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VIA EMAIL naturallyraised@usda.gov

Naturally Raised Marketing Claim
Agricultural Marketing Service
USDA, Room 2607-S
1400 Independence Ave., SW
Washington, DC 20250-0254

To Whom It May Concern:

Hormel Foods Corporation submits the following information and comments regarding the USDA Agricultural Marketing Service's proposal to develop a voluntary standard to address animal raising and handling claims.[1] We thank the Agency for the opportunity to submit information regarding this issue.

Executive Summary

FSIS and AMS are simultaneously working on two rulemaking initiatives: "Natural" and "Naturally Raised." The Agencies, in public hearings and notices, address the two terms as separate claims. However, in comments by Agency officials[2] and industry representatives[3] the terms quickly become confused and intertwined.

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[1] USDA Announces Listening Sessions on Marketing Claim for Naturally Raised Livestock (Nov. 21, 2006), *available at*, http://www.ams.usda.gov/news/283-06.htm.

[2] *See, e.g.*, Transcript of Comments by Martin E. O'Connor, Chief, Standards, Analysis and Technology Branch, Livestock and Seed Program, Agricultural Marketing Service, USDA, AMS Naturally Raised Livestock and Meat Marketing Claim Listening Session, Jefferson Auditorium (Dec. 11, 2006) [hereinafter "Naturally Raised Listening Session], 16, *available at* http://www.ams.usda.gov/lsg/stand/DecSession/WashingtonDCListeningSessionTranscript.pdf ("To this extent, consumers would like to have a scope of natural claim cover more than just the processing of the ingredients. As we try to depict with the pictures, it is not just the meat itself, but it is the actual activity of the raising of that animal and the associated activities with that as well."); *id.* at 19 ("Since the voluntary claims statements are variable, what is the appropriate standard for applying or extending the natural claim to livestock production?")

[3] See, e.g., id., Comments by Mack Graves, CEO of Western Grasslands d/b/a Panorama Meats, 35 ("Separating livestock raising from processing and marketing and developing a definition for 'natural' will only add to the confusion that currently surrounds the term. The use of the term must be clearly defined for meat and poultry from conception to consumption."); id. at 41 Comments by Mel Coleman, Jr., representing Coleman Natural Foods, ("The 'naturally raised' designation will

The first part of the comments that follow discusses this tendency to address "natural" and "naturally raised" in tandem. It concludes: (1) due to current consumer reliance on the longstanding Natural Policy, consumers will be confused if animal raising and handling requirements are imported into this policy; (2) allowing the word "Natural" to appear only on products that result from "Naturally Raised" livestock will cause consumers to question the wholesomeness of those products not bearing that claim; and (3) altering the "Natural" claim to include animal raising and handling requirements will not enhance, but eliminate, choice for consumers.

The second part of the comments addresses the necessity of promulgating a separately-termed animal raising and handling category. It notes that the National Organic Program already addresses the majority of parameters sought to be included in the new category. It then concludes that current policy regarding specific labeling claims are a better option because (1) they will continue to be used by producers who either do not fully meet or surpass the parameters of the new category and (2) more specific labeling claims better inform the consumer as to particular substances given an animal (e.g., raised without antibiotics or growth promotants) or the raising and handling techniques applied (e.g., free range, grass-fed, corn-fed).

A. The Current Natural Policy Should Not be Altered.

It was originally the policy of FSIS not to approve "natural" claims. This policy was based on the position that the difficulty in formulating specific parameters to define the claim could cause it to be misleading and confusing to consumers.[4] In 1982, FSIS published guidance and defined the claim: a meat or poultry product bearing a natural label does not contain artificial flavorings or ingredients or chemical preservatives and has been minimally processed.[5]

For the past decade, livestock producers wishing to differentiate their products have advocated incorporation of livestock raising and handling techniques into the Natural Policy. Thus far, FSIS has not accommodated these requests, instead publishing guidance for the use of specific labeling claims that refer to raising and handling practices.[6] FSIS has stated:

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provide consumers with clear choices regarding how animals are raised and treated, while the term 'all-natural' can be used for raw materials from naturally raised animals and "processed items" can signify the item has been minimally processed and contains no artificial ingredients.").

[4] Communication from Robert G. Hibbert, Director, FSIS Standards and Labeling Division, 1980-85 (Jan. 30, 2007).

[5] Policy Memo 055 (Nov. 22, 1982).

[6] Letter from Robert C. Post, Ph.D., Director, Labeling and Additives Policy Division to Producer (Mar. 8, 1999), *available at*, http://www.fsis.usda.gov/OPPDE/larc/Claims/Organic_Claims.htm.

