

Notices

Federal Register

Vol. 72, No. 199

Tuesday, October 16, 2007

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

Notice of the National Agricultural Research, Extension, Education, and Economics Advisory Board Meeting

AGENCY: Research, Education, and Economics, USDA.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, 5 U.S.C. App. 2, the United States Department of Agriculture announces a meeting of the National Agricultural Research, Extension, Education, and Economics Advisory Board. The meeting is open to the general public. **DATES:** The National Agricultural Research, Extension, Education, and Economics Advisory Board will meet October 29–31, 2007 at the Double Tree Hotel, 1515 Rhode Island Avenue, NW., Washington, DC 20024.

ADDRESSES: The public may file written comments before or up to two weeks after the meeting with the contact person. You may submit comments by any of the following methods: E-mail: JADunn@csrees.usda.gov; Fax: (202) 720-6199; Mail/Hand-Delivery or Courier: The National Agricultural Research, Extension, Education, and Economics Advisory Board; Research, Education, and Economics Advisory Board Office, Room 344-A, Jamie L. Whitten Building, United States Department of Agriculture, STOP 2255, 1400 Independence Avenue, SW., Washington, DC 20250-2255.

FOR FURTHER INFORMATION CONTACT: Joseph Dunn, Executive Director or Shirley Morgan-Jordan, Program Support Coordinator, National Agricultural Research, Extension, Education, and Economics Advisory Board; telephone: (202) 720-3684.

SUPPLEMENTARY INFORMATION: On Monday, October 29, 2007, at 9 a.m. an Orientation Session for new members

and interested incumbent members will be held. The full Advisory Board Meeting will convene at 12:15 p.m. with introductory remarks provided by the Acting Chair of the Advisory Board. There will be brief introductions by new Board members, incumbents, and guests followed by general Advisory Board Business. There will be remarks from a variety of distinguished leaders and experts in the field of agriculture, as well as officials and/or designated experts from the four agencies of USDA's Research, Education, and Economics Mission area. Speakers will provide recommendations regarding ways the USDA can enhance its research, extension, education, and economic programs to protect our Nation's food, fiber, fuel and agricultural system. The Honorable (Acting) Secretary of Agriculture, Chuck Conner, will attend the meeting and provide brief remarks. The meeting will adjourn for the day at 5 p.m. Following adjournment, an evening program will be held from 6 p.m. to 8 p.m. with guest speaker Dr. Robert Brackett, Director of the U.S. Food and Drug Administration's Center for Food Safety & Applied Nutrition, who will present highlights concerning Food Safety. On Tuesday, October 30, 2007, the meeting will reconvene at 7:30 a.m. with introductory remarks from Dr. Gale Buchanan, Under Secretary of the Research, Education and Economics Mission Area. Various presentations and discussions will take place throughout the day on the two Focus Topics, "Organic Agriculture" and "Rural Economic and Community Development and Priorities for Cooperative Extension". The meeting will adjourn for the day by 5:15 p.m. Following the adjournment, there will be an evening meeting with guest speaker, Dr. Bo Beaulieu, Director, Southern Rural Development Center, who will provide highlights on Rural Development. On Wednesday, October 31, 2007, the Board Meeting will reconvene at 8:30 a.m. with a final session to discuss Strategic Plans for the Board. The Advisory Board Meeting will adjourn by 9:30 a.m. Written comments by attendees or other interested stakeholders will be welcomed for the public record before and up to two weeks following the Board meeting (by close of business Wednesday, November 14, 2007). All statements will become a part of the

official record of the National Agricultural Research, Extension, Education, and Economics Advisory Board and will be kept on file for public review in the Research, Extension, Education, and Economics Advisory Board Office.

Done at Washington, DC this 10th day of October, 2007.

Gale Buchanan,

Under Secretary, Research, Education, and Economics.

[FR Doc. E7-20324 Filed 10-15-07; 8:45 am]

BILLING CODE 3410-22-P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Docket No. AMS-LS-07-0113; LS-05-09]

United States Standards for Livestock and Meat Marketing Claims, Grass (Forage) Fed Claim for Ruminant Livestock and the Meat Products Derived From Such Livestock

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice.

SUMMARY: The Agricultural Marketing Service (AMS) is establishing a voluntary standard for a grass (forage) fed livestock marketing claim. This standard incorporates revisions made as a result of comments received from an earlier proposed standard. A number of livestock producers make claims associated with production practices in order to distinguish their products in the marketplace. With the establishment of this voluntary standard, livestock producers may request that a grass (forage) fed claim be verified by the Department of Agriculture (USDA). Verification of this claim will be accomplished through an audit of the production process in accordance with procedures that are contained in Part 62 of Title 7 of the Code of Federal Regulations (7 CFR part 62), and the meat sold from these approved programs can carry a claim verified by USDA.

DATES: *Effective Date:* November 15, 2007.

