



United States Department of Agriculture

---

Food Safety and  
Inspection Service  
1400 Independence  
Avenue, SW,  
Washington, D.C.  
20250

Jeff Kerr  
Chief Legal Officer  
PETA Foundation  
2154 W. Sunset Blvd.  
Los Angeles, CA 90026

August 28, 2024

Dear Mr. Kerr:

The Food Safety and Inspection Service (FSIS) has completed its review of the June 27, 2022, petition submitted on behalf of People for the Ethical Treatment of Animals (PETA), requesting that FSIS initiate rulemaking to stop the Agency's review and approval of animal-raising claims on food products (Petition #22-04). Specifically, PETA requested that FSIS amend 9 CFR 412.1(e) to no longer allow for approval of claims regarding the raising of animals on product labels. PETA also asked FSIS to rescind its guidelines regarding FSIS' approval of animal-raising claims on labels. PETA argued that FSIS lacks jurisdiction to regulate on-farm, animal-raising activities; therefore, FSIS' review, approval, and allowance of animal-raising claims exceeds its statutory authority. According to PETA, because FSIS does not have on-farm jurisdiction, producers can make misleading or false claims concerning how animals are raised, leading to consumer confusion. Finally, PETA referenced a few studies to demonstrate consumer expectations for companies that claim to treat animals humanely and included examples of, according to the petitioner, companies that have used animal-raising claims in a manner that do not meet such expectations or that cause consumer confusion. As discussed below, FSIS has decided to deny your petition.

*1. FSIS will not amend its regulations as requested by the petition.*

FSIS has the statutory authority to review and approve all claims displayed on products under its jurisdiction, including animal-raising claims. The Federal Meat Inspection Act, Poultry Products Inspection Act, and Egg Products Inspection Act (21 U.S.C. 601–695, at 601(n), 607; 21 U.S.C. 451–470, at 453(h), 457; 21 U.S.C. 1031-1056, at 1033(l), 1036(b)) (hereinafter, “the Acts”) prohibit the sale of misbranded meat or poultry, including labeling that is false or misleading in any particular. Under the Acts, the Secretary of Agriculture, who has delegated this authority to FSIS, must approve the labels of meat, poultry, and egg products before they can enter commerce (21 U.S.C. 607(d); 21 U.S.C. 457(c)); 21 U.S.C. 1036(b)). Establishments are not required to submit “generically approved” labels,

as defined in 9 CFR 412.2(b),<sup>1</sup> to FSIS for label-by-label evaluation (9 CFR 412.2(a)(1). However, establishments are required to submit labels with “special statements and claims” (9 CFR 412.1(c)(3) and 412.1(e)) to FSIS for review and approval before they may be used in commerce.<sup>2</sup> As noted in your petition, animal-raising claims are considered “special statements and claims.” Accordingly, FSIS evaluates all animal-raising claims on meat, poultry, and egg product labels and approves those that are truthful, not misleading, and otherwise in compliance with the Acts and their implementing regulations.

As noted above, PETA argues that FSIS lacks jurisdiction to regulate on-farm, animal-raising activities; therefore, FSIS' review, approval, and allowance of animal-raising claims exceeds its statutory authority. However, FSIS' review of animal-raising claims on labels does not equate to regulation of on-farm, animal-raising activities. Establishments are not required to include animal-raising claims on their labels. If they seek to do so, under the Acts, FSIS must ensure that such claims are not misleading before the product enters commerce (21 U.S.C. 607(d); 21 U.S.C. 457(c)); 21 U.S.C. 1036(b)). FSIS' review and approval of animal-raising claims within this mandate does not impose any regulatory requirements on the farm, but rather ensures that any claimed animal-raising practices on labels are adequately supported.

FSIS' process for evaluating labels with animal-raising claims helps ensure that labels are not misbranded. As part of the label approval process, FSIS verifies the accuracy of animal-raising claims by reviewing supporting documentation that establishments submit with their label applications. The type and amount of supporting documentation needed to sufficiently support an animal-raising claim varies, depending on the specific claim. When needed, the Agency consults with its Federal partners, such as the USDA Agricultural Marketing Service, to decide whether submitted documentation provides a sufficient level of detail to ensure that the animal-raising claim is truthful and not misleading.

FSIS has decided not to revise its regulations as requested in the petition. FSIS will continue to fulfill its obligation under the Acts to evaluate such claims and their substantiating documentation and approve those that are truthful, not misleading, and otherwise in compliance with the law. Further, stopping FSIS review and approval of all animal-raising claims could effectively prohibit the display of such claims, including those that are truthful and not misleading. This action could, therefore, raise significant free speech issues and could be considered unconstitutional. FSIS also notes that revising 9 CFR 412.1(e) to remove animal-raising claims from the definition of “special statements and claims,” as specified in the petition, would not have the effect intended by PETA (*i.e.*, to prevent such claims from appearing on

---

<sup>1</sup> Per 9 CFR 412.2(b), generically approved labels are labels that bear all applicable mandatory labeling features in accordance with Federal regulations and do not bear special statements and claims as defined in 9 CFR 412.1(e).

