



Sanderson Farms, Inc.

GENERAL OFFICES
Post Office Box 988 • Laurel, Mississippi 39441-0988
Telephone (601) 649-4030 • Facsimile (601) 426-1361

LAMPKIN BUTTS
President
Chief Operating Officer

March 2, 2007

FSIS Docket Room
Docket Clerk
U.S. Department of Agriculture
Food Safety and Inspection Service
300 12th Street SW, Room 102 Cotton Annex
Washington, DC 20250

**Re: Docket No. 2006-0040; Product Labeling: Definition of the Term
“Natural”; 71 Fed. Reg. 70503 (Dec. 5, 2006); Comment**

Dear Sir or Madam:

Sanderson Farms welcomes the opportunity to expand upon its remarks provided at the December 2006 public meeting held in Washington, D.C. We are pleased that the Food Safety and Inspection Service (FSIS) has identified the importance of regulating use of the term “natural” in a fashion that is informative and useful to consumers. In the fresh poultry category, immediate action by the agency is necessary to accomplish this important consumer protection goal.

In recent years, our company and other poultry processors have widely used “Natural” and “100% Natural” claims to readily identify single-ingredient chicken, as distinguished from enhanced products that contain many added ingredients. In 2006, FSIS apparently approved labels bearing a “natural” claim for some multi-ingredient, enhanced poultry products, inadvertently creating consumer confusion as to the meaning of “natural” in this discrete product category. It is incumbent upon FSIS to take immediate and decisive action to address and rectify improper use of “natural” claims in connection with enhanced poultry products. In the context of fresh poultry such claims serve only to confuse and mislead consumers.

Sanderson Farms has long distinguished itself by offering consumers 100% natural poultry products that contain a single ingredient: chicken. We employ 8800 people and value our relationship with 600 independent growers. We

produce over 2 billion pounds of poultry annually and pride ourselves on offering consumers a vanishing but still valued product: single-ingredient, case-ready-raw, fresh poultry. "Natural" has a specific meaning in the fresh poultry category that we urge FSIS to recognize and uphold.

I. INTRODUCTION AND EXECUTIVE SUMMARY

For many years Sanderson Farms and others in our industry have touted "natural" and "100% natural" claims as a short-hand for single-ingredient poultry products. Others may see the value of adding broth solutions that include salt, phosphates, carrageenan and other additives, but these so-called enhanced products are not what we know consumers envision when they see a "100% natural" claim on the label of a raw poultry product.

We are encouraged by the agency's recent Notice affirming that "natural" is an important claim. Great care must be taken to ensure that meat and poultry labels bearing the USDA mark of inspection use the "natural" term in a manner that is consistent, truthful and not misleading. Sanderson Farms is alarmed by an apparent shift in FSIS policy such that multi-ingredient, enhanced poultry products bear prominent "natural" claims. We think this practice is wrong for the simple reason that it misleads consumers.

How do we know that enhanced products marketed as "natural" mislead consumers? We asked them. We have shared our proprietary consumer research with agency officials and are disappointed that to-date FSIS has not taken any action with respect to the growing number of misleading fresh poultry labels that tout "natural" notwithstanding that they contain far more than poultry.

The Notice, the industry petition and the December 2006 public meeting focused primarily on the narrow issue of sodium lactate and the meaning of "natural" products in the deli meats category. Sanderson believes that any review of the "natural" policy must take into account the many different ways that the term is used. In turn, FSIS must fashion a policy that takes account of, and protects, consumer expectations that reasonably will vary depending on the product, the product category and the context of the specific label.

In the case of raw, fresh poultry, "natural" means single-ingredient poultry, plain and simple. "Natural" claims that describe multi-ingredient fresh poultry are misleading because consumers believe "natural" means single-ingredient. Consumers will unwittingly purchase products labeled natural that do not meet this expectation. Those consumers who seek to moderate their sodium

intake will consume substantially more sodium due to the added ingredients found only in enhanced products.

Sanderson Farms views notice-and-comment rulemaking as unnecessary. FSIS has long relied upon policy memos and other informal policies. Most importantly, we are greatly concerned that completion of rulemaking will take several years. The unfounded practice of approving “natural” and “100% Natural” claims for fresh poultry that contains added ingredients must be rectified immediately. By limiting “natural” to single-ingredient poultry products the agency ensures the term is properly used in the fresh poultry category.

Should FSIS determine that rulemaking is necessary, we ask that this comment be treated as a petition by the agency and request that a regulation be issued consistent with our comment. In addition, we request that the agency also adopt an interim policy that restricts “natural” claims in the fresh poultry category to single-ingredient poultry. Failure to act now will only perpetuate the relatively recent but growing confusion among consumers who rely on the “natural” claim to select single-ingredient fresh poultry products.

