



Animal Welfare Institute

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January 7, 2014

Dan Engeljohn, PhD
Assistant Administrator, Office of Policy and Program Development
Food Safety and Inspection Service
U.S. Department of Agriculture
1400 Independence Avenue SW
Washington, DC 20250

Re: Approval of Animal Welfare Label Claims

Dear Dr. Engeljohn:

As you may be aware, the Animal Welfare Institute (AWI) recently filed a federal lawsuit regarding USDA Food Safety and Inspection Service's label approval process for animal raising claims. In early 2011, AWI requested label approval files for the claim "free range" on a couple dozen chicken and turkey products. Nearly four years later, no records have been received by AWI.

As a result of our research into the FSIS labeling approval process over the past few years, we have concluded that FSIS labeling staff do not consistently require substantiation of animal raising claims, and/or they are unable to access information regarding the claims that they have approved. In either case, it is clear that the FSIS label approval process is not functioning properly and that the office's procedures need to change.

In May 2014, AWI submitted a rulemaking petition to FSIS requesting that the agency amend its labeling regulations under the Federal Meat Inspection Act and the Poultry Products Inspection Act to require independent third-party certification for the approval of animal welfare and environmental stewardship claims on meat and poultry products. Since the filing of our rulemaking petition, there have been new developments related to the issue of animal welfare claims that illustrate the need for FSIS to grant the petition.

1. Perdue Farms has agreed to remove "humanely raised" from its Harvestland brand.

In October of last year, Perdue Farms agreed to remove the claim "humanely raised" from its Harvestland brand of chicken to settle two federal class-action lawsuits in New Jersey and Florida that charged the claim is misleading. Perdue's use of the claim had been approved by both FSIS labeling staff and AMS's Process Verified Program. More than three years earlier, in May 2010, Perdue Farms agreed

2. Kroger has agreed to remove reference to “humane” from its Simple Truth brand.

Also in October, the Kroger Co. announced that it would remove the claim “raised cage free in a humane environment” from its Simple Truth natural chicken brand to settle a federal lawsuit charging the retailer was deceiving consumers. Use of the claim by Kroger had been found acceptable by FSIS labeling staff, despite the fact that AWI received no records whatsoever when it requested the supporting evidence used by FSIS to approve the claim.

3. Allen Harim has agreed to become third-party certified to retain the “humanely raised” claim.

Approximately three years ago, AWI challenged use of the claim “humanely raised on family farms” on Allen Harim Foods’ Nature’s Sensation chicken products before the National Advertising Division (NAD) of the Better Business Bureau. We argued that use of the claim by a conventional producer was misleading and deceptive. Despite the claim having been approved by FSIS labeling staff, NAD agreed that removal of the claim was “necessary and appropriate.” In September 2013, after Allen Harim had failed to remove the claim in a timely fashion, NAD referred the issue to the Federal Trade Commission (FTC). Earlier this year, FTC informed NAD that it had been in contact with counsel for Allen Harim, who indicated it would cooperate with the NAD inquiry. AWI has subsequently learned that Allen Harim is now participating in the Global Animal Partnership (GAP) animal welfare certification program.

4. AMS is not currently verifying other “humane” claims on product labels.

To our knowledge, the Agricultural Marketing Service’s Process Verified Program (PVP) is not currently verifying use of any “humane” claims by producers other than Perdue Farms, which has agreed to remove the claim as noted above. While PVP audits a “humanely raised” claim for Tyson’s Nature Raised chicken and Safeway’s “humane animal handling auditing program” for beef cattle, neither company is currently using a humane claim on its product labels. Additionally, Tyson participates in the GAP animal welfare certification program at the Step 2 level, which exceeds conventional production standards. Therefore, the granting of AWI’s petition would not impact the Process Verified program as it presently operates.

5. Consumers continue to show strong support for the “humanely raised” claim.

In June 2014, *SPINS Trendwatch* reported sales growth of 23 percent for animal welfare claims on “natural” products over the previous year. *SPINS*, which monitors sales of coded items for participating retailers, also reported a 43 percent rise in the use of animal welfare claims on specialty and health and wellness food items. Such strong growth suggests that more American shoppers are becoming aware of farm animal welfare issues and seeking out products that provide an assurance of good welfare.

As further evidence of this, in November, the American Humane Association released results of a consumer survey showing that 95 percent of respondents were very concerned about farm animal welfare, and 76 percent were willing to pay more for humanely raised meat, dairy, and eggs. Moreover, respondents to the survey ranked the “humanely raised” claim as highest in importance, over “antibiotic free,” “organic,” and even “natural.”

In conclusion, FSIS should grant the AWI petition.

As noted in our rulemaking petition, a national survey commissioned by AWI demonstrated that a large majority of consumers think the government should not allow “humanely raised” on product labels unless the claim is verified by an independent third party, and that producers should not be allowed to use the claim unless they exceed minimum industry animal care standards. Clearly the public expects more than it currently receives from USDA’s approval process for animal welfare claims.

To date, in each instance where a FSIS-approved animal welfare claim has been formally challenged, the producer has agreed to either remove the claim or improve its animal-raising practices. This underscores the need for change in how FSIS reviews these claims.

We urge FSIS to require third-party certification of animal welfare and environmental stewardship claims in order to provide meaningful labeling information that will prevent consumers from being confused and/or misled and improve the consistency and efficiency of FSIS’s label approval process.

Sincerely,



Dena Jones

Farm Animal Program Manager