

Conference Call on Withdrawal of our Grass (Forage) Fed Marketing Claim Standard and Naturally Raised Marketing Claim Standard

January 14, 2016

AMS Notes: Dr. Craig Morris, Deputy Administrator (Presenter)

- On January 12, AMS announced the withdrawal of our Grass (Forage) Fed Marketing Claim Standard and Naturally Raised Marketing Claim Standard.
- We understand this announcement has caused some confusion. We hope to provide some clarity during our call today.
- We believe some of this confusion relates to making grass-fed claims on meat package labels.
- **To be clear, AMS's withdrawal of these two marketing claims standards has no impact on a person's ability to apply to the USDA's Food Safety Inspection Service for a grass-fed claim on their label.**
- FSIS, our sister agency within USDA, has authority to ensure meat and poultry labels contain information that is truthful and not misleading.
- Officials from the Food Safety and Inspection Service Labeling and Program Delivery Staff are on today's call and will explain the application process for submitting such claims for label approval.
- Many of you are familiar with AMS standards related to carcass beef, shell eggs, poultry, and a wide range of other agricultural commodities. These standards deal with quality, condition, quantity, class, and packaging. The Agricultural Marketing Act of 1946 provides AMS with the authority not only to develop and maintain these standards, but to apply them when requested on a fee-for-service basis.
- In only a few limited cases, AMS has been given specific authority from Congress to develop marketing claim standards, such as those associated with organic products.
- AMS is also guided by requirements outlined in the Office of Management and Budget (OMB) Circular A-119 and The National Technology Transfer and Advancement Act of 1995. The OMB Circular A-119 establishes policies on Federal use and development of

voluntary consensus standards and on conformity assessment activities. The NTTAA directs Federal agencies to use technical standards that are developed or adopted by voluntary consensus standards bodies, using such technical standards as a means to carry out policy objectives or activities determined by the agencies and departments, except where inconsistent with applicable law or impractical.

- Going forward, in the absence of a Congressional mandate to develop and maintain a *marketing claim* standard, AMS will collaborate with standards development organizations to establish marketing claims standards.
- AMS does, however, have authority to audit companies' processes related to a wide variety practices.
- The number, type, and complexity of claims verified by AMS have increased significantly over the past ten years. Today, AMS verifies marketing claims such as non-GE/GMO content, responsible use of antibiotics, handling, sustainability, and many more. Out of nearly 200 such marketing claims audited by AMS, the grass fed and naturally raised claims were the only two that AMS had set a standard for.
- Those other marketing claims mentioned – non-GE/GMO, responsible use of antibiotics, handling, and sustainability claims, for example – we must all recognize are being hotly debated and there is variability in the standards behind those claims.
- By AMS having marketing claim standards for such things as grass fed and naturally raised, people were wrongly thinking AMS had standing statutory authority to determine what standards would merit those other, very controversial claims, just mentioned.
- The fact is that AMS does not have authority to regulate those terms – no different than we do not have authority to regulate grass-fed or naturally raised.
- Instead, AMS assists firms by auditing those kinds of processes, providing transparency to the claims they make by making their standards available on the AMS website *and* providing the marketplace with assurance that firms are adhering to their standards by undergoing rigorous onsite audits by highly trained AMS auditors.
- It should be noted that these verification activities do not guarantee in any way that that FSIS will approve those claims for a meat or poultry label.

