



Consumer Federation of America

April 4, 2022

Paul Kiecker
Administrator
Food Safety and Inspection Service
U.S. Department of Agriculture

Submitted electronically

Re: Notice of Request for a New Information Collection: Analyzing Consumers' Value of "Product of USA" Labeling Claims

Dear Administrator Kiecker:

Consumer Federation of America appreciates your consideration of these comments on the U.S. Department of Agriculture Food Safety and Inspection Service's (FSIS) proposal to study consumers' understanding of "Product of USA" and other labeling claims on meat products, and consumers' willingness to pay for products meeting certain origin definitions. At least some of the proposed surveys and experiments will provide important information to help guide public policy on country-of-origin labeling (COOL), which consumers overwhelmingly support. However, FSIS should not wait for the results of this study to curtail labeling claims that are flagrantly misleading.

Consumer Federation of America strongly supports mandatory COOL for all foods. Congress has required origin labeling on most imported products since 1890.¹ The 2002 farm bill extended COOL to a wide variety of perishable foods, including many meat products.² However, when USDA finally issued regulations implementing COOL for beef and pork, Canada and Mexico challenged the COOL law at the World Trade Organization (WTO), alleging it was a barrier to trade. While WTO nominally upheld the United States' right to require country of origin labeling, it found that USDA's COOL regulation imposed a cost to imported livestock and meat that exceeded the consumer benefit. USDA issued new regulations in an attempt to comply with the WTO ruling, and once again, the WTO ruled that the requirements were unlawful trade

¹ See *Am. Meat Inst. v. U.S. Dep't of Agric.*, 760 F.3d 18, 23-24 (D.C. Cir. 2014) (citing Tariff Act of 1890, ch. 1244, §6, 26 Stat. 567, 613);

² See 7 USC 1638.

barriers. In response, Congress repealed COOL for beef and pork in 2015. Consumers were left with the preexisting “Product of USA” regulation for meat products, which dates back to 1989.

This 1989 rule allows for shamefully misleading labeling practices. As the agency’s notice points out, the FSIS Food Standards and Labeling Policy Book currently allows companies to apply a “Product of USA” labeling claim “to meat products that have been imported from a foreign country and repackaged or otherwise further processed in the United States.” In other words, a company can purchase meat that is a “Product of Brazil,” put it in a new box, and call it “Product of USA.” Only slightly less outrageous, the current rules allow a company to affix the “Product of USA” label to “meat products derived from animals that have been imported from a foreign country but slaughtered in the United States.” Thus, for example, a cow that spends its entire life in Mexico, that is nourished with feed subject to Mexican feed regulations, and that is treated with antibiotics and other medicines subject to Mexican drug regulations, can be transported across the border and slaughtered the same day to make ground beef, steaks, etc. that all qualify as “Product of USA” under the FSIS rules.

FSIS does not need a survey to tell it that an unacceptable number of consumers misunderstand what the “Product of USA” label actually signifies on meat products. Rather, the agency should immediately announce a policy change under which “Product of USA” labels may only apply to meat products from animals born, raised, and slaughtered within the United States. Companies with a business interest in applying “Product of USA” claims to reprocessed or repackaged foreign meat products, or to products derived from animals born and raised in foreign countries, should have the burden of defending the current, misleading rule.

By going ahead and revising the “Product of USA” definition for meat products to reflect common intuition, the agency can redirect the resources proposed for analysis to better ends. In particular, rather than seeking to confirm the obvious—i.e. the current “Product of USA” rule is confusing and misleading—FSIS should focus on experiments that shed light on the desirability of more effective, comprehensive COOL rules. These include experiments to gauge consumer willingness to pay for meat products that are truly “Product of USA,” and experiments that gauge whether labels such as “USDA Choice” or the USDA mark of inspection cause confusion related to product country of origin. CFA also supports FSIS’ proposal to study the extent to which consumers notice “Product of USA” labels, as the results may help to design “Product of USA” labeling formats that are easier for consumers to discern. However, FSIS should keep in mind that even if the vast majority of research subjects do not notice a given label, the label still may succeed in raising public awareness, albeit indirectly, as more perceptive consumers share information.³

Large majorities of Americans favor requiring meat to be labeled with information about where animals were born, raised and slaughtered—88% according to a survey commissioned by

³ See, e.g. Malcolm Gladwell. *The Tipping Point*. (Little Brown 2000) (explaining that a relatively small number of “mavens” or “information specialists” tend to initiate “information epidemics” that lead to large-scale changes in popular perception.

Consumer Federation of America in 2017.⁴ FSIS should act expeditiously to enact policies that respond to this consumer demand, and the proposed analysis should help to do so. In the meantime, the agency should protect consumers from foreign meat products deceptively labeled “Product of USA” and immediately announce a new rule under which that labeling claim may only apply to meat products from animals born, raised, and slaughtered within the United States.

Thank you for your consideration of these comments.

Sincerely,

Thomas Gremillion
Director of Food Policy
Consumer Federation of America

⁴ https://consumerfed.org/press_release/large-majority-of-americans-strongly-support-requiring-origin-information-on-fresh-meat/