



June 10, 2023

Ms. Rachel Edelstein  
Assistant Administrator – Office of Policy and Program Development  
Food Safety and Inspection Service  
United States Department of Agriculture  
Jamie L. Whitten Building – Room 350-E  
1400 Independence Avenue, SW  
Washington, DC 20250

**Voluntary Labeling of FSIS-Regulated Products With U.S.-Origin Claims  
Docket No. FSIS-2022-0015**

*Submitted electronically via regulations.gov*

Dear Ms. Edelstein:

FMI – the Food Industry Association appreciates the opportunity to submit comments in response to USDA’s Food Safety and Inspection Service (FSIS) proposed rule on *Voluntary Labeling of FSIS-Regulated Products with U.S.-Origin Claims*. FMI respectfully encourages FSIS to consider several modifications and clarifications to the proposed rule – set forth below – to avoid confusion around the voluntary claims of “Product of the USA” and “Made in the USA” within the supply chain and streamline the implementation process.

As the Food Industry Association, FMI works with and on behalf of the entire industry to advance a safer, healthier, and more efficient consumer food supply chain. FMI brings together a wide range of members across the value chain—from retailers that sell to consumers, to producers that supply food and other products, as well as the wide variety of companies providing critical services—to amplify the collective work of the industry.

FSIS requested information in the rulemaking about potential benefits of the proposed changes. There have long been widely disparate claims about the economic benefits of country-of-origin labeling (COOL) for producers, retailers, and consumers and whether this information drives purchasing decisions. Many of these claims were made in context of the push for mandatory COOL, which Congress instituted but subsequently repealed for beef and pork in 2015. USDA’s own examination of the program cited its regulatory analyses of the meat COOL rulemakings and found that:

*In terms of consumers, USDA’s regulatory impact analyses concluded that while there is evidence of consumer interest in COOL information, measurable economic benefits from mandatory COOL would be small. USDA’s regulatory impact analyses also found little evidence that consumers would be likely to increase their purchases of food items bearing U.S.-origin labels.<sup>1</sup>*

This same report goes on to cite a USDA-funded study by outside economists that found, “while there is evidence indicating consumer interest in COOL information, the evidence does not support a conclusion that COOL significantly increases consumer demand.”<sup>2</sup> Based on this past experience, it seems unlikely that the changes proposed by the Department – though admittedly in a slightly different category than meat COOL– will yield significant economic benefits to producers or retailers.

Allowing for what will likely be limited quantifiable economic benefits, the proposed changes in the rule are unlikely to be disruptive to current supply chain structures or unduly expensive to implement (especially since these represent largely voluntary claims being made on the label). One caveat to this conclusion is if producers and processors take steps, e.g., segregating animals, to be able to continue to use the “Product of the USA” claim, rather than just re-labeling to use a qualified claim. The costs of the change under such circumstances could prove to be more expensive than estimated. However, considering the current inflationary environment and supply chain realities a large-scale move in this direction seems questionable.

It is unlikely that many consumers grasp the highly integrated supply chains (including between Mexico, the United States, and Canada) for commodities such as beef. Allowing for this, the proposed changes could help consumers be better informed about the source of their purchases and offer some marginal benefit in that direction. Even if this turns out not to be the case, the change to limit voluntary “Made in the USA” and “Product of the USA” labels to products derived exclusively from animals born, raised, slaughtered, and processed in the United States seems unlikely to cause any harm or create additional confusion. FMI encourages FSIS to consider examining the impact of this rule after implementation to make sure that this is the case and that neither producers, processors, retailers, nor consumers suffer negative impacts as a result of the proposed change.

FMI greatly appreciates FSIS’s effort to bring greater clarity in the use of the voluntary “Product of the USA” label for FSIS-regulated products. In order to simplify the implementation of this proposed rule, we would ask the department to consider addressing the following specific issues raised by the rulemaking:

- **Allow for the use of third-party audits to establish “Product of the USA” and “Made in the USA” product claims.** Third-party audits can dramatically simplify recordkeeping associated with compliance on every front, particularly for operations that might supply several different processors and/or retailers. Smaller operations may have

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<sup>1</sup> United States Department of Agriculture, Office of the Chief Economist, *Economic Analysis of Country-of-Origin Labeling (COOL)*, Report to Congress, April 2015, pp. 2. Accessed online June 7, 2023 at <https://www.usda.gov/sites/default/files/documents/Attachment1USDACOOLReport2015.pdf>.

<sup>2</sup> Ibid., pp. 8.

difficulty with the expense and technical challenges associated with these audits, so FMI would not recommend making them mandatory and potentially imposing costs in the supply chain. But as a simplifying step in the recordkeeping process, we urge FSIS to provide guidelines for conducting these audits if the rule moves forward.

- **For multi-ingredient products, consider requiring only a majority on non-FSIS regulated ingredients to be of domestic origin for use with the “Product of the USA” label, rather than all.** While this change would likely cover a relatively small universe of products, the greater latitude in the use of ingredients will allow producers who might not be able to source certain products in the quantities needed domestically to still make use of the “Product of the USA” label. This latitude would not compromise FSIS’ stated goal of greater consumer understanding.
- **Qualified label claims should be aligned with the standards established by the Federal Trade Commission’s policy on U.S. origin claims.** FSIS’s rule allows for qualified label claims that, “include a description on the package of all preparation and processing steps (including slaughter) that occurred in the United States upon which the claim is made.” FMI would encourage the Department to align this part of the rule with the Federal Trade Commission’s *Enforcement Policy on U.S. Origin Claims*. For example, FSIS should permit the use of disclaimers when insignificant amounts of ingredients within a finished product are not of U.S. origin, such as “60% US sourced materials” or “with globally sourced ingredients.” Allowing such qualified claim structures grants manufacturers some flexibility to manage supply chain challenges, while making truthful and non-misleading origin claims, and could help streamline the implementation process.
- **Provide clarity – particularly for poultry – on the specific definition of “born” in the United States.** While the term may seem self-explanatory, “born” can be confusing when it comes to animal husbandry. Specifically, for poultry, would eggs produced in Canada but hatched in the United States be eligible for consideration as “Product of the USA”? FMI believes clarification of this terminology will help ease confusion and prevent supply chain disruption or labeling mistakes as the new rule is implemented.

FMI greatly appreciates the work FSIS put into developing this rule and clarifying when “Product of the USA” and “Made in the USA” label claims are appropriate. Thank you for your attention to this matter. I would be glad to discuss any of these issues with you further should the need arise.

Sincerely,



Andrew Harig  
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FMI – the Food Industry Association