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National Bison Associatio

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March 31, 2003

Chief
Standardization Branch
Livestock and Seed Program
AMS, USDA, Room 2603-S
Stop 0254
1400 Independence Avenue, S.W.
Washington, D.C. 20250-0254

RE: Docket No. LS-02-02, U.S. Standards for Livestock and Meat Marketing Claims
Submitted via e-mail to marketingclaim@usda.gov

Dear Friends:

I am submitting the following comments on behalf of the National Bison Association, an organization representing 1,600 independent bison producers, processors and retailers in all 50 states.

The National Bison Association applauds the USDA Agricultural Marketing Service for moving forward to develop definitions regarding specific livestock and meat marketing claims. Such labeling claims form the core of the ability of independent producers to market differentiated products in an otherwise consolidated marketplace.

The value of these labels, however, depends upon the consumers' confidence in the integrity of the standards that support specific claims. We commend the Department for working to establish consistent and enforceable definitions regarding the labeling claims utilized on livestock and meat products, and offer our recommendations below for refinement of those definitions. We note, also, that the Request for Comments does not address the definition of "natural," not does it address the labeling of bison or buffalo.

With that in mind, the National Bison Association submits the following recommendations:

1. Include bison within the scope of all marketing attribute claims.

In order to assure consistency among the labeling of meat products, the National Bison Association recommends that all labeling claim requirements designated for beef cattle (e.g. grass finished, free-range, etc.) also be applied to bison. This consistency will help

alleviate potential confusion among consumers when attempting to determine the specific requirements behind each claim.

- 2. Require that the term "Buffalo" be allowed only in connection with products produced from Bison Bison, unless that product produced from a species other than Bison Bison includes the full name of the species (e.g. Water Buffalo), or the previously FSIS approved term "Buffalo Style."**

Since the time of the earliest European explorers, the term "Buffalo" has been utilized to describe the specific species of animal, Bison Bison. Consumer research conducted on behalf of the National Bison Association in 2002 reported that 96 percent of the consumers surveyed identified the term "Buffalo" as referring to the scientific species Bison Bison. (Minter & Reid, 2002)

We recommend that products produced from species such as water buffalo must include the full name of that species on any USDA-approved marketing label. For example, a product produced from water buffalo should be required to include the term "Water" in front of any reference to "Buffalo."

Also, the National Bison Association acknowledges that the terminology "Buffalo Style Wings" or "Buffalo Wings" is recognized by the Food Safety Inspection Service as "fanciful names that require a descriptive name, e.g., 'chicken wings coated with sauce.'" (USDA FSIS, 1998) However, some marketers have attempted to confuse the public by running advertisements claiming "100% Buffalo" for products that are actually boneless chicken covered with a spicy sauce. We find this form of advertising highly deceptive. Therefore, we recommend that any label claim for these types of products be required to use the term "Style" following the word "Buffalo."

- 3. Require that the Grass-Fed claim be authorized only for products from animals consuming a diet of 100 percent natural forage, with temporary variances allowed only under specifically authorized circumstances.**

The Bison Grass Production Committee of the National Bison Association considers that the current proposal to allow animals having a diet of 80 percent grass to be labeled as grass-fed is unacceptable. In an analysis of this regulation, the National Bison Association Grass Production Committee notes "To be truly a grass fed animal, a bison needs a grass diet which is nearly 100 percent grass." (Jenkins, 2003)

The National Bison Association therefore recommends that the label of "Grass-Fed" be allowed only for animals that have been, from birth to harvest, grazed on grass, legumes and forages as 95 percent or more of their primary energy source and have received only seasonal supplements that do not exceed 30 percent starch content.

Recognizing that unusual and extraordinary circumstances may interrupt the ability of producers to provide a consistent diet of grass, the National Bison Association recommends that the new regulation provide an allowance for a temporary variance

similar to that provided under §§205.290 of the National Organic Program. That variance would allow for supplemental feeding in the event of:

- (1) Natural disasters declared by the Secretary;
- (2) Damage caused by drought, wind, flood, excessive moisture, hail, tornado, earthquake, fire, or other business interruption; and
- (3) Practices used for the purpose of conducting research or trials of techniques, varieties, or ingredients used in grass-fed production or handling.

4. Adopt the Source Verified protocols as proposed.

The National Bison Association is currently developing a system for marketing source verified products. That system will include both a method for livestock identification, as well as the location(s) where the animals are born, raised, fed, harvested and processed. We feel that the language proposed by USDA meets the consumer expectations for this claim.

5. The Term "No subtherapeutic antibiotics added" or "not fed antibiotics" should be amended to "No subtherapeutic antibiotics administered."

The terminology "added" and "fed" allows for usage of subtherapeutic antibiotics in manners inconsistent with consumer expectations. The National Bison Association recommends that this terminology be amended to read simply "No subtherapeutic antibiotics administered." In this definition, a distinction would be drawn between those antibiotics that are administered for medical purposes (therapeutic) and those that are administered for the purpose of promoting growth (subtherapeutic).

6. Revise the definition of "natural" to include "no subtherapeutic antibiotics administered" and "raised with out supplemental hormones."

We recognize that Docket No. LS-02-02 does not contain any language regarding natural meat claims. The existing allowable claims are highly misleading and deceptive, and need to be addressed.

Current USDA regulations allow products to be labeled as "natural" if (1) the product does not contain any artificial flavor or flavoring, coloring ingredient, or chemical preservative (as defined in 21 CFR 101.22), or any other artificial or synthetic ingredient; and (2) the product and its ingredients are not more than minimally processed (USDA FSIS, 1998).

Consumers equate the term "natural" with an absence of any artificial growth promotants such as administered hormones and subtherapeutic antibiotics. The current definition allows meat products to be labeled as natural even when the source animals are reared utilizing the maximum legal levels of growth hormones and antibiotics. We recommend that the definition of natural be amended to include only those animals that are reared without the use of subtherapeutic antibiotics or supplemental hormones.

Again, the National Bison Association appreciates the opportunity to comment on this proposed regulation.

Sincerely,



David E. Carter
Executive Director

References

Jenkins, Dale (2003) Letter to the National Bison Association President and Executive Director from the Chair of the NBA Grass Production Committee, (March)

Minter, David; and Reid, Michael (2002) "Final Research Report: Positionings and Tag Lines to Be Used in the NBA's Targeted Buffalo Stampede," Paragon Research Co., Denver, CO. (September)

USDA Food Safety Inspection Service (1998) "Food Standards and Labeling Policy Book."