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Docket Clerk  
U.S. Department of Agriculture  
Food Safety and Inspection Service  
1400 Independence Ave. SW  
Washington, DC 20250

(Submitted via regulations.gov)

RE: FSIS-2022-0015-0001 – Voluntary Labeling of Regulated Product with United States-Origin Claims

The National Turkey Federation (NTF) represents all segments of the U.S. turkey industry, including growers, processors, breeders, hatchery owners and allied companies. NTF members account for more than 95 percent of all turkey production in this country, and NTF is the only national trade association representing the turkey industry exclusively.

NTF is supportive of labeling that is informative, fair and consistent, however, we have significant concerns associated with the proposed rule, “Voluntary Labeling of FSIS-Regulated Products with U.S.-Origin Claims,” which would implement new requirements for the “Product of the USA” label on FSIS regulated products. NTF opposes the current proposal because it does not consider a key feature of turkey production – the industry practice of shipping some eggs and day-old poults into the U.S. from Canada, along with Europe, South America and other locations, to be raised and slaughtered in the U.S. In an effort to address aspects of the current labeling policy that may be too lenient and cause consumer confusion, the agency has crafted a proposal that is overly restrictive and that may put family turkey farmers and smaller processors at a significant disadvantage. To assert that turkeys raised on U.S. farms – since they are day-old poults – and subsequently slaughtered and processed in U.S. establishments are not a “Product of USA” would be misleading to consumers and prevent turkey producers from telling the truth about their products.

**“Product of USA” or “Made in USA” label should be permitted on products derived from turkeys shipped from other countries as eggs or day-old poults.** To ensure an adequate supply of turkeys, U.S. turkey producers routinely purchase eggs or day-old poults from hatcheries or multipliers in Canada and other countries. The animals then are raised, slaughtered and processed in the United States. As we will detail later in these comments, these eggs and day-old poults play an important role in ensuring competitive opportunity throughout the turkey industry. *(Note: The issues raised in these comments apply to all eggs or day-old poults shipped into the U.S., regardless of the location from which they are shipped. Because of Canada’s proximity to the United States and the volume of eggs and day-old poults shipped from there, these comments may focus on Canadian shipments more frequently.)*

At any realistic age of processing, a turkey raised from a day-old poult that was shipped from Canada (or another location) would have spent more than 98 percent of its life in the United States before slaughter. NTF believes any reasonable person would agree that a turkey that has lived all but one day of its life in the U.S. should be eligible for the “Product of the USA” labels. NTF recognizes that the rule provides for qualified labels, but it would be extremely difficult to craft a non-cumbersome qualified label to explain the nature of an egg or day-old poult shipped from Canada or any other country.

“Substantial transformation” is the general standard for determining a product’s country-of-origin under the Tariff Act of 1930 as well as our trading partners’ analogous laws. Slaughtering a live bird and fabricating its carcass into cuts of turkey, feathers, and offal is inarguably the most substantial transformation a turkey will undergo. If FSIS hewed to the standards applicable to other U.S.-origin products, birds slaughtered and processed in the U.S. would be considered “Product of USA” regardless of where they were raised.

NTF understands that FSIS desires to take a stricter approach than the general “substantial transformation” standard for the products it regulates. However, FSIS’ approach should accommodate longstanding practices in the turkey industry.

As such, NTF recommends the proposed rule be amended either to specifically allow the labels to be used on a turkey raised from an egg or poult shipped into the U.S. less than 48 hours after hatching, provided the turkey lived the remainder of its life in the U.S. and is slaughtered, processed and packaged domestically. Alternatively, the rule could be amended to apply to a turkey (or presumably any other animal) that lives more than 95 percent of its life in the U.S. and is slaughtered, processed and packaged here. Further, as you consider how to monitor compliance, we urge the agency to utilize shipping documents already utilized in these transactions as proof of compliance and to avoid duplicative recordkeeping requirements.

**Practices specific to turkey production do not appear to have been considered in drafting the proposed rule.** In the preamble to the proposal, the agency notes that it received three petitions related to this issue. None of the petitions were from organizations familiar with turkey (or other poultry) production. Nor did they assert that consumers are confused over “Product of USA” claims on turkey products.

The proposal also notes that FSIS commissioned a consumer survey from RTI International. The survey specifically questioned adults responsible for purchasing groceries “who had purchased beef or pork in the last six months.” The survey appears to have completely excluded poultry products, which is curious because the proposed rule is intended “to apply to all products subject FSIS mandatory inspection or eligible for voluntary services provided by the agency.”

This background creates a strong impression that turkey production practices (or those of any type of poultry) were not studied in any detail or given significant consideration in drafting the proposed rule.