> These raising practices have resulted in the emergence of "negative" labeling claims related to the production of the food animals. Although many individuals regard these conditions as an integral part of "natural" labeling, these labeling statements remain independent of the policy on the use of the term "natural" on product labeling.[7]

This guidance has been effective at meeting both producers' needs for product differentiation and consumers' needs for information. There is no reason to change course. The development of a "naturally raised" labeling claim, at best, is unnecessary. At worst, it will only create consumer confusion.

1. Consumers understand and trust the Natural Policy as it is currently formulated.

The basic tenets of the current Natural Policy have stood for 25 years.[8] The policy has never addressed animal raising or handling techniques. It refers only to the ingredients in and processing of the final, finished product that is prepared and sold to the consumer.

Those who advocate changing the Natural Policy to meet their particular marketing goals assert that the change is warranted because the consumer believes the natural claim also encompasses animal raising and handling procedures. No data supports this assertion. In fact, consumer surveys and popular media belie this assertion.

Hormel Foods conducted an internet survey to address the question of what "natural" means to consumers in the context of meat and poultry products. When presented with the question and asked, not to check off elements they would like to see in a "natural" product, but to fill in elements that came to mind, consumers, by a margin of almost 3 to 1, referred to the types of ingredients in the final product, rather than the manner in which the livestock were raised or handled.[9]

Further, a cursory search of the popular media shows the media understands the natural claim and its distinction from organic and other animal raising and handling claims and that it is doing a good job of educating the public.

The January 2007 issue of Food & Wine features an article entitled "Best of Beef" and gives the following summary of the different label claims:

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[7] *Id.*

[8] USDA-FSIS Food Standards & Labeling Policy Book (Aug. 2005).

[9] *See* Exhibit A for a results summary, charts, research methods and data. Consumers' most common response related to the absence of artificial ingredients and preservatives in the product.

> **Natural** Also referred to as "all-natural," the beef must contain no artificial ingredients, like added colors, flavors or preservatives.
>
> **Certified Organic** Feed must be vegetarian and grown without pesticides. Cattle have access to the outdoors and cannot be given hormones or antibiotics.
>
> **Certified Humane** Cattle have access to clean food and water, sufficient protection from harsh elements and enough space to move around naturally. They receive antibiotics only when sick, and no hormones.[10]

Similarly, the Christian Science Monitor, in its May 17, 2006 issue provided the following information regarding labeling claims:

> **100% organic:** Contains only organically produced ingredients.
>
> **Organic:** 95 percent of the ingredients must be organically grown and the remaining 5 percent must be from non-organic ingredients that have been approved by the National Organics Standards Board.
>
> **Made with organic ingredients:** A product is made with no less than 70 percent organic ingredients.
>
> **Free-range or cage-free:** No regulation or standard definition exists for most animals. The USDA regulates the use of the term "free-range" with poultry (not eggs), but chickens can have extremely limited access to the outdoors and still meet the criteria.
>
> **Natural:** This label doesn't mean anything except on meat and poultry, where the USDA says the meat must not contain artificial flavoring, color, ingredients,

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[10] Donnelly, Kristin, Best of Beef, FOOD & WINE (Jan. 2007), *available at*, http://www.foodandwine.com/articles/best-of-beef.

> chemical preservatives, or artificial ingredients. It can only be "minimally processed."[11]

The Atlanta Journal-Constitution reports, "On food packaging, 'natural' has no relation to organic and only implies that the product contains no artificial ingredients or artificial food coloring . . . . 'Natural' has nothing to do with how the food was grown, handled or processed."[12] Finally, the Fort-Worth Star-Telegram reports, "The federal Agriculture Department clearly defines 'natural' when applied to labeling meat and poultry: no artificial or synthetic ingredients, including added hormones, and minimally processed."[13]

As the consumer surveys and a short review of the popular media point out, consumers understand that "natural" refers to the ingredients in the final product and the way in which that product is processed. They understand that "natural" does not refer to animal raising or handling techniques and that organic and other certifications address these broader issues. To incorporate animal raising and handling requirements into the longstanding, well-understood Natural Policy after 25 years would only create consumer confusion by altering a labeling claim the consumer has grown to understand and trust.

2. The rulemaking should not promote a perception that current livestock production practices result in meat products that are "unnatural."