FOR FURTHER INFORMATION CONTACT: Martin E. O'Connor, Chief, Standards, Analysis, and Technology Branch, Livestock and Seed Program, AMS, USDA, Room 2607-S, 1400

Independence Avenue, SW., Washington, DC 20250-0254, facsimile (202) 720-1112, telephone (202) 720-4486, or e-mail

Martin.OConnor@usda.gov. The U.S. Standards for Livestock and Meat Marketing Claims, Grass (Forage) Fed Claim for Ruminant Livestock and the Meat Products Derived from Such Livestock, is available through the above physical address or by accessing the Web site at <http://www.ams.usda.gov/lsg/stand/claim.htm>.

SUPPLEMENTARY INFORMATION: Section 203(c) of the Agricultural Marketing Act of 1946, as amended (7 U.S.C. 1622), directs and authorizes the Secretary of Agriculture "To develop and improve standards of quality, condition, quantity, grade, and packaging, and recommend and demonstrate such standards in order to encourage uniformity and consistency in commercial practices." USDA is committed to carrying out this authority in a manner that facilitates the marketing of agricultural products. One way of achieving this objective is through the development and maintenance of voluntary standards by AMS.

AMS is establishing this voluntary U.S. Standard for Livestock and Meat Marketing Claims, Grass (Forage) Fed Claim for Ruminant Livestock and the Meat Products Derived from Such Livestock, in accordance with procedures that are contained in Part 36 of Title 7 of the Code of Federal Regulations (7 CFR part 36).

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (PRA; 44 U.S.C. 3501 *et seq.*), the information collection and recordkeeping requirements for the services associated with the grass (forage) fed marketing claim is approved under Office of Management and Budget (OMB) Control No. 0581-0124, which expires August 31, 2008.

Background

Individuals and companies often highlight production and marketing practices in advertisements and promotions to distinguish their products in the marketplace. Since the late 1970's, livestock and meat producers (individuals and companies) have requested the voluntary services of AMS to verify or certify specific practices to increase the value of their products. The Livestock and Seed (LS) Program of AMS has provided certification, through direct product examination, for a number of production claims related to livestock and carcass characteristics. The validity of such claims was

enhanced since the product was labeled as "USDA Certified." The LS Program also offers verification services through Quality System Verification Programs (QSVP; <http://www.ams.usda.gov/lsg/arc/audit.htm>) to substantiate claims that cannot be determined by direct examination of livestock, their carcasses, component parts, or the finished product. The QSVP provides suppliers of agricultural products or services the opportunity to distinguish specific activities involved in the production and processing of their agricultural products and to assure customers of their ability to provide consistent quality products or services. This is accomplished by documenting the quality management program and having the manufacturing or service delivery processes verified through independent, third-party audits. One specific QSVP is the USDA Process Verified Program which allows suppliers to make marketing claims—such as feeding practices or other raising and processing claims—and label and market their products as "USDA Process Verified."

As multiple marketers of specialized claims began to seek USDA certification or verification for the same or similar production practices, AMS determined it would be beneficial to establish standards for common production and marketing claims and these standards will collectively be a part of the voluntary U.S. Standards for Livestock and Meat Marketing Claims that may be used in conjunction with a certified or verified program recognized by AMS. The livestock and meat marketing claim standards will be instrumental in facilitating communication, establishing a common trade language, and enhancing understanding among producers, processors, and consumers. Past experience indicates that standards sort a highly diverse population into more homogeneous groups, and when standards are uniformly applied, they provide a valuable marketing tool. AMS develops standards for marketing and production claims based on experience with USDA Certified Programs and USDA QSVP, research into standard practices and procedures, and requests from the livestock and meat industries. One such production practice is the raising of livestock on grasslands or forage products. Accordingly, AMS is establishing the voluntary grass (forage) fed marketing claim standard. AMS obtained input from a number of individual experts in government, industry, and academia while drafting this standard and the corresponding thresholds for compliance.

Product labels that include the grass (forage) fed marketing claim must be submitted to USDA's Food Safety and Inspection Service (FSIS), Labeling Program and Delivery Division (LPDD), for evaluation prior to use. FSIS, LPDD, under the authority of the Federal Meat Inspection Act (FMIA; 21 U.S.C. 601, 607) and the Poultry Products Inspection Act (PPIA; 21 U.S.C. 451, 457), regulates domestic and imported meat, poultry, and egg product labeling, standards, and ingredients. AMS has worked closely with FSIS, LPDD to develop the voluntary grass (forage) fed marketing claim standard. The standard for a grass (forage) fed marketing claim will be part of the voluntary U.S. Standards for Livestock and Meat Marketing Claims which may be used in conjunction with a USDA QSVP. Grass (forage) fed marketing claims may be verified, as provided in 7 CFR Part 62, by a feeding protocol that confirms a grass (forage)-based diet. However, since this is a voluntary marketing claim, FSIS will not establish a new provision to limit the use of the term grass (forage) fed to labels in which participants have a USDA QSVP. Any specific labeling issues or questions not related to AMS' services should be directed to the FSIS, LPDD.

