

National Agricultural Law Center Webinar: **Overview of USDA Meat and Poultry Labeling Requirements**

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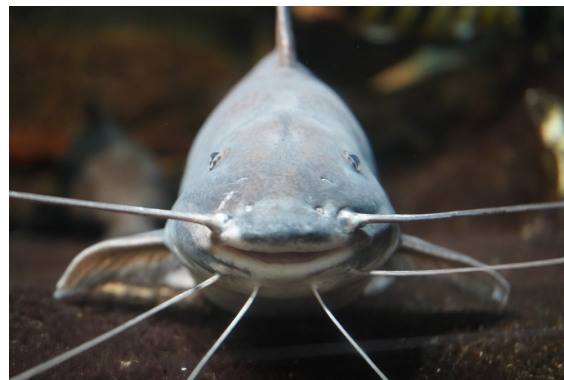


Jurisdiction

USDA vs. FDA



USDA Food Safety and Inspection Service



FDA



Jurisdiction

FDA is the “default” inspection authority → statutes provide USDA with jurisdiction for specific products

- Federal Meat Inspection Act – 21 U.S.C. §§ 601 et seq.
 - Amenable species: cattle, sheep, swine, goats, horses, mules, other equines, Siluriformes fish (catfish)
- Poultry Products Inspection Act – 21 U.S.C. §§ 451 et seq.
 - Amenable species: domesticated chickens, turkeys, ducks, geese, ratites, squabs

Minimum content:

- 2% cooked basis
- 3% raw basis

**Egg Products also regulated under the
Egg Products Inspection Act
(liquid eggs, freeze dried eggs, etc)**

USDA vs. FDA

- Inspection frequency
 - FDA – minimum of once every:
 - 3 years – high-risk facilities
 - 5 years – non-high risk facilities
 - USDA
 - Slaughter – carcass-by-carcass
 - Processing – “continuous” – at least once per shift
- Label Approval
 - Required for USDA-inspected products, not FDA foods
- Federal Preemption (including labeling)
 - Meat – 21 U.S.C. § 678
 - Poultry – 21 U.S.C. § 467e

States can impose labeling requirements on FDA foods (Vermont GMO, rBST; Prop 65)

FSIS Jurisdiction

- FSIS has jurisdiction over labels *and* labeling
 - Label: a display of written, printed, or graphic matter upon the immediate container (not including package liners) of any article
 - Meat – 9 CFR 301.2; Poultry – 9 CFR 381.1(b)
 - Labeling: All labels and other written, printed, or graphic matter (i) upon any article or any of its containers or wrappers, or (ii) accompanying such article.
 - **Prior approval required for labels entering commerce, but not all labeling**
- Federal Trade Commission has jurisdiction over advertisements
 - FTC's enforcement informed by FSIS regulations

Online store websites can be regulated as "labeling"

Labeling Basics



Labels Required

- Each shipping container and immediate container must bear a label containing the required label elements
 - Meat – 9 CFR 317.1
 - Poultry – 9 CFR 381.115

Prior Approval Required

- FSIS must “approve” all labels on meat and poultry entering commerce from FSIS establishments
 - Meat – 21 U.S.C. § 607(d); Poultry – 21 U.S.C. § 457(c)
 - Retailers not required to receive approval for their labels (e.g., deli meat)
 - **Inspection legend cannot be applied without FSIS inspection**
- Label Review
 - Evaluated by FSIS Labeling and Program Delivery Staff in DC HQ
 - Must receive approval prior to applying label, entering commerce
- Generic Approval
 - Establishment responsible for applying truthful, not misleading label
 - FSIS in-plant inspectors monitor labels, schedule inspection tasks

Misbranding

- Label is false or misleading in any particular
- Food is offered for sale under the name of another food
- Imitation foods are not disclosed as such
- Failure to include required elements
- Failure to conform with standard of identity
- Failure to disclose artificial colors or flavors, chemical preservatives
- Failure to include inspection legend

Meat – 21 U.S.C. § 601(n) / Poultry – 21 U.S.C. § 453(h)

Consequences of Misbranding

- Recall products
 - Most common cause of recalls is failure to disclose major allergens
- Retention (placed on hold in establishment)
- Detention (prohibit sale, movement in commerce)
- Trigger enforcement actions
 - Withhold or suspend inspection
- Criminal enforcement

Required Label Elements



Principal Display Panel vs. Information Panel

Principal Display Panel (PDP)



Information Panel



Required Elements

- **Product Name** (Meat - 9 CFR 317.2(c)(1); Poultry 9 CFR 381.117)
 - Must appear on prominently on PDP
 - Name must be:
 - Standard of Identity (statute, regulation) - if none, then:
 - Common or usual name (industry standard, FSIS policy) – if none then:
 - Truthful descriptive designation (9 CFR 317.2(e))
- **Ingredient Declaration** (Meat - 9 CFR 317.2(k); Poultry 9 CFR 381.118)
 - Can appear on PDP or information panel
 - Required for multi-ingredient products
 - List by order of predominance, except ingredients under 2% inclusion