II. “NATURAL” SHOULD NOT BE PERMITTED TO DESCRIBE MULTI-INGREDIENT FRESH POULTRY

A. “Natural” Policy Must Protect Consumer Expectations

The fresh poultry category has a long history whereby consumers have ready access to fresh, high quality, affordable, nutritious poultry products. The efficiency and ingenuity of our industry has enabled consumers to purchase at the supermarket in case-ready packaging the same fresh poultry that was once only available from the neighborhood butcher. Before, fresh poultry came from your farm or a neighboring farmer. Over the past many decades fresh poultry, no matter the form purchased or location, delivered to consumers exactly what they expected – chicken, and only chicken.

Advances in food technology, a greater diversity in how poultry might be used and other cost and quality issues led some processors to make use of added ingredients in formulating fresh poultry. These enhanced products look the same in comparison to the traditional single-ingredient poultry found in the same display case. Some consumers prefer the enhanced product while others may not even recognize a difference. Sanderson Farms and others in our industry are committed to offering consumers real chicken and just chicken. Our single-ingredient poultry epitomizes “natural” poultry – it contains no added ingredients. The role of

government is only to ensure accurate information from which such decisions are made.

There are material differences between enhanced and single-ingredient products. Claims such as “100% Natural” and “natural” have come to be associated with only one of the two fresh poultry choices – single ingredient poultry. FSIS must frame its policy in a fashion that serves, not undermines, this consumer expectation arising in the fresh poultry category. Failure to do so in the short-term creates consumer confusion and deception. At some point “natural” will become meaningless in the fresh poultry aisle of the supermarket and no regulation or enforcement policy will undo the loss of consumer confidence in “natural” claims on the labels of fresh poultry.

B. Empirical Data Dictates Policy Restricting “Natural” to Single Ingredient Poultry

Federal agencies traditionally enjoy wide latitude in fashioning regulatory policies designed to serve and protect consumers. In the vast majority of cases FSIS is called upon to regulate claims based on its best estimation of the expectations of a reasonable consumer. Ideally, FSIS and FDA would have the luxury of conducting consumer research to gauge consumer understanding and expectations in connection with a given claim. In most instances this is not practical or affordable. Where such information does exist, FSIS is compelled to fashion its policies accordingly.

Sanderson Farm’s conviction that “natural” is deceptive on the label of a multi-ingredient fresh poultry product is based on our long history and familiarity with consumers’ expectations. Indeed, the Company’s commitment to make prominent use of “natural” to market its single-ingredient poultry products reflects our knowledge that this term has meaning to consumers when used in this context. Other poultry processors have made similar use of this term to identify single-ingredient fresh poultry. More recently, a handful of firms extended the use of “natural” claims to enhanced products which contain many added ingredients that consumers would not expect or associate with natural, fresh poultry.

In evaluating consumer understanding it is also important to consider the history and common practice within a product category. Although enhanced products have been in the market for some time, this multi-ingredient poultry is a very small fraction of the retail fresh poultry category. These “enhanced” or “marinated” products were made with phosphates or high levels of salt. It is only in the past few years that there has been a marked shift to enhanced products.

The new, “natural” version of enhanced products contains ingredients such as sea salt and carrageenan in place of phosphates. Common consumer experience suggests that when one encounters fresh poultry at the supermarket, most consumers will understandably assume they are selecting from single-ingredient chicken. This expectation is reinforced by the obvious difference in appearance of other multi-ingredient poultry where BBQ sauce, curry marinade and breading that are added are readily apparent to the consumer. There is no ability to distinguish single-ingredient from enhanced poultry that does not outwardly manifest its differences.

Beyond the inherent consumer protection imperative to ensure that “natural” claims are not allowed on enhanced product labels, Sanderson is also concerned about sodium intake. Fresh poultry naturally contains very low levels of sodium. Consumers concerned about moderating their intake of sodium would not expect fresh, natural poultry to contain added sodium. By allowing “natural” enhanced poultry products, FSIS unwittingly creates a situation where the unsuspecting consumer’s ability to moderate sodium intake is undermined because one expects no added ingredients.

Prominent use of “natural” to describe single-ingredient fresh poultry by Sanderson and others has reinforced the meaning of this term. “Natural” means there is nothing added to the fresh poultry – it comes from nature, not marinated, tumbled, injected, or with added salt and seaweed. Given the gold-standard of empirical consumer opinion research, Sanderson Farms commissioned an independent study to measure consumer expectations. The results are compelling – the vast majority of consumers report that they view added ingredients to be directly in conflict with a fresh poultry product that bears a “natural” claim.

III. CONSUMER RESEARCH DEMONSTRATES CONSUMER EXPECTATIONS IN FRESH POULTRY CATEGORY

In the Summer of 2006 Sanderson fielded a consumer research study employing an expert, independent consumer research firm (the Survey). The results and methodology of the study have been shared with the agency. The Survey confirms that consumers are misled by “100% Natural” and other “natural” claims on multi-ingredient fresh poultry. For example, 91% of respondents agreed with the statement that “100% Natural” or “All Natural” chicken would not contain any added ingredients. The surveys we have done since 2002, following a well-established, valid methodology, measured the general consumer perceptions of 4961 consumers.