Comments and Responses on the Proposed Marketing Claim Standard for the Grass (Forage) Fed Claim

AMS originally proposed 13 U.S. Standards for Livestock and Meat Marketing Claims, as a notice and request for comments, in the December 30, 2002, **Federal Register** Notice (67 FR 79552), including the grass (forage) fed claim. AMS then revised the grass (forage) fed claim and re-proposed the claim in the May 12, 2006, **Federal Register** Notice (71 FR 27662). This final notice only covers the grass (forage) fed claim. Other claims that appeared in the December 30, 2002, **Federal Register** Notice (67 FR 79552) will be addressed at a later time.

In the December 30, 2002, **Federal Register** Notice (67 FR 79552), the grass (forage) fed claim standard proposed that grass, green or range pasture, or forage shall be 80 percent or more of the primary energy source throughout the animal's life cycle. As a result of the public comments received, AMS determined significant modification to the proposed grass (forage) fed standard was needed. AMS re-proposed the grass (forage) fed claim standard in the May 12, 2006, **Federal Register** Notice (71 FR 27662). It proposed that grass (annual and perennial), forbs (legumes, *Brassica*), browse, forage, or stockpiled forages, and post-harvest crop residue

without separated grain shall be at least 99 percent of the energy source for the lifetime of the ruminant specie, with the exception of milk consumed prior to weaning.

By the close of the comment period for the May 12, 2006, **Federal Register** Notice (71 FR 27662), AMS received 19,811 comments concerning the grass (forage) fed claim from consumers, academia, trade and professional associations, non-profit organizations, national organic associations, consumer advocacy associations, retail and meat production companies, and livestock producers. Summaries of issues raised by commenters and AMS' responses follow.

Grass (Forage) Percentage

Comments: An overwhelming majority of the comments received expressed support that AMS chose to develop and propose production standards for grass fed animals. Further, the majority of comments supported that the animal's diet must be 99 percent or higher grass or forage-based. AMS also received a small number of comments suggesting a percentage other than the proposed 99 percent. A few commenters suggested the standard be 100 percent grass or forage-based. One commenter in particular commented favorably on the increase from 80 percent to 99 percent but stated that a 100 percent would be easier to verify. There were also commenters who stated that the 99 percent grass or forage-based diet was too strict due to the diverse climate and rangeland throughout the United States. One commenter stated that 99 percent of the diet coming from grass or forage is too high to have a balanced ration that provides good weight gains and also reduces nitrogen losses to the environment. One commenter stated that 75 percent of beef producers in the United States work with environments with periods of zero plant growth, and only the highest quality stored forages will result in weight gains approaching 1.0 kg/day. These commenters recommended various levels from 90 to 97.5 percent grass or forage-based diet to address these concerns. One comment suggested that the grass (forage) fed claim require that grass (forage) be at least 99 percent of the energy source for the lifetime of the animal with the exception of documented emergency feeding. Another commenter stated that the 1 percent allowed for non-forage feed should be specified for inadvertent or emergency cases only, but not part of the regular ration. Beyond setting a percentage level, one commenter also

justification for the level being at 99 percent.

Commenters were not only concerned about the percentage level but also requested further clarification of what the percentage refers to. One commenter supported the figure of 99 percent as the grass (forage) fed standard but requested that the wording be changed from "99% of the energy source" to "99% of the dry matter intake." This commenter's rationale was that the percentage of the energy source as related to animal food intake is not a commonly calculated measure and using it will cause confusion and various unintended interpretations on how it is to be measured. Another commenter made a similar request that the language require feeding of 100 percent forage and not 99 percent of the energy from forage. Two other commenters also had similar comments that the claim as stated is confusing, that the statement "at least 99 percent of the energy source" does not correspond to "a grass or forage based diet that is 99 percent or higher" and that the first statement could be taken as any amount of protein (or other nutrient) source could also be fed. Another commenter suggested that the use of forage as an energy source should be changed to "energy/feed source" to avoid the supplementation of non-forage-based nitrogen, such as urea treated hay.

Agency Responses: After evaluating the extensive comments received regarding the appropriate diet percentage, AMS determined that in order to make a grass (forage) fed marketing claim, a diet of grass (forage) should be maximized. AMS believes that the 99 percent grass or forage-based diet proposed in the May 12, 2006, **Federal Register** Notice (71 FR 27662) was appropriate. However, AMS concurs it is easier to verify a 100 percent grass (forage)-based diet. AMS also concurs that as proposed, various interpretations on what the percentage refers to and how it will be measured (calculated) might occur. The language in the standard regarding the use of grass (forage) as an "energy source" should be changed and clarified to represent that the standard is based solely on the consumption of a grass (forage)-based diet. Removing the "energy source" terminology will further clarify that supplemental energy and protein sources are not permitted and will remove any confusion about how to measure (calculate) percent energy source. Again, AMS believes that due to the nature of grass (forage) fed production systems, it will be more appropriate to verify a maximized (100 percent) grass (forage)-based diet.