Today's meat supply is wholesome. The FDA, USDA, producers and manufacturers work diligently and according to comprehensive, detailed regulations designed to ensure this. Under the National Residue Program, FSIS samples, detects, reduces, and controls residues of drugs, pesticides and other chemical adulterants. Carcasses of meat and poultry are condemned if it is determined that they are adulterated due to the presence of biological residues.[14]

Prescribing particular, more "traditional" raising and handling techniques that must be employed to allow a meat or poultry product to be called "natural"

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[11] Paulson, Amanda, As "Organic" Goes Mainstream, Will Standards Suffer? CHRISTIAN SCIENCE MONITOR (May 17, 2006), *available at*, http://www.csmonitor.com/2006/0517/p13s01-lifo.html.
[12] Kiang, Kylene, "Organic" Label Little More than a Marketing Tool for Food, Critics Say, THE ATLANTA JOURNAL-CONSTITUTION (Sept. 10, 1006), *available at*, http://www.stoplabelinglies.com/news/organiclabelmarketingtool91006.html.
[13] Shlachter, Barry, What's in a Label?, THE FORT-WORTH STAR-TELEGRAM (July 9, 2006), *available at*, http://www.organicconsumers.org/articles/article_1039.cfm.
[14] 9 C.F.R. §§ 311.39, 381.80(b). A "biological residue" is "any substance, including metabolites, remaining in livestock at the time of slaughter or in any of its tissues after slaughter as the result of treatment or exposure of the livestock to a pesticide, organic or inorganic compound, hormone, hormone-like substance, growth promoter, antibiotic, anthelmintic, tranquilizer, or other therapeutic or prophylactic agent." 9 C.F.R. §§ 301.2, 381.1.

creates a very dangerous implication regarding meat and poultry products that do not bear this label. It implies that products that result from "conventionally-raised" meat and poultry animals are somehow unnatural. This implication will further confuse consumers and could cause unfounded fears regarding the safety and wholesomeness of the food supply.[15]

3. FSIS labeling policies should enhance, not limit consumer choice.

In addition to altering the longstanding Natural Policy in a way that would confuse consumers and cause them to question of wholesomeness of conventionally-raised meat and poultry, adding animal raising and handling requirements to the definition of "natural" will reduce choices for consumers. If the Natural Policy is altered such that the natural claim may appear only when a product does not contain artificial ingredients or chemical preservatives and is minimally processed and meets animal raising and handling parameters, consumers will not have access to a clearly-defined, precise label that the specifically addresses the ingredients and processing that impact the final product to be consumed. Consumers will be forced to choose between returning to highly-processed products that contain artificial ingredients and preservatives or paying the price premiums commanded by organic products and those produced from more "traditionally" raised livestock. This threatens to re-marginalize natural and organic foods as consumers and retailers are driven away by the high prices associated with such products.[16]

If, in the rulemaking process, it is determined that there is consumer interest in elements of food production that are not already addressed by, or do not completely qualify to make, organic claims, then those elements should be the subject of specific labeling claims under current guidance. Specific claims are flexible enough to allow producers to inform consumers of particular raising or handling practices without causing confusion or altering longstanding FSIS policies.

B. Separate Rulemaking to Develop a New Set of Animal Raising and Handling Claims is Unnecessary.

As discussed above, at a minimum, if the Agencies are to develop a new category that addresses certain animal raising and handling parameters, that new category should not be termed to interfere with consumers' current and well-

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[15] The economic impact of consumers turning away from products of conventionally-raised livestock could be significant and should be a central component of any rulemaking analysis.

[16] Again, the economic impact of this alternative effect of forcing organic and natural products back into niche markets should also be closely studied.

developed understanding of "Natural."[17] Given the current labeling guidance and regulatory frameworks, however, it is unnecessary to develop a third category at all.[18]

Current labeling policies and programs are sufficient to inform consumers of the contents and origins of the meat and poultry products they buy. Additional rulemaking in this category is unnecessary and would be confusing.

1. The Organic Certification Program already addresses animal raising and handling parameters.

Almost every marketing claim being considered as an element of the new "naturally raised" category is already addressed in the Organic Foods Production Act of 1990[19] and the National Organic Program[20] regulations and the National Organic Standards Board[21] recommendations that implement the Act. Meat and poultry livestock to be marketed under the Organic label cannot be treated with growth promotants—including hormones and subtherapeutic doses of antibiotics[22]—or any antibiotics for any reason.[23] Such livestock must not be fed formulas containing urea, manure or mammalian or poultry slaughter by-products.[24]

The Organic program further addresses animal raising conditions. Producers must establish livestock living conditions that accommodate the health and natural behavior of animals, including appropriate access to the outdoors, shade, shelter, exercise areas, fresh air, direct sunlight, and pasture.[25] Such livestock must be given clean dry bedding[26] and shelter that allows for natural

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[17] The term may be "Traditionally Raised" or "Humanely Handled" or any descriptive term tailored not to cause confusion with the separate "Natural" claim.