- AMS strongly supports the nation's grass-fed beef industry. As mentioned earlier, AMS offers a suite of audit services that would allow a company to develop its own standard and have AMS verify those practices. With that type of verification, AMS would publish the specific components of that company's standard on our website so that any interested person could understand each program's similarities or differences.
- Should there be demand for an industry-wide program, AMS verification services can assist in that regard, as well. This is not the same as AMS developing and maintaining an official standard, but does provide an industry or companies wishing to coalesce around a similar standard the opportunity to have those activities verified by AMS.
- In addition to those verification activities, AMS also publishes a monthly grass-fed beef report to help producers better understand the value of grass-fed cattle and beef.
- A prime example of another activity designed to assist grass-fed producers is the AMS Grass Fed Program for Small and Very Small (SVS) Producers.
- In 2014, AMS launched the Small and Very Small program to create opportunities for small-scale livestock producers who would like to have their ruminant animals certified as grass fed. This program is designed for producers who market 49 cattle or less each year or lambs produced from 99 ewes or less.
- This program will remain intact – participants will need to follow the program procedures, which have been updated to include the requirements, instead of referencing the marketing claim standard.
- Current users of the program will be issued new certificates that reference they meet the requirements of the SVS Grass Fed Program, QAD Instruction 1020, instead of the Grass (Forage) Fed Standard.
- AMS is in the process of contacting each SVS participant to answer any questions, but again, **no action is required on their part.**
- Separately, there are four companies who have a USDA Process Verified Program whereby these companies evaluate customers against a grass-fed claim and are subsequently audited by AMS.

- Those PVP companies will need to develop their own new grass-fed requirements, adopt the now-withdrawn AMS standard as their own, or point to an existing industry standard. The standard these PVP companies choose to follow will be made available on the AMS website.
- PVP companies have until February 11, 2016, to identify the new grass-fed standard and update their quality manuals. The new standard should be implemented by April 16, 2016.
- Before we turn the discussion to FSIS' label approval process for raising claims, I'd like to address one of the questions we've received in the last few days regarding AMS' approach to withdrawing the standards.
- Because AMS concluded it lacked proper authority to establish such claims, a public notice and comment period would have been inappropriate. In other words, we would have been seeking public comment on continuing an activity we had already determined was not compliant with our authorizing legislation.

FSIS: Tammie Ballard, Labeling & Program Delivery Staff (Presenter)

- FSIS has always allowed companies to make marketing animal raising claims (for example, Grass Fed) based on the documentation supplied with the label application. Nothing has changed.
- Specifically for grass fed labeling, producers or companies making a 100% Grass Fed claims on their meat and meat product labels should be fed Grass (Forage) Fed 100% after being weaned from their mother's milk. This has always been the requirement, and is not impacted by AMS' withdrawal of the marketing claim standard.
- As always, companies/producer(s) will have to show ownership by explaining their definition of grass fed in documentation submitted to FSIS Labeling for prior label approval.
- The claim does not require companies/producers to be under an AMS Process Verified Program or any other third party certifying entity, nor were persons applying to use a grass-fed label required to point to the AMS standard that has now been withdrawn. FSIS has never required this.
- As a matter of policy, FSIS does not restrict companies to only being 100% Grass Fed. FSIS will also allow companies to make other diet and grass fed percentage claims (for example,

50% Grass Fed, Finished on Pasture with Supplemental Grain Feeding) based on documentation supplied with the label application.

- Diet claims are evaluated on a case-by-case basis by the Labeling and Program Delivery Staff (LPDS) of FSIS. Producers/processors would need to submit a signed affidavit (letter) declaring the specifics of the production claim, and a detailed written explanation on how the animals are raised from birth to slaughter, the product control and segregation mechanism, and an explanation/formulation of the diet (including how/what the animals are fed during long periods of severe weather).
- We have not made any modifications to this process.
- The only individuals who will see a change are those applicants with approved labels that reference the AMS Grass Fed Standard in their supporting documentation. If your approved label references the AMS Grass Fed standard, you will have to update your supporting documentation to reflect the new standard that you are adhering to. You may use the language in the now-rescinded AMS standard if you like. This will have to be made available to the local FSIS inspector. You do not have to submit for re-approval unless you are adopting a new standard which changes your label claim.

Questions and Answers from Conference Call Participants and AMS/FSIS

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Note: All questions and answers may not be captured fully; however if additional clarification is needed, please contact the AMS or FSIS officials listed at end of this document.