Therefore, AMS will not adopt any of the other suggested percentage levels and will remove any reference to a percentage in the standard. Accordingly, the grass (forage) fed marketing claim will only apply to ruminant animals whose diet throughout their lifespan is derived solely from grass (forage), with the exception of milk consumed prior to weaning. AMS realizes that incidental supplementation may occur due to inadvertent exposure to non-forage feedstuffs or to ensure the animal's well being at all times during adverse environmental or physical conditions. If incidental supplementation occurs as described above, the producer must fully document (e.g., receipts, ingredients, and tear tags) the incidental supplementation that occurs including how much, how often, and what was supplemented. The producer must maintain sufficient records of the animal's diet for the lifespan of the animal to demonstrate compliance with the requirement that, throughout its lifespan, the ruminant animal's diet is derived solely from grass and forage, with the exceptions previously discussed.

Finally, with regard to the commenter requesting scientific justification for the 99 percent grass (forage)-based diet, AMS notes that this is a marketing claim centered on a production method where the animal's diet is derived from grass and not a computed scientific figure.

Clarification of Language and Definition Relative to the Exclusion of Grains

Comments: The majority of the comments received requested that the standard be clarified, and stated that the language in the proposed standard was ambiguous which could allow meat from grain fed animals to be labeled as grass (forage) fed. Specifically, many of the commenters asked for the meaning of "immature grain" to be clarified. AMS received numerous comments with specific suggestions for the language in the background section and definition of the grass (forage) fed standard to ensure grain would be prohibited. Commenters suggested that the standard should prohibit the use of any mature corn or other traditional feed grains in feedstock used by producers seeking to market products under a grass (forage) fed label. Numerous commenters requested that crops normally harvested for grain (such as corn and small grains) must be harvested or grazed when in the vegetative state (pre-grain formation) in order to be considered eligible feed under this standard. Several commenters suggested that "hay,

haylage, baleage, silage, and ensilage may be fed, provided no grain species have reached the milk stage or legume grain reached 10 percent pod fill."

A few other comments were also received regarding the language in the standard. One commenter recommended that AMS reconsider the definition of eligible feed provided in the 2002 Notice (i.e., grass, green or range pasture, or forage) and include language regarding the specific conditions where harvested grasses can be used. They stated that if AMS changes the definition of "grass," then AMS will need to also look at the impact the change makes on meeting the nutritional needs of the animal if the requirement is to still be 99 percent of the energy needs. One commenter stated that it may be better to indicate that legumes and *Brassica* are only examples of forbs, not the complete list of acceptable forbs. One commenter requested that the word "mother's" be inserted before the phrase "milk consumed prior to feeding." Another commenter brought up the issue of calves raised on milk replacer until weaning. This commenter stated that in dairy-intensive regions of the United States it is possible for dairy bull and steer calves to be part of grass fed beef production systems and that it would be useful for the standard to clarify whether milk replacer is an acceptable feed source.

Agency Responses: AMS did not intend for the standard to permit meat from grain fed animals to be labeled as grass (forage) fed. AMS agrees further clarification and more specific language are needed to prevent the feeding of grain. AMS has incorporated several of the suggested clarifications received through the comments on this point and the definition of grass (forage) will be clarified so that crops normally harvested for grain may qualify for forage only if they are harvested or are grazed in the vegetative state (pre-grain). The details regarding the language clarifications are set forth in this standard. Regarding milk consumed by calves prior to weaning, AMS has determined that it is not necessary to insert the word "mother's" as one commenter suggested. Milk replacer fed prior to weaning is within the intent of the grass (forage) fed standard, as it is an acceptable alternative feed source to mother's milk. The remainder of the comments were considered, but not incorporated into the standard as AMS has determined the standard, with the revisions made, is clear, attainable, and appropriate.

Stored and Harvested Forages and Other Supplements

Comments: One issue that particularly divided commenters was allowing stored or harvested forages to be a part of the grass (forage) fed claim. One commenter stated it is important to exclude "green chop" forage, corn or sorghum grain, and soybeans. Another commenter encouraged AMS not to allow harvested forage, corn silage, or other grains that have been separated from their stalks to be part of the grass (forage) fed claim. Another commenter specifically did not think the feeding of fermented vegetative products like silage should be permitted in the grass (forage) fed designation as they have undergone significant chemical alteration. One commenter wanted animals raised 100 percent on live, green grass and that their diet should not include hay, almond hulls, or other vegetable matter.