[18] *Accord, e.g.*, Transcript of Comments By Emily Wurth, representing Food & Water Watch at Naturally Raised Listening Session, supra note 2, 47 ("Finally, the addition of another labeling claim in the marketplace for how animals are raised will serve to confuse consumers who are already struggling to differentiate between the dozens of labels on meat and poultry products."); Comments by Scott Kalafatis representing The Center for Food Safety, id., 48 ("Development of a naturally raised labeling claim will only add to the existing consumer confusion in the marketplace. . . . For a number of reasons, the Organic Foods Production Act, the National Organic Program Regulations, and the National Organic Standards Board recommendations combine to provide production standards for livestock that are most equivalent to the natural raising of livestock.").

[19] 7 U.S.C. § 6501 *et seq.*

[20] 7 C.F.R. § 205 *et seq.*

[21] Available at *http://www.ams.usda.gov/NOSB/NOSBrecommendations/NOSBrecommendations.html*

[22] 7 U.S.C. §§ 6509(c)(3), (d)(1); 7 C.F.R. §§ 205.237(b)(1), 205.238(c)(3).

[23] 7 C.F.R. § 205.238(c)(1).

[24] 7 U.S.C. § 6509(c)(2); 7 C.F.R. § 205.237(b).

[25] 7 C.F.R. §§ 205.239(a)(1), (2).

[26] 7 C.F.R. § 205.239(a)(3).

maintenance, comfort behaviors and opportunity to exercise.[27] Animals may only be temporarily confined due to weather or production stage or conditions that threaten the health, safety or well being of the animal, or soil or water quality.[28]

The Organic program further addresses humane treatment of animals. Physical alterations may only be done as needed to promote an animal's welfare and in a manner that minimizes pain and stress.[29] The requirement that producers may not withhold medical treatment prohibits producers from sacrificing animal health to secure organic certification.[30]

Given the comprehensive animal raising and handling parameters already prescribed by the Natural Organic Program regulations and enabling rules and programs, the value of adding another certification program or labeling category is questionable. The addition of another labeling claim with a set of specific parameters that are similar to the organic claim, yet different, will only create confusion among consumers.

2. Current labeling policies are sufficient to address specific claims for products that either do not qualify for, or exceed, organic status.

If producers wish to claim raising and handling procedures that are inadequate to qualify for certification under the current organic standards, then those producers are free to operate under current guidance governing specific labeling claims (*e.g.*, raised without antibiotics). Specific claims present a better alternative than attempting to define a single new, multiple-element labeling term. Specific labeling claims give the consumer more specific information about the product without requiring him or her to understand all the specific parameters that would define a new term.

Similarly, if the new category is to encompass animal raising and handling techniques beyond those covered by the Organic Program (*e.g.*, free range) then again, the consumer would receive more benefit from a specific claim, in addition to the Organic Certification, that calls that element specifically to his or her attention.

Continuing the current policy of allowing verified specific claims will also benefit a greater majority of producers. Those producers who employ particular raising or handling techniques that are outside the new labeling term will continue to seek approval for specific claims to inform the consumer and differentiate their products. Simply continuing the current specific labeling practices is sufficient to address producer needs, will promote consistency in claiming practices and facilitate a level playing field for all producers.

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[27] 7 C.F.R. § 205.239(a)(4).
[28] 7 C.F.R. § 205.239(b).
[29] 7 C.F.R. § 205.238(a)(5).
[30] 7 C.F.R. § 205.238(c)(7)

C. Conclusion.

The Natural Policy should not be altered to include animal raising and handling requirements. To do so would confuse consumers who have come to understand and rely on this longstanding policy. It would eliminate a choice for consumers requiring information specific to the ingredients and processing of the final food products. And it will cause consumers to question the wholesomeness and safety of meat and poultry products derived from conventionally raised livestock.

Creation of a new labeling policy is further unnecessary. The great majority of elements that would be included in such a policy are already addressed by the National Organic Program. For animal raising and handling techniques that fall short of or go beyond the organic designation, established policy allows manufacturers to make specific claims. Specific claims will better inform the consumer of the raising or handling techniques employed while leaving current programs and policies intact.

Sincerely,

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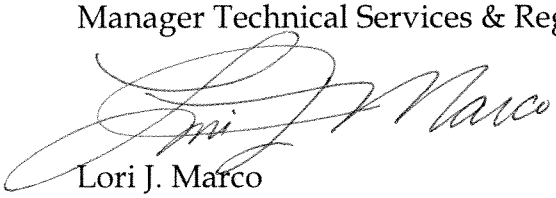

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Enclosure