

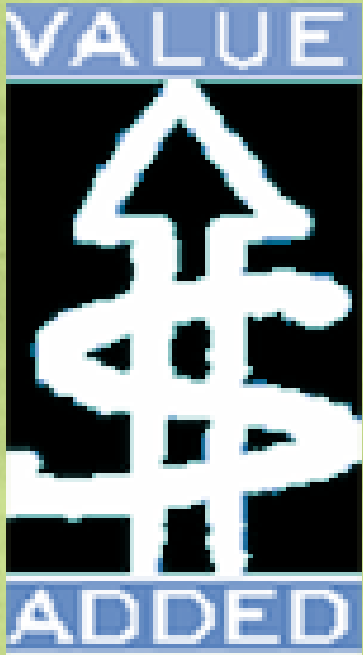
Marketing and Labeling Requirements



Managing Risks of Small Scale Poultry Processing
Hal Pepper, Center for Profitable Agriculture
Mike Brown, Tennessee Department of Agriculture

McDonald, January 27, 2015
Murfreesboro, January 28, 2015
Lexington, January 29, 2015

Overview



- Marketing Poultry Processed under an Exemption and under Inspection
- Labeling Requirements
- State Requirements

Processing Under USDA-FSIS Grant of Inspection

- Bird-by-bird inspection by a federal inspector
- Poultry bears mark of inspection
- Poultry can be marketed across state lines

Exemptions—a farm can only process under 1 exemption per year

- **Producer/Grower 1,000 Bird Limit**
 - Producer can harvest and process up to 1,000 birds raised by producer
 - Sales are allowed to any customer, institution or retail store within TN
- **Producer/Grower 20,000 Bird Limit**
 - Producer can harvest and process up to 20,000 birds raised by producer
 - Sales are allowed to any customer, institution or retail store within TN
- **Producer/Grower or Other Person 20,000 Bird Limit**
 - Can harvest and process up to 20,000 birds raised by producer or purchased live from a grower
 - Sales are only allowed within state of Tennessee
 - Sales are not allowed to institutions or retail stores

Exemptions

Summary Table of Exemptions and Limitations			
Criteria	Producer/Grower 1,000 Bird Limit	Producer/Grower 20,000 Bird Limit	Producer/Grower or Other Person 20,000 Bird Limit
Slaughter Limit	YES – 1,000 per Calendar Year	YES – 20,000 per Calendar Year	YES – 20,000 per Calendar Year
Further Processing	YES	YES	YES
Can sell to any customer	YES	YES	NO
Can sell to HRI	YES	YES	NOT TO All HRIs*
Sell to Distributor	YES	YES	YES
Sell to Retail Store	YES	YES	NO
Intra-State Distribution	YES	YES	YES
Inter-State Distribution	NO	NO	NO
<ul style="list-style-type: none"> Product produced under the Producer/Grower or Other Person Exemption may not be sold to institutions. 			

Source: USDA's *Guidance for Determining Whether a Poultry Slaughter or Processing Operation is Exempt from Inspection Requirements of the Poultry Products Inspection Act*

Pros and Cons of Operating and Marketing Under USDA-FSIS Grant of Inspection

- Pros
 - Interstate commerce of poultry products allowed
 - More safeguards are in place to see that processing is carried out properly and risk of contamination is reduced
 - There is no charge for USDA to provide inspector up to 40 hours per week
 - Retail Meat Permit
- Cons
 - Must coordinate processing schedule so inspector is present at processing
 - Added facility costs for shower and inspector office space if processing
 - Facility and equipment must meet USDA-FSIS approval
 - Records must be kept and facility must be HACCP certified
 - Testing of product for salmonella, campylobacter and generic e-coli must be conducted



Pros and Cons of Operating and Marketing Under Producer Grower or Producer Grower Other Person (PGOP) Exemption

- Pros
 - Not subject to USDA-FSIS inspection
 - Food safety system is voluntary
- Cons
 - Product is not inspected. Studies show exempt producers have a higher percentage of problems than USDA inspected.
 - Only intrastate commerce of poultry products is allowed
 - Limited to processing 20,000 birds per year
 - PGOP can't sell to institutions or retail stores
 - Can't get Tennessee Retail Meat Permit

Labeling Requirements



Producer/Grower 1,000 Bird Limit

- USDA has no requirements for labeling.
- Tennessee Department of Agriculture requires product be labeled and sold by net weight.