Some commenters stated mechanically harvested forage without grain may be fed to animals while on grassland during periods of inclement weather or low forage quality. Several commenters supported the proposed standard to allow the feeding of harvested grass and forage to grass fed animals. They stated that in northern climates, feeding of harvested grass and forage during winter months is often necessary to sustain animals in a healthy condition as well as in drought conditions. Another commenter stated that stored forages should be allowed, because in most regions of the country, cattle cannot graze during the entire calendar year, and there will be year round demand for locally produced grass fed, fresh products. This commenter stated that their customers in the winter would rather purchase products produced from grass fed animals fed stored forage than conventional meat and dairy products, if they have the choice. This commenter also stated that the use of hay and hay crop silage will be needed to provide feed when snow cover prevents livestock from grazing live or dormant pasture. Another commenter mentioned that the best stored forage is grass that is mechanically harvested before grain is formed and properly cured and stored to maintain as much "green" as possible and that silage did not meet the "green" criteria.

AMS also received numerous comments suggesting various supplements that should or should not be considered eligible to be included in the grass (forage) fed diet. Again, the comments received regarding supplements differed in that some

commenters stated that certain supplements should be allowed while others indicated that the supplements should not be allowed. Specific supplements mentioned to be excluded were processed or partially processed fruits, vegetables, rice, nuts or nut hulls, soybean meal and soy hulls, dried distillers grains, corn gluten feed, whole cottonseed, flax, beet pulp, citrus pulp, cottonseed meal, livestock minerals for proper immune function and general health, range cubes (75 percent ground alfalfa hay and 25 percent wheat and soybean meal, all organic certified), and wheat bran.

The commenters in support of feeding supplements stated that supplemental feeding of ruminants that are on a very high forage diet, whether on pasture or being fed stored forages during the pasture dormancy period, is essential practice for both profitability, water quality concerns, and is very important to balancing the ration given to the ruminant.

One commenter submitted that mineral and vitamin supplementation should not be routine, but only used when necessary for animal health purposes.

Agency Responses: Due to the diverse range and climate conditions across the United States, it is not practical to limit consumption to grass (forage) consumed by the animal only while pasturing and to restrict the use of harvested, stockpiled or stored forages. During periods of inclement weather or low forage quality, the welfare and nutritional needs of the animal must be taken into account. Allowing harvested or stockpiled forages will address the lack of readily available grass (forage) throughout the year. Accordingly, harvested forage without grain is allowed. AMS realizes that silage is a fermented vegetative product that has undergone significant chemical alteration and is not as "green" as other freshly chopped forages; however, restricting silage due to a "green" criterion is outside the scope of the standard. As stated previously in the document, language will be in the standard to exclude grain, specifically to exclude forage crops containing grain as eligible feed.

With regard to other supplements mentioned in the comments, AMS does agree that certain supplemental ingredients should not be allowed in the diet because they are not grass (forage). These ingredients include cereal grains, grain byproducts (starch and protein sources), cottonseed and cottonseed meal, soybean and soybean meal, non-protein nitrogen sources such as urea, and animal byproducts. By contrast,

roughage (e.g., cottonseed hulls, peanut hulls, and almond hulls), defined as any feed high in crude fiber and low in total digestible nutrients, on an air-dry basis, can be supplemented in a grass (forage)-based diet because it is low in nutrients and its bulk stimulates peristalsis. Further, AMS believes that mineral and vitamin supplements should be allowed so the animal's nutrient intake can be adjusted and that deficiencies in the diet can be corrected.

Related Production Issues Including Access to Pasture, Confinement, and Antibiotics and Hormones

Comments: Many of the comments received from both producers and consumers were explicit in that they want grass fed raising practices distinguished from conventional feeding practices. Commenters wrote that consumers of grass fed animal products reasonably expect that these animals are raised on pasture, in contrast to the feedlots and other confinement operations typical of conventional animal agriculture. Others specifically stated that they do not want the grass (forage) fed label to mean an animal has been confined for up to 220 days, fed corn silage, and administered antibiotics and growth hormones. Others requested for AMS to ensure that grass (forage) fed means range or pasture raised, not produced from a conventional confinement operation.

Many commenters also urged AMS to move quickly to develop the revised requirements for livestock labeling claims related to hormones, antibiotics, and pasture requirements. Commenters stated that the grass (forage) fed claim will only become truly effective when it comprehensively includes hormone, antibiotic, and free-range or pasture fed standards.

Another issue raised was that the proposed standard neglected to specify or require that animals be raised on pasture. Some commenters specifically stated the term grass (forage) fed is, and should continue to be, synonymous with animals having free access to pasture or rangeland. Many other commenters stated that grass (forage) fed should mean animals humanely raised in grass pastures from birth to harvest. Other commenters stated that the 99 percent provision was appropriate, but only in conjunction with the expectation that the bulk of an animal's nutrition will come from a live, green pasture where, according to season, the animal shall predominantly be raised.

Others commented that AMS should require that a significant amount of the grass in the animal's diet come from grass and forage consumed by animals

while pasturing. Other commenters stated that at the minimum, animals should graze during the growing season but for no less than 120 days per year. One commenter said that grass fed ruminants must graze pasture during the entire growing season and that exceptions to this provision should be limited to (1) emergencies that may threaten the safety and well being of the animals or soil; and, (2) management practices such as roundups, sorting, shipping, and weaning. This commenter also stated that the provisions should not be interpreted as to exclude high intensity rotational grazing systems.

