



## MISUSE AND MISREPRESENTATION OF USDA GRADE NAMES

### 1 Purpose

This Procedure explains *section 203(h) of the Agricultural Marketing Act (AMA) of 1946*, as amended by *Public Law (PL) 272*, and outlines procedures for its enforcement.

### 2 Scope

Enforcement of PL 272 helps to ensure the integrity of official U.S. Department of Agriculture (USDA) grade names and assists consumers in making informed meat purchase decisions with respect to various agricultural grades. Quality Assessment Division (QAD) agents will use a form when monitoring and verifying grade labeling and advertising of red meats at the retail level.

### 3 References

The following referenced documents are used for the application of this document. The latest edition of the referenced document (including any amendments) applies.

[\*Agricultural Marketing Act of 1946, section 203 \(h\)\*](#)

[\*Food Safety and Inspection Service \(FSIS\) Directive 6810.1, Grademark Labeling on Meat and Poultry Products\*](#)

[\*QAD 108A Form: Public Law 272 Review for Harvesting and Processing Establishments\*](#)

[\*QAD 108B Form: Public Law 272 Review for Store or Facility\*](#)

[\*QAD 108C Form: Acknowledgement of Public Law 272 Review\*](#)

[\*Public Law 272\*](#)

[\*Title 7 Code of Federal Regulations \(CFR\) Part 54, Meats, Prepared Meats, and Meat Products \(Grading, Certification, and Standards\), section 54.2, Designation of official certificates, memoranda, marks, other identifications, and devices for purposes of the Agricultural Marketing Act \(AMA\) of 1946\*](#)

### 4 Policy

It is the policy of the QAD to:

4.1 Ensure that all employees are familiar with and trained in:

- a. *PL 272*;
- b. *USDA Grade Terms, Shields, and Examples of PL 272 Noncompliance*;
- c. *7 Code of Federal Regulations (CFR) Part 54, Meats, Prepared Meats, and Meat Products (Grading, Certification, and Standards), section 54.2, Designation of official certificates, memoranda, marks, other identifications, and devices for purposes of the Agricultural Marketing Act*;
- d. *Food Safety and Inspection Service (FSIS) Directive 6810.1, Grademark Labeling on Meat and Poultry Products*; and
- e. *Section 6 Guidelines for Reviewing Retail Outlets for PL 272 Violations*.



- 4.2 Eliminate and prevent misuse and misrepresentation of USDA red meat grade names at all marketing levels between the meatpacker and the consumer.
- 4.3 As assigned, conduct reviews of grade labeling and advertising at retail outlets.
- 4.4 Cooperate fully with personnel assigned to investigate violations.
- 4.5 Conduct reviews in a manner which will establish and maintain a constructive relationship between USDA employees and public and private industry.

## 5 Responsibilities

- 5.1 The QAD Grading Branch Chief is responsible for:
  - 5.1.1 Assigning approximately 50 PL 272 reviews to each Supervisory Agricultural Commodity Grader annually. Retail outlets selling meat should be targeted with a concentration on chain stores with nationwide coverage. Additional reviews may be assigned based on consumer complaints.
  - 5.1.2 Ensuring that graders and supervisor are trained in performing PL 272 reviews.
  - 5.1.3 Obtaining records from the Compliance Officer identifying when violations occurred and when follow-up reviews are due.
  - 5.1.4 Ensuring that QAD policies regarding misuse and misrepresentation of USDA grade names are administered in their area.
- 5.2 Supervisors are responsible for:
  - 5.2.1 Personally performing or assigning graders to perform original PL 272 reviews of retail outlets in accordance with Section 6 *Guidelines for Reviewing Retail Outlets for PL 272 Violations*.
  - 5.2.2 Ensuring a minimum of 50 PL 272 reviews in their respective areas annually. No more than two reviews of the same retail outlet will be assigned annually unless the outlet is found to be in violation of PL 272.
  - 5.2.3 Accurately completing and forwarding signed copies to the QAD Office via fax or email to: [QAD.ComplianceOfficer@usda.gov](mailto:QAD.ComplianceOfficer@usda.gov) the following forms in a timely manner:
    - a. QAD 108A Form: *Public Law 272 Review for Harvest and Processing Establishments*
    - b. QAD 108B Form: *Public Law 272 Review for Store or Facility*
    - c. QAD 108C Form: *Acknowledgement of Public Law 272 Review*
  - 5.2.4 Obtaining a signed *Acknowledgement of Public Law 272 Review form* from the responsible retail outlet official when the establishment is found to be in noncompliance. Note on the form if the official declined to sign the statement.
  - 5.2.5 Ensuring follow-up reviews are scheduled and conducted in the appropriate time frame.
  - 5.2.6 Ensuring that graders are knowledgeable in the procedures of conducting PL 272 reviews and completing all PL 272 review forms.