Q1: Can you clarify for those producers involved in the Small and Very Small Grass Fed Program – the removal of the Grass Fed Standard will cause no change in our approval status?

A1: Correct, SVS producers do not need to amend their program. QAD will contact you individually and will re-issue your certificate. Your certificate will now say that you meet the requirements of the QAD 1020 Procedure, instead of the USDA Grass Fed Standard. The application process for this program remains unchanged.

Q2: Can you clarify what FSIS means by “ownership” of your claim?

A2: This means the producer or processor defines what grass fed means in their operation, then provide supporting documentation to back up that definition.

Q3: Just to clarify-there is no longer a federal standard for Grass Fed?

A3: Correct. There is no federal standard defining Grass Fed. However, this does not impact your ability to apply to FSIS for a grass fed claim on your label. Although FSIS recognized the AMS Grass Fed Standard, FSIS never required any references or bound any applicants to use the AMS standard in order to obtain a grass fed label.

Q4: If we see Grass Fed on a label at a store we can assume that its 100% grass fed?

A4: Correct, unless a percentage is listed on that label it's approved as 100% grass fed. If you do a percentage grass fed, you will have to put that on the label and present that information in the labeling application. For example 50% Grass Fed, 50% Grain Fed or 90% Grass Fed, 10% Grain fed, this will have to be reflected in the supporting documentation. You may submit questions to FSIS about grass fed labeling claims using askFSIS at: <http://askfsis.custhelp.com/>

Q5: Does FSIS have enforcing mechanisms in place to ensure the labels being applied for are accurate?

A5: If FSIS has reason to believe the claims are not truthful, they will follow up on those particular claims through an investigation. If the labels are found to be un-true they will rescind those labels at the establishment where the labeling is applied.

Q6: Can producers who do not meet the SVS Program requirements qualify for other USDA AMS Programs?

A6: Absolutely! We have Quality System Assessment Programs or Process Verified Programs that are available for producers to implement a program for their grass fed cattle.

Q7: The SVS Program is only to certify live cattle?

A7: That is correct. The SVS producer will receive a certificate that states their live animals are USDA Grass Fed Certified according the QAD 1020 Grass Fed Program.

Q8: There seems to be an issue with what sort of documentation the FSIS Inspectors will accept as sufficient documentation to support their claim. Is there a way to get more consistency in that area?

A8: Part of the label approval process is to collect information to support that claim. FSIS will work with field inspectors to review what is deemed as acceptable when reviewing supporting documentation.

Q9: I have previously applied for a label with FSIS and been approved, but have no reference to the previous USDA Grass Fed Standard, do I have to start the label approval process over?

A9: No. If you do not reference the USDA Grass Fed Standard in your supporting documentation, you do not have to do anything. If you have an approved label and did reference the USDA Grass Fed Standard in your supporting documentation, then you need to

update your supporting documentation and you should also provide your updated supporting information to the facility that processes your animals, but you do not need to resubmit your label. If your label is no longer accurate, then you will need to apply for a new label approval.

Q10: Do the labels have to be applied at the processing facility, or can you put additional labels on at home, for examples a farm sticker?

A10: No, all labeling for that packaging needs to be conducted at the establishment of inspection.

Q11: If the Grass Fed Industry was interested in developing an industry standard such as the Tenderness claim, would that be something AMS and FSIS would be committed to supporting?

A11: Absolutely. AMS and FSIS would both be on board in assisting in communications to develop an industry standard. We would encourage, if there is an appropriate forum to get those conversations started to please let us know, such as a trade show, grass fed meeting, etc.

Q12: What needs to be in place for a SVS Producer to be allowed to put USDA Grass Fed Certified on the meat produced from grass fed cattle? T

A12: The Federally Inspected facility where the animals are harvested must have an approved program with AMS (either QSA or PVP) to be able to verify they have procedures in place to identify and segregate those cattle from start to finish.

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