Some of the commenters also stated that similar to the issue of pasture raised, the grass (forage) fed claim should also mean animals are not to be raised in confinement (e.g., feedlot). Some commenters suggested that grass fed animals should not be fed in confinement more than 20–30 days per calendar year, unless an emergency situation arises that poses a threat to the animal's health or well being (e.g., fire, flood, and blizzard). Some suggested allowable confinement conditions that include: times when animals are sorted, shipped, weaned, sold, and harvested, and periods of extreme, adverse weather such as flooding, drought, or blizzards.

Another production practice on which AMS received comments was the use of antibiotics and hormones. Some of the commenters stated that in their view the grass (forage) fed standard should restrict the use of antibiotics and hormones. However, other commenters discussed the complexities in completely restricting the use of antibiotics.

Agency Responses: In the May 12, 2006, **Federal Register** Notice (71 FR 27662), AMS determined that meat produced from animals which meet the minimum requirements for grass (forage) feeding should be eligible for the grass (forage) fed claim and additional production practices that go beyond a grass (forage) fed diet should not be incorporated in this standard. Additional labeling claims can be made in conjunction with the grass (forage) fed claim (e.g., free-range, no antibiotics or hormones administered) to highlight other production practices. AMS also has determined that animals must graze live pasture during the growing season as a requirement of the grass (forage) fed standard as it is inherent to the term grass (forage) fed. With regards to the issue of confinement and free-range, as stated in the May 12, 2006, **Federal Register** Notice (71 FR 27662), AMS recognizes the synergistic nature between grass feeding and free-range conditions; however, AMS has

determined it is preferable to keep the terminology separate and develop two distinct standards for both grass (forage) fed and free-range claims, particularly in view of possible distinctions in their diet. Similarly, AMS has determined it is preferable to keep the terminology separate for the use of antibiotics and hormones.

Verification, Compliance, and Labeling Issues

Comments: Several commenters stated that while the audit-based verification procedures (USDA Process Verified Program) utilized to substantiate label claims provides a high degree of assurance, the cost of compliance with these standards can be unduly burdensome for small and mid-sized producers and that all possible steps be taken to reduce the fee-based requirements for participating in this program.

One commenter stated that it was unfortunate that this program does not maintain any penalties for producers and handlers who utilize the grass (forage) fed label without participating in the USDA Process Verified Program. Another comment recommended that FSIS establish a new provision within the Meat and Poultry Inspection Regulations and the Meat and Poultry Inspection Manual, Directives and Notices that would limit the usage of the term "grass fed" only to labels in which the producer and handler of the product were approved participants under a USDA Process Verified Program for grass (forage) fed labeling.

Other commenters stated a transition period for producers should be allowed so that they may continue to sell products that claim to be produced from grass fed animals while protocols are updated, and new labels are approved by FSIS, printed, and applied to the product. Another commenter asked to see language added that will not allow producers to include the term "grass fed" in their company name unless they are selling product verified by AMS. They stated if this provision is not added ranches will just change their ranch name to include the word grass fed instead of going through the paperwork required of USDA Process Verified Programs.

One commenter objected to the voluntary program because their main plant is located in Argentina and would not be able to be included in the program, even though 99 percent of all animals and 100 percent of all bulls and cows are grass fed in Argentina. This commenter stated that this program discriminates against imported meat and meat products, and is an added cost

to the end user, as the costs to approve the meat would be passed on to the consumer.

Agency Responses: Relative to the cost of AMS audit-based verification services, every effort has been made to make these services available in the most cost-effective manner possible to all applicants. The cost of AMS' verification services is outside the scope of voluntary marketing claim standards.

In response to the issue of penalties for producers and handlers who utilize a grass (forage) fed label without participating in the USDA Process Verified Program, it should be noted that all label claims, including the ones verified by a USDA Process Verified Program, must be approved by FSIS, LPDD. FSIS, LPDD develops and implements regulations and policies to ensure that meat, poultry, and egg product labeling is truthful and non-misleading. Under FMIA and PPIA, the labels of products must be approved by the Secretary of Agriculture, who has delegated this authority to FSIS, before these products can enter commerce. Accordingly, all labeling issues and questions, including requiring a USDA Process Verified Program for approval of a grass (forage) fed claim, transition periods, and the use of grass fed in a company's name must be addressed by FSIS.

The purpose of voluntarily participating in a USDA Process Verified Program is to obtain AMS verification for specific practices so that a livestock or meat producer's products can be differentiated in the marketplace. Although producers and handlers may use an approved grass (forage) fed label without participating in a USDA QSVP, the use of any official certificate, memoranda, marks, or other identifications, and devices for purposes of the Agricultural Marketing Act without complying with the program requirements may result in either a fine, imprisonment, or both. Section 203(h) of the Agricultural Marketing Act of 1946 authorizes the imposition of fines, imprisonment, or both for anyone who knowingly falsifies any official certificate, memorandum, mark, or other identification, or device for making such mark or identification, with respect to inspection, class, grade, quality, size, quantity, or condition, issued or authorized pursuant to USDA QSVP.