- 5.3 Graders are responsible for:
  - 5.3.1 Conducting original and follow-up reviews of retail outlets when assigned in accordance with Section 6 *Guidelines for Reviewing Retail Outlets for PL 272 Violations*.
  - 5.3.2 Accurately completing and forwarding signed copies to the QAD Office via fax or email to [QAD.ComplianceOfficer@usda.gov](mailto:QAD.ComplianceOfficer@usda.gov) the following forms in a timely manner:
    - a. QAD 108A Form: *Public Law 272 Review for Harvest and Processing Establishments*
    - b. QAD 108B Form: *Public Law 272 Review for Store or Facility*
    - c. QAD 108C Form: *Acknowledgement of Public Law 272 Review*
  - 5.3.3 Obtaining a signed *Acknowledgement of Public Law 272 Review form* from the responsible retail outlet official when the establishment is found to be in noncompliance. Note on the form if the official declined to sign the statement.
  - 5.3.4 Administering QAD policies regarding misuse and misrepresentation of USDA grade names.
- 5.4 The QAD Compliance Officer in charge of PL 272 reviews is responsible for:
  - 5.4.1 Ensuring that the QAD Director, Branch Chiefs, Regional Directors, and National Meat Supervisor are aware of the number of PL 272 reviews that have been completed nationwide each quarter.
  - 5.4.2 Reporting to the QAD Director and Branch Chiefs:
  - 5.4.3 All PL 272 violators who refuse to sign *Acknowledgement of Public Law 272 Review forms*.
  - 5.4.4 All repeat violations. A written report about the violation must be included.
  - 5.4.5 An annual report of PL 272 reviews by September 1 of each year. The annual report shall include:
    - a. The total number of reviews,
    - b. The total number of violations,
    - c. The name and location of businesses in violation,
    - d. The dates of the review and the follow-up reviews, and
    - e. Comments about the violation and the resolution.
  - 5.4.6 Preparing written reports on repeat violations for the Director.
  - 5.4.7 Maintaining a list of follow-up reviews to be completed within 30 days of the initial review and issuing it each month to the Director.
  - 5.4.8 Submitting to the Director the names and addresses of violators who refuse to sign *Acknowledgement of Public Law 272 Review forms*.
  - 5.4.9 Preparing for release to news media and trade publications (through appropriate channels) press releases detailing successful prosecution of establishments that have not corrected PL 272 violations.



## 6 Guidelines for Reviewing Retail Outlets for PL 272 Violations

6.1 When reviewing retail outlets, USDA employees are expected to do so with proper decorum to encourage an atmosphere of mutual cooperation. Such employees are required to properly identify themselves and be courteous, tactful, and diplomatic in their approach.

### 6.2 Material

6.2.1 Reviewers must have the following:

- a. Government ID,
- b. QAD 108 Procedure: *Misuse and Misrepresentation of USDA Grade Names*,
- c. Copies of Public Law 272 and explanation of grade terms,
- d. QAD 108A Form: *Public Law 272 Review for Harvest and Processing Establishments*,
- e. QAD 108B Form: *Public Law 272 Review for Store or Facility*,
- f. QAD 108C Form: *Acknowledgement of Public Law 272 Review*, and
- g. Previous report(s) for follow-up reviews.

### 6.3 Background Information

6.3.1 The QAD uses specific grade terminology, shield marks, etc., in identifying meat and meat products for official USDA quality and yield grade factors. It is the policy of the QAD to prohibit the unofficial use of grade names, shield marks, etc., on any items/commodities not officially graded/certified by qualified AMS agents. In conducting reviews of retail outlets for compliance with PL 272, the reviewers shall keep the following examples in mind.