**The proposal may run counter some of the goals of Executive Order 14036, “Promoting Competition in the American Economy.”** FSIS notes that this proposal is part of the direction given to USDA in Section 5(i) of Executive Order 14036. The same section also directs the Secretary to take other actions to ensure family farmers are not at a competitive disadvantage. This proposal is not consistent with all the goals of Section 5(i).

While the overall volume of eggs and day-old poults shipped from Canada and other countries account for a relatively small minority of the turkeys raised in this country, they play an important role for a critical segment of the industry. The primary reason eggs and day-old poults from Canada and other countries are needed is to ensure that processors and growers of all sizes and market strengths have access to turkeys. Companies that supply these eggs and poults have indicated they are important in ensuring producers of all sizes have access to turkeys. For example, family farmers and grower-owned cooperatives in the Upper Midwest rely on eggs and day-old poults from Canada.

It is important to remember that the ultimate burden of the labeling requirement will fall on the final processor of the turkey meat, as they are the ones responsible for ensuring the finished product properly labeled. Accordingly, processing establishments near international borders may experience additional operational challenges posed by the proposed rule, as any animals originating from outside the U.S. must be completely segregated from FSIS products bearing the “Product of the USA” or “Made in the USA” claim. This could result in further costs to modify establishments to comply with regulatory requirements in the form of investments in additional cold storage and separating product lines. The proposal, as written, would deny smaller producers the opportunity to utilize “Product of USA” or “Made in the USA” labels, and at best they would have the ability to make a qualified claim that would be convoluted and cumbersome. Either outcome could leave these producers at a competitive disadvantage.

While the lack of understanding about turkey production practices is a very significant issue for the turkey industry, NTF has additional concerns about the rule.

**The proposed rule provides inconsistent labeling for consumers and will lead to further confusion for consumers.** FSIS has failed to consult with the U.S. Food and Drug Administration (FDA) on this proposed rule. We believe extensive changes to labeling, such as the ones included in the proposed rule, should be proposed in combination with both food regulatory agencies agreeing on consistent regulatory expectations for the entire food industry. By proposing this rule independently, FSIS is promoting an unfair marketplace within the food industry with a higher burden placed on FSIS-regulated establishments. This is likely unintended by the agency but will be the reality if this rule is finalized. These requirements also will likely lead to confusion for multi-ingredient products. Consumers will assume all food products are held to the same standard for the label claim. We strongly believe this proposed rule is promoting unnecessary confusion to the consumer and in fact the exact opposite of the objective FSIS is trying to achieve.

**The proposed rule may impact the food supply for federal food programs.** We urge FSIS to consider the potential impact this proposed rule could have on what product types and the amount

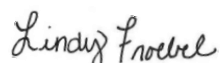
of food products would be eligible and available for federal food programs. For example, as detailed in the Buy American Provision in the National School Lunch Program, school food authorities are required to purchase, to the maximum extent practicable, domestic commodities or products. Although this proposed rule does not directly dictate the specifications for such federal food programs, it is probable that programs may adopt the new voluntary claims as mandated specification requirements.

**The proposed rule does not explicitly address “Product of USA” labeling for products intended for export.** FSIS should clarify that products intended for export are not subject to the proposed “Product of USA” label requirements and develop a process and exceptions from the export process. NTF’s members regularly export products to countries that have their own regulatory requirements and expectations for country-of-origin claims for turkey products that U.S. companies must adhere to in order to sustain export business. Currently in the Export Library there are importing countries that require the phrase “Product of USA” on product labels pursuant to each countries labeling requirements that are not identical to the proposed rule’s definition of “Product of USA.” These importing nations do not require product to be derived from animals that were born, raised, slaughtered and processed in the United States as written in the proposed rule. Requiring establishments to meet the proposed rule for the exported product could pose a challenge for companies slaughtering and processing turkeys that are destined for export if the birds were not hatched in the U.S., could unnecessarily increase costs and potentially put U.S. turkey products at a competitive disadvantage to products from other countries. In addition, we urge FSIS to consider what process can be implemented for any returned export product or product that must be rerouted to domestic locations before being exported that may have “Product of USA” export requirements, so that the product can be sold domestically to minimize food waste.

**Additional clarification is needed related to the proposed “Product of USA” or “Made in USA” claim regulations.** FSIS extensively outlines that spices and herbs are exempt from meeting the origin requirements for products with the claim “Product of the USA” or “Made in the USA”. However, it is unclear how FSIS would consider enzymes that may have originated outside the U.S.

Reasonable people could make the case that the agency needs to make substantial changes to its current policy regarding these labels to avoid confusing consumers. Though they unfortunately never were surveyed on the subject, NTF strongly believes consumers would consider the turkey industry’s use of imported eggs and day-old poults to be consistent with a “Product of USA” or “Made in the USA” label. We respectfully urge FSIS to address this oversight in the final rule, and we appreciate your consideration of our other concerns with the proposed rule.

Respectfully submitted,



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