Relative to foreign producers who want to market grass (forage) fed products in the United States, a cost-effective, voluntary program to substantiate label claims can be developed between USDA and the appropriate national-level counterpart in the producer's country provided

applicable FSIS regulatory approvals are in place.

Perceptions Associated With Grass (Forage) Fed Claim

Comments: Many commenters offered reasons for producing and consuming meat from grass fed animals. Commenters stated that as a consumer they wanted livestock raised in conditions that promote the animal's health and protect the environment, and in conditions that will produce meat products that contain the healthiest nutrients.

One commenter thought AMS should allow verifiable health claims, such as low fat, or future verifiable health claims, such as Conjugated Linoleic Acid (CLA) content. Another commenter also disagreed with any prohibition on any claims regarding levels of Omega-3 fatty acids and CLA in a specified serving of grass fed meat versus an identical serving of grain fed meat. These commenters stated that sufficient empirical scientific evidence now exists to clearly document the attributes of grass feeding in regard to Omega-3 fatty acids and CLA.

Several commenters suggested that while the exact benefits of increased CLA and the type and balance of Omega-3 fatty acids are still under evaluation, the possibility that meat derived from grass (forage) fed ruminants is better for consumers remains an open question. One commenter stated that they support AMS' position that requirements or characteristics beyond energy source (*i.e.*, level of CLA or Omega-3 fatty acids) should not be incorporated into the standard. This commenter stated that not all forages are equal in fatty acid composition and feeding different types of forages to different types of cattle across the country can result in differing concentrations of CLA and Omega-3 fatty acids in the final product. They agreed grass fed beef can contain significantly higher levels of these compounds than grain fed beef; however, they stated that the industry lacks evidence to suggest that these higher levels create a meaningful health benefit for humans and agreed that this issue warrants further investigation based on sound science.

Agency Responses: It will be up to the producer to make additional distinctions in their meat products beyond the grass (forage) fed claim. Further, it is up to an individual consumer to determine their reason for eating meat from animals fed grass (forage). Reasons consumers list for consuming meat from grass fed animals differ widely and such standards would

be based on those various perceptions. However, this issue is not within the scope of this marketing claim standard. Nutritional issues on labels are more appropriately addressed through the FSIS, LPDD label approval process.

Additional Issues Raised

Comments: Some commenters also requested that the use of genetically engineered plants and forage be prohibited and that specifically the grass (forage) fed label should ensure the grass or forage used as feed not be sourced from pasture or harvested from grasses using genetically engineered varieties of alfalfa, Bahia grass, tall fescue, Italian ryegrass or other such grasses.

Several comments supported that the standard covers all ruminants, including cattle, goats, and sheep. However, multiple commenters requested that the standard be written so as to clearly indicate that dairy products derived from livestock meeting the grass (forage) fed standard can be marketed using grass (forage) fed claims. One commenter specifically proposed that the grass (forage) fed claim be applied to all ruminant animal products including meat, meat products, milk, milk products, animal fiber, and animal fiber products. Another commenter asked that the standard address the reality of what a grass fed chicken or a grass fed pig will eat.

One commenter also suggested that a standardized spelling of grass fed be determined to minimize confusion among producers, marketers, consumers, and industry organizations.

Agency Responses: At this time, a requirement prohibiting the use of genetically engineered plants is not included due to the lack of research showing effects on animals consuming genetically engineered plants. Further, this voluntary standard applies only to meat products from ruminants. Milk, milk products, animal fiber, and animal fiber products are determined to be outside the scope of this standard. AMS does agree a standardized spelling of grass fed would minimize confusion and has applied a standardized spelling to the standard.

Accordingly, AMS establishes the following voluntary U.S. Standard for Livestock and Meat Marketing Claims, in this notice.

U.S. Standards for Livestock and Meat Marketing Claims, Grass (Forage) Fed Claim for Ruminant Livestock and the Meat Products Derived From Such Livestock.

Background: This claim applies to ruminant animals and the meat and

meat products derived from such animals whose diet, throughout their lifespan, with the exception of milk (or milk replacer) consumed prior to weaning, is solely derived from forage, which for the purpose of this claim, is any edible herbaceous plant material that can be grazed or harvested for feeding, with the exception of grain. Forage-based diets can be derived from grass (annual and perennial), forbs (e.g., legumes, *Brassica*), and browse.

Animals cannot be fed grain or grain byproducts and must have continuous access to pasture during the growing season. Growing season is defined as the time period extending from the average date of the last frost in spring to the average date of the first frost in the fall in the local area of production. Hay, haylage, baleage, silage, crop residue without grain, and other roughage sources also may be included as acceptable feed sources. Consumption of seeds naturally attached to forage is acceptable. However, crops normally harvested for grain (including but not limited to corn, soybean, rice, wheat, and oats) are only eligible feed if they are foraged or harvested in the vegetative state (pre-grain).

