

Voluntary Labeling of FSIS-Regulated Products with U.S.-Origin Claims (encore 2)-20240515_130208-Meeting Recording

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McKew, Beth - FSIS 0:14

Good afternoon, everyone, and thank you all for joining us today for our second presentation on the recently published final rule voluntary labeling of FSS regulated products with US Origin claims.

I'm Doctor Beth McHugh, a staff officer with the labeling and program delivery staff within the Office of Policy and Program Development at FSIS.

Before starting the presentation, I have a few housekeeping issues I want to bring to your attention. Attendees.

Microphones have been muted to make sure that the sound is clear for everyone.

There is time allotted at the end of the presentation for questions which you may submit to us via the chat function within teams and at the end of the presentation, we will read aloud and answer as many of your questions as possible within our allotted time this afternoon.

If we don't have time to address your question, or if you think of a question after the webinar, you can always submit that to FSIS through our online question and answer portal.

Ask if the SIS and if you need that Lync to ask if ISIS.

You'll see it on the final slide of today's presentation.

Also, this webinar is being recorded and will be posted on the FSIS website on the webinar announcement page.

That's the same page that you use to join this webinar today.

So now I'm going to go over the topics that will be covered today.

For some background information and a brief overview of the final rule, next, the presentation will go through each of the sections of the new regulation, the voluntary claims product of USA and made in the USA.

Factual US Origin claims other than product of USA and made in the USA.

US.

I'm sorry, US state, territory and locality claims.

US flag imagery and I'll also make a note about non US origin claims and then the presentation provides some examples of the types of documentation that can be used to support these claims.

We've also collected some of the more commonly asked questions that were being asked about the final rule, and we'll share some of those questions and answers with you today.

I'll speak briefly about the FSIS labeling compliance guideline, which was most recently updated.

At the same time, the final rule was published in March, and then we'll take as many of your questions as we can in the remaining time.

So let's start with some background information and an overview of the final rule.

In March 2023, a Fessas published a proposed rule in response to petitions and the public comments submitted in response to those petitions at the SaaS also conducted a nationally representative consumer web based survey for product of USA labeling on meat products and then on March 18th, 2024, FSS published the final rule, voluntary labeling of FSS regulated products with US Origin claims.

The voluntary label claims product of USA and made in the USA will be allowed to indicate that FSS regulated products are of US origin and this applies to products produced under mandatory inspection as well as those produced under voluntary inspection services.

These claims will be permitted when the product is derived from an animal, born, raised, slaughtered and processed in the United States.

These claims will be generically approved products with label claims other than product of USA are made in the USA that indicate that a preparation or processing step of an FSIS regulated product is if US origin will be generically approved for use. However, these claims will need to include preparation and processing steps that occurred in the United States, upon which the claim is made.

In order for single ingredient products to bear the product of USA or made in the USA claim the product will need to meet the specific regulatory definition, which is that the product is derived from animals born, raised, slaughtered and processed in the United States for multi ingredient products.

In order to bear the product of USA or made in the USA claim, all FSS regulated components of the product will need to meet the regulatory definition, meaning that they're derived from animals born, raised, slaughtered and processed in the United States, and all ingredients except spices and flavorings will need to be of domestic

origin.

There are several key points worth highlighting before going through the new regulations and nine CFR 412.3 these claims are not required to be included on labeling.

However, establishments may voluntarily include them on labels of meat, poultry and egg products.

All voluntary US Origin label claims allowed under the final rule will remain eligible for generic approval as a reminder, generic approval means that labels bearing these claims do not have to be submitted to Fsis for formal approval.

In other words, the labels are approved if they bear all mandatory features, the label record must include adequate supporting documentation for these voluntary claims, and we will discuss the types of records that may be used as support for the claims later in the presentation.

Establishments have until the compliance date of January 1st, 2026 to bring labels into compliance or modify or remove the claim.

Although the deadline is not until January 2026, establishments are encouraged to comply as soon as practicable.

FSS inspection program personnel will not take enforcement action on labeling that does not comply with the amended regulations before January 1st, 2026 inspection program personnel will perform their label verification tasks just as they do now label the label verification task includes reviewing the label record and all supporting documentation.

If the label selected as part of inspection program personnel's label Verification task includes a voluntary US Origin claim, then they will review the label record to ensure that the record includes adequate support for the claim.

The final rule will require companies using a voluntary US Origin label statement to maintain documentation to demonstrate that the product complies with the criteria of the regulatory requirements.

The final rule will not impact US exports.

Fsis inspectors will continue to verify that exported products meet those requirements that have been officially communicated to Fsis by the importing country.

