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Food Safety
and Inspection
Service

Office of Policy, Program,
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Food Safety and Inspection Service (FSIS) Statement of Interim Policy Guidance

Use of the USDA *MyPyramid* Reference on Meat and Poultry Labeling and Whole Grain Claims

[This is an interim policy statement and may be withdrawn or modified if information is received by FSIS that shows that significant consumer confusion exists in this claims area.]

Historically, FSIS has permitted references to dietary information found in the original Food Guide Pyramid which was released in 1992. In 2005, the Food Guide Pyramid was updated and replaced with MyPyramid. Both the Food Guide Pyramid and MyPyramid incorporate recommendations from the Dietary Guidelines for Americans, which is a joint publication by the U.S. Department of Agriculture (USDA) and the U.S. Department of Health and Human Services (HHS). The Dietary Guidelines for Americans (last updated in 2005) provide authoritative advice for people two years of age and older about how proper dietary habits can promote health and reduce the risk of major chronic diseases.

The Food Guide Pyramid provided general dietary guidance for the average American to help him/her select a healthful diet. In contrast, MyPyramid represents a simple yet personalized approach to remind consumers to make healthy foods choices in each food group and to be active every day. Further, MyPyramid uses interactive technology found on the web at www.MyPyramid.gov. The web-based site can provide more personalized dietary recommendations based on age, gender, and physical activity level.

The 1992 Food Guide Pyramid categorized foods into five major food groups (Bread, cereal, rice and pasta group; Fruit group; Vegetable group; Meat, poultry, fish, dry beans, eggs and nut group; and Milk, yogurt and cheese group) and provided a range of the number of recommended daily servings per each major food group. The exact number of servings that are right for any individual depended upon the number of calories needed, which in turn depended upon a consumer's age, sex, size, and activity level. Examples of labeling statements referencing the original Food Guide Pyramid that FSIS previously approved include: "Vegetables = 2 Servings* *The Food Guide Pyramid suggests 3-5 one-half cup servings of vegetables a day," and "Full serving of veggies and grains* *1 cup of this product equals one serving of vegetables and grains. The Food Guide Pyramid suggests 3-5 vegetables and 6-11 grain serving/day."

MyPyramid continues to reference five major food groups (Grains, Vegetables, Fruits, Milk, and Meat and beans). It illustrates the proportionality, variety, and moderation of the food groups, as well as personalization, physical activity, and gradual improvement in diet and lifestyle. MyPyramid recommends discrete numbers (in common household measures, i.e., cups and ounces) for how much food a person should choose from each of the major food groups and subgroups for a variety of energy levels that are based on an individual's age, gender, and physical activity level. Thus, there are no ranges of recommended daily servings for each major food group. In order to provide a level playing field for references to MyPyramid for labeling, FSIS has decided that the use of the recommendations at the 2000 calorie level will be the most appropriate level because 2000 calories is the amount specified by FSIS nutrition labeling regulations and for uniformity. (For foods specifically designed and sold to infants and toddlers, and labeled with the appropriate nutrition facts format, references to MyPyramid may not be permitted).

Since specific amounts of food for each major food group are listed for a 2000 calorie diet, and information is provided to further explain the food or food equivalent amounts, FSIS believes it would be acceptable to reference the major foods groups and amounts provided by a product for those major food groups on the labeling of meat and poultry products.

Complicating the presentation on labeling of information about MyPyramid are the subgroup classifications of the five major food groups. Specifically, the grain group is divided into 2 subgroups, whole grains and refined grains. Manufacturers of meat and poultry products have expressed growing interest in making various whole grain claims ranging from characterizing ingredients as "whole grain," e.g., "whole wheat pasta," to using references to such as the Whole Grain Council stamps/logos' on products' packaging which characterizes products as, for example, a good source of whole grains. This interest has increased, possibly in response to a petition submitted in 2004 to the Food and Drug Administration (FDA) regarding the uses of Whole Grain Descriptive Claims, e.g., "High in whole grains," "Excellent Source of whole grains," or "Provides whole grains." Some of the various whole grain descriptors are ultimately linked to the amount of fiber provided by the grain sources. FSIS views this type of claim as an undefined nutrient content claim. In addition, the nutrition labeling regulations in Title 9, Code of Federal Regulations (9 CFR), Subpart B, Section 317.300 – 317.400, for meat products, and Subpart Y, Sections 381.400 – 381.500, for poultry products, clearly state that claims that, expressly or by implication, characterize the level of a nutrient may not be made on the labeling of a meat or poultry product unless the claim is made in accordance with the nutrition labeling regulations.