Upon request, verification of this claim will be accomplished through an audit of the production process. The producer must be able to verify for AMS that the grass (forage) marketing claim standard requirements are being met through a detailed documented quality management system.

Claim and Standard

Grass (Forage) Fed—Grass and forage shall be the feed source consumed for the lifetime of the ruminant animal, with the exception of milk consumed prior to weaning. The diet shall be derived solely from forage consisting of grass (annual and perennial), forbs (e.g., legumes, *Brassica*), browse, or cereal grain crops in the vegetative (pre-grain) state. Animals cannot be fed grain or grain byproducts and must have continuous access to pasture during the growing season. Hay, haylage, baleage, silage, crop residue without grain, and other roughage sources may also be included as acceptable feed sources. Routine mineral and vitamin supplementation may also be included in the feeding regimen. If incidental supplementation occurs due to inadvertent exposure to non-forage feedstuffs or to ensure the animal's well being at all times during adverse environmental or physical conditions, the producer must fully document (e.g., receipts, ingredients, and tear tags) the supplementation that occurs including

the amount, the frequency, and the supplements provided.

Authority: 7 U.S.C. 1621–1627.

Dated: October 10, 2007.

Lloyd C. Day,

Administrator, Agricultural Marketing Service.

[FR Doc. E7–20328 Filed 10–15–07; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Forest Service

Bridger-Teton National Forest, Greys River Ranger District, Wyoming. Upper Greys Vegetation Treatment

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The analysis area of 11,855 acres is located in the Upper Greys River watershed on the Greys River Ranger District of the Bridger-Teton National Forest. It is approximately 20 miles southeast of Afton, Wyoming on the west slope of the Wyoming Range. All lands within the 11,855 acre analysis area are National Forest System lands, within Lincoln County, Wyoming. The legal description includes portions of: T30N, R116W and T29N, R116W.

DATES: Comments concerning the scope of the analysis must be received by November 15, 2007. The draft environmental impact statement is expected in February 2008 and the final environmental impact statement is expected in April 2008.

ADDRESSES: Send written comments to: District Ranger, Greys River Ranger District, P.O. Box 339, Afton, Wyoming. For further information, mail correspondence to: mailroom_r4_bridger_teton@fs.fed.us and on the subject line put only “Upper Greys River Vegetation Treatment.”

FOR FURTHER INFORMATION CONTACT: District Ranger, Greys River Ranger District, P.O. Box 339, 641 N. Washington St., Afton, Wyoming 83110, or phone (307) 886–5310.

SUPPLEMENTARY INFORMATION:

Purpose and Need for Action

The purpose of the proposed action is to attain desired vegetation conditions including increased diversity of tree age and size classes, improve the health and vigor of some mature timber stands and reduce the risk of stand replacing fire. It further reduces soil erosion and sedimentation from existing sources. A stand replacing fire is highly likely in

this area due to dense, mature forests with an abundance of down dead and ladder fuels and would be apt to change the area from mature forest to grasses and forbs, damage existing seedlings, saplings and young forest. The loss of vegetation would also create conditions conducive to excess soil erosion over the landscape. The Bridger-Teton National Forest Land and Resource Management Plan (LRMP) and the 2004 Greys River Landscape Scale Assessment (LSA) have both identified opportunities for vegetation treatments to help improve resource conditions. The LSA found that the lodgepole pine vegetation in the Greys River falls outside the range of properly functioning condition and identified an opportunity to treat over 7,000 acres by 2010.

Alternative 1—Proposed Action

This proposal was developed primarily to help achieve desired conditions described in the LSA while responding to issues from previous public scoping, changes in resource demand, and recently identified resource issues. It is designed to improve Forest resource conditions as identified in the LSA.

The proposal is to treat approximately 591 acres and reduce existing sediment sources within the 11,855 acre analysis area which lies in the upper Greys River drainage. The proposed action would take place from approximately 2008 through 2011 and would include:

1. Commercial harvest of approximately 591 acres of mixed conifer timber.
 - Approximately 436 acres would be treated using a clearcutting silvicultural system.
 - Approximately 155 acres would be treated using a selection silvicultural system to remove dead and dying trees, low vigor trees, or small groups of trees less than 2 acres in size, while retaining 40 to 70% of healthy trees in the stand.
 - Approximately 4.5 miles of temporary road would be constructed and then closed and rehabilitated after use. These would be mostly short spurs to access log landing areas off the main roads. Approximately 1.5 miles of existing closed roads would be used for timber hauling and closed and rehabilitated after use.

2. Identifying segments of existing logging roads and trails, including all culverts and creek crossings, that have the potential to erode, particularly those segments that are delivering, or have the potential to deliver, sediment to stream channels and other water bodies. Restore identified areas to *Elimination Class 3 and 4* (as defined in the Forest