Producer/Grower 20,000 Bird Limit

Producer/Grower or Other Person 20,000 Bird Limit

- USDA requires the product be labeled with:
 - Processor's name
 - Processor's address
 - Statement "Exempt P.L. 90-492"
 - Safe handling instructions

Poultry Processed Under USDA-FSIS Grant of Inspection

- USDA requires the following on the label:
 - Common or usual name of food
 - Ingredients if product is made from 2 or more ingredients
 - Declaration of artificial flavoring or coloring
 - Antioxidants, chemical preservatives and other additives
 - Quantity of contents
 - Net weight
 - Name and address of manufacturer, packer or distributor
 - Official inspection mark and official establishment number
 - Special handling label requirements
 - Date of packing and date of processing
 - Nutrition facts if not a small business as defined by FDA
 - Food allergens

Special Claims



- Special claims are claims or characteristics about the product.
- Sample label must be submitted to and reviewed by USDA-FSIS, Labeling and Program Delivery Division (LPDD) to ensure the approved claims are truthful and not misleading.
- Farmers who process under an exemption are not eligible to apply for or use special label claims.

Special Claims

- The label itself and all point of sale and other advertising materials must accurately portray the label claim.
- Penalty may be imposed if non-approved labels are displayed on point of purchase or online materials.

Examples of Special Claims

- Animal production claims
 - No antibiotics added
 - No animal by-products fed
 - Free range
 - Corn fed
 - Certified organic (by a USDA national organic authorized third-party certifying entity)



Claims Must Not be Misleading

- Certain claims are considered unacceptable and are therefore not legally permitted for use if they do not truthfully describe the product, if they mislead the consumer or, in the case of organic, if the claims can only be used if certified by an approved third-party auditor.



Claims Must Not Be Misleading

- “Raised without added hormones” claim may be used for beef and lamb production since hormones are approved for use in those production practices.
- The use of hormones for all pork and poultry production, however, is prohibited under regulation. If a “raised without added hormones” claim is added to the label of poultry or pork, it must be followed by the phrase “Federal regulation prohibits the use of hormones in pork/poultry” so as not to mislead the customer.

Submitting an Application for a Special Claim

- Time and collaboration between you and your processor are required when submitting an application for a special claim.
- Allow time to submit designed labels along with supporting documents to the management of the inspected facility where you take animals for processing.
- Label approvals are granted to processors for use so they do not belong to the farm or producer of the animal or meat product. The processor is responsible for submitting label applications to the federal labeling division for approval and for housing the labels.
- Each facility requires its own label approval, meaning that the label is approved for use only at a particular inspected establishment.

Oversight of Special Claims and Claims Not Third-Party Approved

- Special label claims may be overseen by independent, third-party auditors
- In some other cases, you may self-support claims by providing documentation and justification to verify its truthfulness in the application. The processor then sends the application to USDA-FSIS, Labeling and Program Delivery Division (LPDD) for approval.

Oversight of Special Claims and Claims Not Third-Party Approved

- Third-Party Auditor Verified
 - Under third-party audits, the farm production claim is reviewed against a set of protocols to receive verification from that organization. To ensure the claim is truthful, third-party verification requires a physical visit to your farm processing facility, or packinghouse by the certifying agent's auditor. FSIS allows the label of meat or poultry products to bear a certified claim if the claim clearly identifies the certifying entity, such as "certified free range by [entity]".

Oversight of Special Claims and Claims Not Third-Party Approved

- Self-Supported Claim
 - If a third-party auditor does not oversee the claim, then you must provide additional documentation to justify the accuracy of that claim on your meat or poultry products. You must provide enough supportive documentation to justify the claim for final approval by the federal labeling division.
- “Certified Organic by [entity]” is the exception to the self-certification rule. In order to use the organic claim on a label, third-party verification by a USDA National Organic Program authorized entity is mandatory. The claim “organic” cannot be used alone with self-supported documentation.