Because there are no existing regulations permitting the use of whole grain claims on foods regulated by FSIS, labeling of meat and poultry products with express whole grain claims, including, but not limited to, "Good Source of Whole Grains," and "Excellent Source of Whole Grains," cannot be approved. Likewise, labeling for meat and poultry products that bears claims that imply that the level of whole grains in a product is high or place significance on a specific level of whole grains, including, but not limited to,

“Contains X grams Whole Grains,” “More than X grams of Whole Grains,” and “Fortified with X grams Whole Grains,” cannot be approved. Similarly, trademarked uses of such phrases on labeling cannot be approved with the exception of the use of a company name in the signature line of a product label, provided that the signature line is normally placed and without undue prominence thus causing the use of the company name to become false or misleading.

After further evaluation of labeling requests about grain ingredients, the Agency has concluded that there are certain statements about whole grains that may be applied to the labeling of meat and poultry products to which FSIS has no objection, that do not conflict with FSIS regulations, and that are not misleading. Factual statements that the Agency will not object to on any panel of the labeling of meat and poultry products include statements that do not expressly state or imply a specific level of whole grains, e.g., “Made with 100% Whole Grain brown rice.” FSIS has not objected to the use of factual statements to characterize a grain component of a food, e.g., “Made with Whole Wheat Spaghetti” and “Made with Whole Wheat Bread,” because these components have standards in the FDA’s Title 21 specifying that the only grain used is whole wheat. FSIS has not objected to the use of multi-grain when the product includes more than one grain source. Additionally, for FDA components that are not the subject of a standard of identity, provided that at least 51% of the grain components are whole grain, FSIS will not object to such components being characterized as whole grain, e.g., “Whole Wheat Pasta,” or “Pasta Made with Whole Wheat.” In all cases, such statements may not be misleading, e.g., a statement “Made with Whole Wheat Pasta,” when the pasta used is a blend of a small amount of whole wheat pasta with refined wheat flour pasta would be misleading and thus cannot be used. For these types of statements, there should be a significant amount of the whole grain component and generally more whole grain than refined grains in the product to ensure that the statements are not misleading. A significant amount of whole grain would be at least a one-half ounce equivalent of whole grain ingredient, i.e., at least 8 grams of dry whole grain ingredient, per labeled serving and per reference amount customarily consumed. Calculations of the amount of whole grain ingredient should be provided with the label for sketch approval when statements are made regarding whole grains.

FSIS will also not object to the use of whole grain content calculations based on USDA’s new MyPyramid on the labeling of meat and poultry products provided they are adequately explained on the labeling for the consumer as in the past with references to the Food Guide Pyramid. Such references will need to use the recommendations based on a 2000 calorie diet and specify that the information is based on the MyPyramid recommendations. Statements that FSIS would approve include, “One whole grain ounce equivalent per serving, MyPyramid recommends at least 3-one ounce equivalents of whole grains per day,” or “Whole Grains = 2 one ounce equivalents* *USDA’s MyPyramid recommends at least 3-one ounce equivalents of whole grains per day.” In order to not be viewed as misleading, ounce equivalents of whole grain may be declared by half or whole numbers and should be declared as “ounce equivalents” in harmony with the language found in MyPyramid. Furthermore, ounce equivalents may not be rounded up to the nearest half or whole ounce, but products should contain at least the amount

declared by any claim or information. Calculations of the amount of whole grain ingredient or ounce equivalent must be provided with the label for sketch approval when statements are made regarding ounce equivalents of whole grains.

Terms such as “whole grains” may be used in ad copy on labeling in conjunction with other terms used to describe a diet or lifestyle (not a particular food or product), provided they are used in a manner that is truthful and not misleading, e.g., “Enjoy a varied diet rich in whole grains.”

Lastly, because the original “Food Guide Pyramid” has been updated and replaced by MyPyramid, companies referencing the Food Guide Pyramid on labeling will need to revise such labeling to eliminate the outdated references. Additionally, any labeling sketches granted approval with references to whole grains that are not in compliance with this policy should be brought into compliance with this policy. Consistent with the Agency’s regulations about generic label approval, all labels bearing special statements, such as those described above, must be sent to the Agency’s Labeling and Consumer Protection Staff for evaluation and approval before use.

For additional information about FSIS labeling policies and programs, review the FSIS website for Labeling at:
http://www.fsis.usda.gov/About_FSIS/labeling_&_consumer_protection/index.asp or contact the Labeling and Consumer Protection Staff at 202-205-0279 or 202-205-0623.