

February 13, 2009

The Honorable Tom Vilsack
Secretary of Agriculture
1400 Independence Avenue SW
Washington, DC 202050

Dear Secretary Vilsack:

We, the undersigned organizations, urge you to extend the effective date and re-open the public comment period on the Naturally-Raised Label Claim Standard rule that was rushed to the Federal Register as a midnight regulation by the Bush Administration on January 16, 2009 and published on January 21, 2009. The rule is not yet effective, and thus, under the terms of the regulatory review memo issued by the White House on January 20, it is a prime candidate for further review.

After further public comment and agency and departmental review under the terms of the regulatory review process, it is our strong hope that you will withdraw this label claim standard. In its place, we urge you to direct the Agricultural Marketing Service to develop revised proposed rules for specific label claim standards for meat raised without the use of antibiotics, for meat raised without the use of added hormones, and for free-range or pasture-based livestock. These three discrete and specific label claim standards were under development by AMS before the process was unfortunately sidetracked by the sudden push for the naturally-raised label.

Our organizations represent family farmers and ranchers, consumers, environmentalists, scientists, animal welfare advocates, and other concerned citizens who have spoken out strongly against this label claim standard. Despite strong opposition by family farmers and ranchers and their consumers who have developed important new markets for sustainably-raised livestock, the previous Administration tried and has nearly succeeded in ramming through a final parting gift to agribusiness. You are in a position to stop this egregious act and we urge you to do so.

With regard to the substance of the rule, we would be happy to elaborate in further detail the reasons why it should be revoked, but will just briefly summarize three reasons here. First, the naturally-raised label claim is not consistent with what consumers expect a naturally-raised label to mean, and hence is deceptive and misleading. According to a recent Consumers Union poll over 80% of consumers expect that “naturally raised” has implications for feeding protocols and the environment in which the animal was raised.¹ Yet, no such standards are included in the

¹ A *Consumer Reports* national, telephone poll (<http://www.greenerchoices.org/pdf/foodpoll2008.pdf>) released in November 2008 showed American consumers want the “naturally raised” meat claim to mean more than USDA’s proposed standard, including that it came from an animal that:

- Had a diet free of chemicals, drugs and animal byproducts (86%)
- Was raised in a natural environment (85%)
- Ate a natural diet (85%)
- Was not cloned or genetically engineered (78%)
- Had access to the outdoors (77%)
- Was treated humanely (76%)
- Was not confined (68%)

claim. Once alerted to the facts of the misleading naturally-raised claim, consumers would not only lose confidence in the new label, but would also call into question the integrity of the other USDA labels they look for to help guide their purchasing decisions.

Second, an AMS “naturally-raised” meat label also would be easily confused with the FSIS “natural” meat label, despite the fact that they would have two very different meanings. USDA should not force its “stove-piped” bureaucratic differences onto an unsuspecting public.

Third, as a “bundled” claim, a naturally-raised label would also directly contradict AMS own decree in its final rulemaking on the “grass fed” meat label claim standard that all such label claims should be discrete and specific and have a clear and obvious meaning. We collectively endorsed that agency decision with respect to the grass fed rule and feel like the rug was then pulled out from under us as special interest political pressure was brought to bear.

With regard to procedure, we believe there were at least two major flaws. First, the agency did not adequately consider the objections to the proposed rule by the vast majority of the over 44,000 people and organizations that commented on it. These objections were glossed over in the preamble to the final rule. Second, the effort to get the final rule out the door as they were leaving office was so rushed that it was not published until the day after the start of the new Administration and was published without the necessary information collection provisions required pursuant to the Paperwork Reduction Act. Without the information collection information, the rule is not yet effective. These procedural flaws raise substantial questions that require further review.

In addition to our urgent recommendation specifically on the final rule for the naturally-raised meat label claim standard, we also urge you to undertake a broader, more thorough review of AMS and FSIS procedures with respect to animal raising label claims just as soon as your Under Secretaries and Administrators are in place. It would be our hope that such a review would result in actions to improve labeling for animal raising claims, including:

- An end to case-by-case determinations -- Labeling for animal raising claims cannot ultimately be fair and transparent for producers and consumers if they are determined on a case-by-case basis with a multitude of resulting definitions and meanings. This is true whether the label is based on a company or producer affidavit or whether it is based on third party certification. Raising claims need consistent meaning, not scores of different definitions and meanings for the same term or very similar terms.
- An end to grandfathering labels that are below standards -- By necessity, a clear, fair, transparent system must evolve over time. As labeling standards for animal raising claims are determined, a key issue will be what to do with pre-existing FSIS approved labels. We believe that fairness for all producers dictates that once a USDA standard has been set, all pre-existing labels should either be held to the new standard or producers should cease using inconsistent labels. Otherwise, even if the agency were to prospectively move away from case-by-case determinations, there will continue to be multiple different definitions and meanings of the same claim, resulting in an unfair competitive disadvantage for sustainable livestock systems and continued confusion for consumers.

We hope that this broader review and reform process will follow the revocation of the naturally-raised label claim.

Thank you for considering our views. We look forward to meeting with you and your staff on these matters in the very near future.

Sincerely,

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