And as a reminder, export requirements can be accessed in the online athesis export library.

Now we're going to walk through each part of nine CFR 412.3, starting with nine CFR

412, point 3A and B to make the voluntary US Origin claims product of USA or made in the USA for single ingredient items.

The entire product must be derived from an animal, born, raised, slaughtered and processed in the United States.

For a multi ingredient product, the product must be derived from animals born, raised, slaughtered and processed in the United States.

All other ingredients in the product other than spices and flavorings, must be of domestic origin, and the preparation and processing steps for the multi ingredient product must have occurred in the United States.

Volunteer US Origin claims on labels of products under FSIS mandatory inspection or voluntary inspection services can be generically approved, provided that the labeling record is sufficient to support the claim.

Here are some examples of a made in the USA claim and a product of USA claim a single ingredient pork product labeled with made in the USA can be generically approved if pork is from an animal, born, raised, slaughtered and processed in the United States, and the labeling record indicates sufficient information to support the claim.

A multi ingredient.

Pork and beef sausage Patty labeled with product of USA can be generically approved if all FSS regulated ingredients are derived from animals born, raised, slaughtered and processed in the United States.

All other ingredients other than spices and flavorings are of domestic origin.

All the preparation and processing steps for the product occurred in the United States and the labeling record includes sufficient information to support the claim.

This slide shows 2 examples of voluntary US Origin claims made on the meat component of the product.

A single ingredient steak product labeled that bears the statement US beef can be generically approved provided the labeling record includes sufficient support that the beef used was derived from an animal born, raised, and slaughtered in the US, and that the meat was then processed in the US.

Yes, a multi ingredient meatloaf product label that bears the statement made with US beef can be generically approved provided the labeling record indicates sufficient support that the beef used in the product was derived from an animal born, raised and slaughtered and the meat then processed in the United States.

Now moving on to 9 CFR 412.3 C actual US Origin claims other than product of USA

and made in the USA may be made to designate the US Origin component of an FSS regulated products preparation and processing.

These claims must include a description of the preparation and processing steps that occurred in the United States upon which the claim is made.

The claim description should provide meaningful consumer information about the specific type of preparation and processing steps that occurred in the United States. For example, the generalized claims processed in the United States or manufactured in the United States are so broad that they do not provide the consumer information about what preparation and processing steps actually occurred in the United States, because the terms processed and manufactured do not convey specific steps, they're not generically approved.

The next slide provides some examples of meaningful consumer information that could be generically approved.

Here are two factual US Origin claims that can be generically approved under 9 CFR 412.3 C, both of which provide meaningful information about the products preparation and processing.

First, we have a label for single ingredient pork tenderloin that has the claim sliced and packaged in the United States, which can be generically approved provided the labeling record includes sufficient support that the product has been sliced and packaged in the United States.

Another example of a claim providing meaningful information is a label for a beef empanada that bears the statement beef raised, slaughtered and processed in the United States, which can be generically approved, provided the labeling record includes sufficient support that the beef used in the product was derived from an animal raised and slaughtered and the meat then processed in the United States.

Now we will discuss 9 CFR 412 point 3D labels that make a factual claim about a specific US state, territory or locality can be generically approved, provided the claim meets the requirements for use of US Origin claims under 9 CFR for 12 point 3A through C with regards to the US state, territory or locality origin, examples of these types of claims that could be generically approved include a single ingredient beef label that bears the factual claim product of Montana.

This claim must meet the requirements in nine CFR for 12.3 a for the use of a voluntary product of state claim on single ingredient products.

What we mean by this is that the single ingredient product must be derived from an animal, born, raised, slaughtered and the meat then processed in Montana.

The label can be generically approved provided there is sufficient support in the labeling record for the claim.

A single ingredient beef product that's derived from an animal born, raised and slaughtered in a foreign country, then brought to Oklahoma to be sliced and packaged to bear.

The voluntary factual claim, sliced and packaged in Oklahoma.

This claim would meet the requirements under under 9 CFR 412.3 C provided there is sufficient support in the labeling record that the product was sliced and packaged in Oklahoma.

Interrupt Beth at this time.

But I understand a number of you are unable to view the webinar.

There is information in the chat so that you can call in at least to listen to.

Beth go through the webinar and we will also gather all of your names and send you a link as soon as we get it posted, which should be sometime this week.

We can also email you.

Maybe that's the best thing to do to start email you the slides.

Umm, after this meeting.

And then you'll also, once we get the webinar posted, we'll forward it to everyone.

But I I just wanted to take a minute to let you know that there will be some action afterwards, but please call in to the phone number that Melissa Hammer put into the chat.