The Survey results yield many valuable and important insights into consumer understanding of “natural” claims in the fresh poultry category. The results also hold important implications for FSIS and underscore the need for prompt agency action to reestablish the meaningfulness of “natural” in our product category.

First, even among consumers that read labels, the ability to distinguish between single-ingredient and enhanced, multi-ingredient products is not readily apparent. At the same time, a substantial number of consumers would not purchase fresh poultry products if they realized that the product contained added ingredients.

- Most consumers report that they read food labels which in turn influence their purchase decisions. At the same time, while 74% of consumers claim that they usually or always read both the large and small print on fresh poultry labels, 32% did not know whether the fresh poultry they purchase contains added broth or other ingredients.
- 1 in 5 (20%) people reported that they only read the large print claims on the food label. This finding is consistent with our experience that consumers rely upon the front panel, prominent claims in making purchasing decisions.
- Nearly 50% of respondents stated that they would not continue purchasing their present brand of poultry if they learned it contained added broth and/or other ingredients. Only 1 in 5 consumers stated they would continue to purchase their regular brand of chicken if they learned it did contain added broth or other ingredients.

As noted, 9 in 10 consumers agreed that fresh chicken labeled “natural” should not contain any added ingredients. The Survey probed further by showing consumers a label for enhanced, “natural” products found on store shelves, omitting only the brand name. When consumers were shown the generic label of a fresh poultry product bearing a “100% Natural” claim that contained 15% added broth solution, salt, phosphates, and/or carrageenan, only 25% found such a labeling practice acceptable.

Consumer expectations validate the conflict arising when a multi-ingredient fresh poultry product bears a “natural” claim. In connection with sodium lactate, it is our understanding that FSIS has notified companies of plans to

revoke labels already approved with “natural” claims. We believe the natural labels approved on fresh poultry which are enhanced should also be revoked. We firmly believe that it is incumbent upon FSIS to move swiftly to rectify the inadvertent confusion created by allowing “natural” claims for enhanced products when consumers expect such products to contain no added ingredients. Specifically, the relevant label approvals should be revoked, providing affected companies a reasonable amount of time to use up current label inventories.

IV. FSIS NATURAL POLICY MUST ENSURE AGAINST CONSUMER CONFUSION

Sanderson and a few others have distinguished their products as being single-ingredient fresh poultry and have prominently used the “Natural” and “100% Natural” claims to convey this valuable product attribute. These terms have no meaning if they are used indiscriminately on the label of a multi-ingredient fresh poultry product.

FSIS should not, and cannot, allow misleading claims irrespective of other information that may appear on the label. We question whether a “% solution added” statement and the ingredient statement are sufficient to inform the consumer that they are not purchasing a “natural,” single-ingredient fresh poultry product. In reference to our consumer research, even consumers that regularly read labels report that they do not know if they purchased an enhanced versus single-ingredient poultry product. Moreover, because enhanced poultry conflicts with consumer perceptions regarding “natural” the label is inherently confusing. A misleading claim is not somehow acceptable because a careful consumer can ascertain that the claim is actually false. This confusion and potential for deception presently exists in the fresh poultry category. It is vital that FSIS act to protect consumers by only allowing “natural” claims on the label of single-ingredient fresh poultry products.

V. CONCLUSION

Sanderson Farms is committed to offering consumers the choice of fresh poultry with no added ingredients. It has relied on the prominent use of “100% natural” claims to communicate this product benefit. Other poultry processors have followed a similar path. For many years there was no potential for consumer confusion because enhanced poultry did not bear “natural” label claims. Consumers were well-served by a marketplace that did not misrepresent “natural” fresh poultry for products with added ingredients.

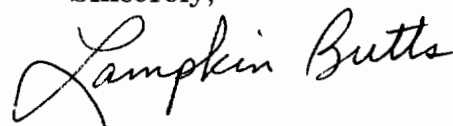
FSIS Docket Room
Docket Clerk
March 2, 2007
Page 8

Consumers are free to choose between natural, single-ingredient versus enhanced poultry. It is not the role of FSIS to favor one type of poultry over the other. It is incumbent on FSIS, however, to apply its "natural" policy in a manner that allows consumers to readily distinguish between the two very different choices. Enhanced products will look the same to even the most savvy consumer, but they are, of course, not the same. FSIS must repeal those label approvals to ensure that use of the term "natural" in the fresh poultry category assists consumers in clearly distinguishing "natural," fresh, single-ingredient poultry from enhanced poultry. The well-informed consumer, unhindered by deceptive "natural" claims, is then able to make an informed purchasing decision among the many choices offered in the poultry category. Under any definition of the term, "natural" chicken does not contain salt, phosphates, sea salt, preservatives, carrageenan, nor is it pumped with up to 15% "solution" and other ingredients.

* * *

Sanderson Farms urges immediate action by the agency to rectify the current inconsistent and misleading use of "natural" on a multi-ingredient fresh poultry product. We look forward to the agency's response to this comment. Please contact me if any further information would be useful to the agency in considering our request.

Sincerely,



Lampkin Butts
President & Chief Operating Officer