



# National Bison Association

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## *Bison Issues Overview, September 2019*

### **Generic FSIS Labeling of Nonamenable Meat**

#### **Background**

Processors of beef, pork, poultry and other amenable species products can make minor label changes quickly through a process that USDA's Food Safety and Inspection Service categorizes as "generic approval status." All materials that fall within this category are directly authorized for use without the need for submitting changes to FSIS for review and approval prior to their use.

FSIS has steadily expanded those categories of labeling materials that qualify for generic approval status. This concept has been expanded and now applies to all labeling materials that do not make specialized claims that are not presently clearly defined by FSIS.

The goal of the generic approval status procedure is to free establishments inspected by FSIS from unnecessary paperwork and the delays associated with the review process, while also freeing up agency resources for more targeted review of materials that are potentially false or misleading.

Unfortunately, FSIS' interpretation of its regulatory authority is that the generic program does not apply to labeling of bison products and other nonamenable species. Processors of nonamenable species products are at a competitive disadvantage as they suffer significant delays between submission and approval that processors subject to mandatory inspection can easily avoid.

#### **National Bison Association Proposed Solution**

The National Bison Association believes that this inequity can be corrected through a simple amendment to the current regulation regarding generic approval. The association will be filing a petition to amend 9 CFR §412.2. The proposed amendment is included as underlined text below:

##### **§412.2 Approval of generic labels.**

(a)(I) An official establishment, or an establishment certified under a foreign inspection system in accordance with part 327, or part 381, subpart T of this chapter, or an establishment receiving voluntary inspection services in accordance with 9 CFR Part 352, is authorized to use generically approved labels, as defined in paragraph (b) of this section, and this is free to use such labels without submitting them to the Food Safety and Inspection Service for approval, provided the label, in accordance with this section, displays all mandatory features in a prominent manner in compliance with part 317 or part 381, and is not otherwise false or misleading in any particular.

#### **Getting this Accomplished**

Rulemakings normally require an extensive process that includes a Notice of Advanced Rulemaking, development of the proposed rule, publishing for public comment, and then revising following those comments. This procedure normally takes years to complete.

Fortunately, the agency has an option for issuing a "direct final rule" for issues that are deemed "Interpretive rules, general statements of policy, or rules of agency organization, procedure or practice." Our petition requests that this amendment be implemented under the direct final rule process. If this is accepted, the direct final rule could be issued with a 30-day waiting period prior to implementation.