, it may not be used by itself as a claim on the labeling of meat and poultry products. ¹ By allowing the claim "certified organic by (a certifying entity)," FSIS will not be defining the term "organic" or the criteria to which the production of agricultural products must adhere in order to apply the term to their labeling. The AMS, supported by the activities of the National Organic Program (NOP) and NOSB, continues to be the focal point for the Department's efforts to define "organic" and establish the circumstances under which it applies to agricultural products, including meat and poultry products. Accreditation of certifying entities will be addressed in the final rules that AMS promulgates on "organic" agricultural products. Therefore, when the Department has promulgated final rules defining "organic," any labeling statement that uses the term "organic" would have to be in accordance with those rules. This issue will be addressed in final rules that AMS promulgates on "organic" agricultural products.

¹ Except as part of the signature line on labels, if "organic" is part of the company's incorporated name, and it is deemed to not be misleading.

Requests for Evaluation/Approval of Labeling Bearing "Certified Organic By (A Certifying Entity)"

Labeling for meat and poultry products bearing claims is evaluated for approval prior to its use by FSIS's Labeling and Consumer Protection Staff. Labeling includes any written, printed, or graphic material which is used on the containers or wrapping of meat and poultry products, or that accompanies meat and poultry products at their point of sale, e.g., "point of purchase" materials (Policy Memo 114A).

The term "certified organic by" is to be followed by the name of the certifying entity, and the entire statement may appear anywhere on the labeling of meat and poultry products. All words in the claim are to be contiguous and of the same size, style, and color.

Labeling bearing the term "certified organic by (a certifying entity)" submitted for prior approval is to be accompanied by certification documentation that is to be provided to the meat or poultry producer by the certifying entity. The necessary documentation includes (1) the name of the meat or poultry product, and/or ingredient used in the meat or poultry product, (2) the certifying entity's name and address, (3) the name and signature of the responsible official at the certifying entity, (4) the date of certification, and (5) the acknowledgement that the entity (a) has applied criteria in certifying the product and (b) employs a system for evaluating ongoing compliance with its criteria. The criteria that are applied by the certifying entity do not need to be provided to the staff. Questions regarding the criteria for "organic" certification should be addressed to the respective certifying entity.

Applications for labeling bearing the claim "certified organic by (a certifying entity)" are to be directed to the attention of the Labeling and Consumer Protection Staff, FSIS, USDA, Room 616C, Cotton Annex, Washington, DC 20250, for evaluation. Inquiries regarding labeling and

standards, including labeling claims, such as "certified organic by (a certifying entity)" and animal production claims, may be directed to Dr. Robert Post, Director, Labeling and Consumer Protection Staff. The staff may be reached by phone at (202) 205-0279 for consultation.

Animal Production Claims and "Natural" Claims

FSIS will permit the claim "certified organic by (a certifying entity)" along with the use of animal production claims and the term "natural." FSIS has permitted the application of "animal production claims," i.e., truthful statements about how the animals from which meat and poultry products are derived or raised, on the labeling of meat and poultry products. For many years, animal production claims have served as an alternative to the use of the term "organic" on the labeling of meat and poultry products in the absence of a uniformly accepted definition. Thus, producers may wish to continue the use of animal production claims on meat and poultry labeling. Examples of animal production claims are "No Hormone Implants Used in Raising," "Raised Without Added Hormones," "No Antibiotics Used in Raising," "Corn Fed," "Fed An All Vegetable Diet," "Raised In An Open Pasture," and "Free Range." The system FSIS has in place for evaluating the necessary supporting documentation to ensure the accuracy of animal production claims, such as producer affidavits and raising protocols, will continue to be used whenever these types of claims are made.

The term "natural" may be used when products contain no artificial ingredients and are no more than minimally processed in accordance with FSIS Policy Memo 055. This term may be used in combination with the claim "certified organic by (a certifying entity)" when the conditions of the policy are met.

Addendum - Using the Claim "Certified Organic by"

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