**NOTE:** These examples are not all inclusive.

#### a. Noncomplying Representation

1. Representing, verbally or written, red meat as being USDA graded when it has not been graded.
2. Misuse of official USDA shields or facsimiles thereof, e.g., using USDA grade shields on ungraded meats.
3. Advertising "USDA" with unofficial grade terminology (e.g., "USDA" Heavy Western Beef, US Corn Fed Beef).
4. Labeling red meat by-products (oxtails, liver, hearts, etc.) with official USDA grade terminology.
5. Advertising or labeling of ground or diced products as USDA grade, unless the establishment exclusively sells that specific grade or has a written quality control program in place to ensure correct grade usage.
6. Labeling any graded red meat with a different grade (e.g., graded Prime labeled as Choice).



7. Labeling a particular USDA grade and not having that grade available (e.g., restaurant menu states Choice T-Bone steak and Choice is not available).
8. When advertising one USDA grade exclusively and having additional grades and/or ungraded available, (e.g. "We sell only USDA Choice").
9. Use of "USDA Certified" when the red meat has not been officially certified by an AMS agent.
10. Representing Canadian Prime/Choice graded beef as "USDA" or "US" Prime/Choice.

b. Complying Representation

1. Use of official grade terminology in a company name (e.g., Prime Meat Company).
2. Commingling of properly labeled meat packages of different grades in the meat counter.
3. Graded and ungraded meat may be offered together in an establishment with a "Choice" sign behind the meat counter, as long as USDA Choice is available and is identified on the package.
4. Use of shields or symbols not closely resembling official USDA shields or symbols.
5. Use of official USDA grade terminology for red meats on nonmeat products (e.g., Choice oranges, Choice stuffed green peppers, "Health Choice" frozen dinners).
6. Use of official USDA grade terminology on items such as beef kabobs, when the beef being used is of that grade.
7. Use of industry recognized cuts of meats, e.g. the term "Prime Rib" to describe a cut of beef and the term "Chef's Prime" to describe a cut of pork.
8. Use of terms such as Butcher's Choice, Grocer's Select, Nation's Choice on ungraded or lower graded meats as long as "US" or "USDA" is not included.
9. Use of generic grade terminology on species not having those grade terms, e.g., select lamb (may not use "US" or "USDA").
10. Use of grade terminology on cooked, processed, or multi-ingredient meat and non-meat items such as "Health Choice," "Lean Choice," etc.
11. Use of the term "Select" on USDA, FSIS labels that were approved prior to the grade name change of "Good" to "Select."

**Note:** When a newspaper "flyer" for a chain store advertises a specific grade, that grade may not be available in all stores, but must be available in at least one of the store's facilities.

6.4 In-store Procedures

- 6.4.1 Observe if there are any signs, ads, or banners on display designating a specific grade or grades.
- 6.4.2 Make a preliminary scan of the meat counter, noting which meat items are graded, ungraded, or a combination thereof.



- 6.4.3 If all meat items are ungraded in the counter and there are no graded meat items advertised, it is not necessary to review the cooler. Report that all meat in the counter is ungraded. Introduce yourself to the meat manager, store manager, etc., and explain the purpose of your review, provide a copy of PL 272, and inform them that they were in compliance.
- 6.4.4 If any graded meat items are advertised and are not displayed in the counter, or if any graded meat items are identified in the counter, it will be necessary to review the cooler. Introduce yourself to the meat manager, store manager, etc., and explain the purpose of your review, provide a copy of PL 272, and ask to review the cooler. Make a note of graded and ungraded meat items in the cooler and compare with what is advertised and/or available in the counter to determine compliance with PL 272.
- 6.4.5 If no obvious noncompliance is observed, complete the QAD 108B Form: *Public Law 272 Review for Store or Facility* and forward to the QAD Office.
- 6.4.6 If noncompliance is observed, record all meat items found in the cooler and in the meat counter that are in discrepancy. Explain your findings to the meat manager/store representative and request his/her comments on your findings. Make note of his/her comments. Request and/or obtain additional documentation, e.g., delivery invoices, labels, advertisements, flyers, and information on distributors, etc. Complete a QAD 108B Form: *Public Law 272 Review for Store or Facility*, Public Law 272 Review form, obtain a signed QAD 108C Form: *Acknowledgement of Public Law 272 Review*, and include any written comments from the store representative. Forward all information and documents to the QAD Office.

**NOTE:** If the store representative refuses to sign the acknowledgment, so indicate on the form. For blatant noncompliance, e.g., when all meat items in the counter are labeled Choice and no Choice graded meat is available, or when the grader was denied access to review the cooler, the grader shall telephone his/her findings to the QAD Office.

Jennifer G. Porter, Director  
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