Required Elements

- **Address / Signature Line** (Meat - 9 CFR 317.2(g); Poultry 9 CFR 381.112)
 - Identify name and place of business of manufacturer, packer, or distributor
 - Located on PDP or information panel
- **Inspection Legend** (Meat - 9 CFR 317.2(c)(5); Poultry 9 CFR 381.123)
 - Must be located on PDP
 - Often includes establishment number, but Est. # can be printed elsewhere
- **Nutrition Facts Panel** (Meat – 9 CFR 317.300; Poultry – 9 CFR 381.400)
 - Can appear on PDP or Information Panel
 - Required for retail - multi-ingredient products, “major” cuts
 - Some exemptions apply (e.g., business size, package size)



Required Elements

- **Net Weight Statement** (Meat – 9 CFR 317.2(h); Poultry – 9 CFR 381.121)
 - Must appear on PDP of products sold at retail, unless net weight is applied at retail
- **Handling Statement** (Meat – 9 CFR 317.2(k); Poultry – 9 CFR 381.125(a))
 - Ex: “Keep Frozen” or “Keep Refrigerated”
 - Must appear on PDP of products requiring special handling
- **Safe Handling Instructions** (Meat – 9 CFR 317.2(l); Poultry – 9 CFR 381.125(b))
 - Required for not-ready-to-eat products
 - Can appear on any panel



Label Approval



Labeling and Program Delivery Staff Review

- FSIS Labeling and Program Delivery Staff evaluate label sketches, product formulations, claim substantiation
- Label applications:
 - Hard Copy – [FSIS Form 7234-1](#) and supporting documentation
 - Hand deliver to LPDS Office
 - USPS, UPS, FedEx
 - Electronic Submission –Label Submission and Approval System
- Turnaround time is typically 4 to 7 days
- LPDS response:
 - Approved
 - Approved as modified (LPDS will ID easy fixes)
 - Returned (rejected - must modify and resubmit for approval)

When is LPDS Approval Required?

9 CFR 412.1(c)

- Labels for products produced under a religious exemption
- “Special statements”
 - Statements not defined in FSIS regulations or [Food Standards and Labeling Policy Book](#)
 - “Natural” claims
 - Animal raising claims (antibiotics, hormones, grass-fed, animal welfare, diet, breed)
 - Organic, non-GMO
 - Health claims
- Temporary label approval
 - Allows for minor errors on labels for limited time period
 - Cannot misrepresent the product or pose health/safety risk

Generic Approval

9 CFR 412.2

- Establishments may apply “generic” labels without prior LPDS approval
 - FSIS inspectors periodically review during operations
- Generic labels must:
 - Contain all mandatory label elements
 - Not contain “special statements” requiring LPDS approval
 - Allows for many statements that can be verified by in-plant inspectors

Expansion of Generic Approval

[88 Fed. Reg. 2798](#) (Jan. 18, 2023)

- FSIS recently expanded the scope of claims eligible for generic approval:
 - Allergen statements (e.g., “Contains wheat”)
 - Negative claims regarding ingredients not listed in the ingredient declaration (e.g., “No MSG”)
 - Nutrient content claims that align with FSIS regulations
 - Geographic origin claims and marks
 - “Organic” claims in ingredient declaration
 - Products intended only for export that deviate from domestic labeling requirements

Animal Raising Claims



Animal Raising Claims

To support an animal raising claim, application must include:

- Written description of controls to ensure claims is valid from birth to slaughter (or claimed time period)
- Signed and dated document describing how animals are raised to meet the claim
- Description of tracing and segregation protocols to ensure claim is valid
- Address how non-conforming animals/product is handled
- Current copy of third-party certification (if applicable)

Animal Raising Claims

- Third-party certification required for:
 - Animal welfare
 - Environmental stewardship
 - Organic
 - Non-GMO
- Third-party certification *not* required (but permitted) for:
 - Breed (e.g., Angus)
 - Diet (e.g., grass-fed, vegetarian diet)
 - Living/raising (e.g., gestation crate, pasture-raised, cage free)
 - No Added Hormones
 - Raised without Antibiotics
 - Source, traceability

Changes Under Consideration

June 14th USDA Announcement:

- Forthcoming updated guidance (anticipated winter 2023):
 - Strengthen documentation requirements for animal-raising claims, such as “grass-fed” and “free-range”
 - Strongly encourage third-party certification
- “Raised without Antibiotics”
 - FSIS & USDA ARS sampling carcasses in “Raised without Antibiotics” programs for residue
 - Based on results, FSIS may:
 - Require establishments to submit laboratory results, OR
 - FSIS may institute a verification sampling program

Recent Developments



Cell Culture Labeling Developments

- FSIS has jurisdiction over harvest of cell biomass, further processing, and labeling
 - FDA approves ingredients, oversees bioreactors
- FSIS developing regulations for cell culture products
 - Proposed rule anticipated in December 2023
 - Address product name, how products are labeled
- FSIS has approved labels for 2 companies (foodservice)
 - Allowing products to be labeled as “cell cultivated” or “cell culture” chicken
- FSIS intends to release draft guidance prior to final rule

Voluntary Product of USA Claims

- Current policy allows US origin claims on products that are processed in the US before final packaging

March 13, 2023 Proposed Rule:

- Limit US origin claims to:
 - Products derived from animals born, raised, and slaughtered within the US
 - If multi-ingredient, all components, except spices and flavorings, must be of domestic origin
- Distinct from mandatory Country-of-Origin labeling
 - Required for chicken, lamb, imported finished products

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