<sup>2</sup> Per 9 CFR 412.1(e), special statements and claims include those claims not defined in the Federal meat and poultry products inspection regulations or the Food Standards and Labeling Policy Book; “Natural” claims; health claims; ingredient and processing method claims; structure-function claims; claims regarding the raising of animals (e.g., “no antibiotics administered”); products labeled as organic (except where only individual ingredients are labeled as organic); and instructional or disclaimer statements concerning pathogens.

An Equal Opportunity Provider and Employer

labels). Such a revision would instead make all animal-raising claims eligible for generic label approval pursuant to 9 CFR 412.2(a)(1) and (b).

*2. FSIS will not rescind its guidance as requested by the petition.*

FSIS also will not rescind its animal-raising claims guideline as requested by the petition. FSIS disagrees with PETA that the guideline allows establishments to misbrand their products. As discussed above, the Acts and their implementing regulations prohibit misbranded products from entering commerce. The guideline is intended to facilitate the review and approval process for animal-raising claims by providing establishments with helpful information on how to use and substantiate such claims. The guideline does not have the force and effect of law.

On August 28, 2024, FSIS posted a *Federal Register* notice announcing an updated version of its animal-raising claims guideline.<sup>3</sup> The notice also discussed your petition. The revised guideline includes several updates to better assist establishments with substantiating animal-raising claims and help ensure that such claims align with consumer expectations. For example, the updated guideline strongly encourages the use of third-party certifiers to substantiate animal-raising claims and identifies criteria that ensure a third-party certification organization is credible and reliable. Also, to substantiate “Pasture-Raised” and similar claims, the guideline now strongly encourages producers to provide FSIS with documentation demonstrating that the products are derived from animals raised on land where the majority is rooted in vegetative cover with grass or other plants for the majority of their life span from birth until slaughter. Additionally, for negative antibiotics use claims, the revised guideline recommends that establishments institute sampling and testing programs, or utilize a third-party certifier to do so. If the establishment or a third-party certifier administers a routine sampling program to test for antibiotics, FSIS recommends that a description of the sampling program and documentation of test results be submitted to substantiate the claim. As with all its published guidance, FSIS is requesting comment on these changes and any other issues concerning the guidance.

*3. FSIS will continue to administer and enforce humane handling standards.*

The petition includes examples of companies that used animal-raising claims on labels of products that were produced under animal-raising conditions that allegedly failed to meet industry standards or consumer expectations for humane handling. We have forwarded these specific examples to the FSIS Office of Investigation, Enforcement, and Audit, which conducts investigations of FSIS-regulated establishments, for additional review. We note that FSIS has a procedure to report a problem with a food product under the Agency’s jurisdiction, such as an alleged instance of an establishment’s failure to ensure that poultry are handled humanely.

---

<sup>3</sup> <https://www.fsis.usda.gov/policy/federal-register-rulemaking/federal-register-notice>.  
An Equal Opportunity Provider and Employer

Mr. Kerr  
Page 4

Information about how to report a problem is available on the FSIS website at: <https://www.fsis.usda.gov/food-safety/recalls-public-health-alerts/report-problem-food>.

The Humane Methods of Slaughter Act (HMSA) (7 U.S.C. 1901, 1902, and 1906) requires that the slaughtering and handling of livestock be carried out only by humane methods. Although the scope of the HMSA does not include poultry, FSIS is committed to ensuring that poultry are slaughtered in good commercial practices, as required under the FSIS regulations (9 CFR 381.65(b)), to help ensure that poultry are treated humanely. At establishments that label products with animal-raising claims, FSIS inspectors routinely verify that establishments maintain compliant label records on file. In addition, inspectors may take appropriate regulatory action, such as product retention, when they identify misbranded product. FSIS could also rescind approval of false or misleading labels per 9 CFR 500.8. The Agency will continue to investigate individual instances of alleged humane handling non-compliances at federally inspected establishments and, when warranted, take regulatory action.

Based on the reasoning above and discussed in the *Federal Register* notice, FSIS has decided to deny your petition. FSIS will not revise 9 CFR 412.1 to prohibit the display of animal-raising claims on product labels or rescind its animal-raising claims guidance as requested in the petition. In accordance with our petition regulations, we have posted your petition on the FSIS website (9 CFR 392.6). We intend to post this response as well.

Sincerely,

A handwritten signature in cursive script, appearing to read "Rachel Edelstein".

Rachel Edelstein  
Assistant Administrator  
Office of Policy and Program Development