Submitting Documentation to Processor

- Forms
 - USDA inspected facilities complete FSIS Form 7234-1 and check box number 10 for special claims
- Supportive Documentation
 - A complete special label claim application includes:
 - Two copies of federal application form (FSIS Form 7234-1) (one for processor to keep and one for processor to send to the labeling division).
 - Two sample copies of the label exactly as you want it to appear on your product (a hand sketch or printed copy of the label).

Submitting Documentation to Processor

--A complete special label claim application also includes:

- Affidavits declaring the specifics of the animal production claim(s). This documentation can include your own written testimonials explaining that the claims are not false or misleading.
- Animal production protocols, such as protocol for the identification, control and segregation of non-conforming animals/products (how you separate, control and denote your animals/products that will receive a special claim from others). Depending on the claim, a legally defined and published set of protocols may exist or you, as the producer, may provide your own justification of production protocols to support the said claim.

Submitting Documentation to Processor

--A complete special label claim application also includes:

- Other relevant documentation you may want to provide, such as product tracing and segregation mechanisms from the time of slaughter and/or further processing through packaging and wholesale or retail distribution.
- If the claim is third-party certified, the auditor/certifying entity must submit their standards and protocol records to the federal labeling division in advance of the voluntary label claim review.

Processing the Application for Special Claims

- Allow at least one month for application processing. Remember to plan ahead. To check on the status of your label after submission, call the USDA, FSIS Label Distribution Division at (301) 504-0883.

Tennessee Department of Agriculture Requirements

- The Tennessee Department of Agriculture (TDA) recognizes the United States Department of Agriculture (USDA) small poultry exemption guidelines and, therefore does not require a permit to process and market poultry under this exemption. This recognition is based on the assumption that all applicable standards set forth in the USDA guidelines for exempt poultry processing are satisfied.

Tennessee Department of Agriculture Requirements

- The TDA will provide a letter to any exempt processor, upon request, to explain this position to any marketing outlet. The TDA will also be proactive in educating potential marketing agencies that a permit is not required to legally process and sell poultry under this exemption.

Tennessee Department of Agriculture Requirements

- Per the Weights and Measures Act, each bird must be labeled and sold by net weight.

Tennessee Department of Agriculture Requirements

- The sale or process of poultry products in Tennessee is governed predominantly under the federal Poultry Inspection Act 21 U.S.C.A. Section 451, et seq.; 9 C.F.R. Section 381.221; TCA Section 53-7-214. Consistent with exemptions available under the federal law for small poultry producers, no inspection or other regulation is currently required by TDA for small poultry producers if they are otherwise compliant with the conditions of their federal exemption. See 21 U.S.C.A. Section 464.

Tennessee Department of Agriculture Requirements

- Upon request, TDA will provide a letter to any exempt poultry processor to explain this position and will educated potential marketing outlets in Tennessee that a poultry permit from TDA is not required to process and to sell poultry under this federal exemption.

References

- “Special Claims and the Approval Process for Niche Meat Production”. North Carolina Cooperative Extension Service.
<http://content.ces.ncsu.edu/special-claims-and-the-approval-process-for-niche-meat-production.pdf>
- Code of Federal Regulations. 9 CFR § 317.4 “Labeling Approval.” <http://www.gpo.gov/fdsys/pkg/CFR-2011-title9-vol2/pdf/CFR-2011-title9-vol2-sec317-4.pdf>
- Code of Federal Regulations. 9 CFR § 381.1 “Labeling and Containers” <http://www.gpo.gov/fdsys/pkg/CFR-2011-title9-vol2/pdf/CFR-2011-title9-vol2-part381-subpartN.pdf>

Contact Us

Hal Pepper
Financial Analysis Specialist
hal.pepper@utk.edu
(931) 486-2777

ag.tennessee.edu/cpa
facebook.com/ValueAddedAg
cpa@utk.edu