Thank you.

Ohh and it looks like someone added a note that said you have to click on encore too when you're entering into the webinar.

And we're also adding the link.

Thank you so much.

OK.

Thank you.

All right.

We are on slide 13.

OK, so here are two factual US origin claims that could be generically approved under 9 CFR 412.3 C actually am I.

They Franco.

SF Santaliz-Rogers, Gianfranco - FSIS 14:57

I believe will be slide 15 US flag.

B McKew, Beth - FSIS 14:59

Ah, thank you.

Thank you.

All right, let's do slide 15.

Apologies for that.

OK, that's right.

Now we're going to move on to a discussion of 964412.3 E related to US flag imagery displays of the US flag or a US state or territory flag are permitted on labels of products under Fsas, mandatory inspection or voluntary inspection services to designate the United States, US state or US territory, origin of single and multi ingredient products or components of a products preparation and processing. The display of the flag must meet the requirements for use of voluntary US origin claims under 9 CFR 412 point 3A through D for the purposes of the display of a flag that meets the requirements for use of US Origin claims other than product of USA and made in the USA under 9 CFR 412, point 3C or D the display must be accompanied by a description of the preparation and processing steps that occurred in the United States or in the US state, territory or locality.

There's some examples of labels that can be generically approved under 9 CFR 412.3 E include a meat product labeled with a standalone display of the US flag.

If the product is derived from an animal, born, raised, slaughtered and the meat then processed in the United States, provided there is support in the labeling record for the claim.

A display of the New York State flag on a pork product label, with the claim sliced and packaged in New York, provided their sufficient support in the labeling record that the product was sliced and packaged in New York.

As a reminder, the requirements and nine C 4412.3 apply to US Origin claims, including specific US state territory and locality claims.

Non US Origin claims are allowed on labels if they're truthful and not misleading and comply with nine CFR 317.8 and 9 CFR 381.129 labels with such factual claims can be generically approved, provided the label does not fall into one of the three categories of labels that need to be submitted to LPDS for approval, which are those

categories listed in nine CFR 412.1 C Some examples of non US Origin claims would be a product of Spain statement on the label of pork imported from Spain.

The product name, English beef shepherds pie on a product imported from England, and the claim made in Italy on a prosciutto imported from Italy.

Now let's talk about documentation.

The final rule does not specify the types of records and documentation that must be maintained to demonstrate compliance with the regulatory criteria.

For example, the regulations do not stipulate specific documents, such as bills of lading, shipping manifests, load sheets or grower records.

Official establishments and facilities, under voluntary inspection, choosing to use a voluntary US Origin label claim.

We'll need to maintain and provide Fsas access to and documentation sufficient to demonstrate that the product meets the regulatory criteria for use of the claim and that the claim is not false or misleading as the regulations require for the use of all generically approved labels.

Fsis will accept existing documentation to demonstrate compliance with the applicable regulatory requirements, as long as it supports the claim being made.

Fsas updated the Fsas compliance guideline for label approval with examples of the types of supporting documentation that may be used to support voluntary US Origin claims.

We have a slide with more information on the guideline coming up in a moment.

The record keeping requirements, including general examples of types of documentation that may be maintained to support a voluntary US origin claim are in nine CFR 412.3 F&G.

G.

Under the final rule, an establishment or facility may maintain one or more of the following documentation types to support a claim that the product, or a component of the products preparation and processing is.

If US origin here are some examples of different types of documentation that establishments may use as support for the voluntary claims product of USA or made in the USA under the final rule in nine CFR 412, point 3A and BA written description of the controls used in the birthing, raising, slaughter, and processing of the source animals and for multi ingredient products in the preparation and processing of all additional ingredients other than spices and flavorings.

And finally, the written description of the controls in all of the processing steps of the

multi ingredient product itself to ensure that each step complies with the regulatory criteria.

A written description of the controls used to trace and as necessary segregate from the time of birth through packaging and wholesale or retail distribution.

The source animals used and all additional ingredients other than spices and flavorings, and trace and segregate the resulting products that do comply with the regulatory criteria from those that do not comply or our third example a signed and dated document describing how the product is prepared and processed to support that.

The claim is not false or misleading.

On this slide, we have a couple of specific examples of the types of documentation that may be maintained, such as for a product of USA label claim on a single ingredient, beef product records from a ranch located in Wyoming demonstrating that the animal from which the product was derived was born, then raised until slaughter on the ranch.

Note that this claim would require additional documentation to support that the product was also slaughtered and processed in the United States.

For a sliced and packaged in New Jersey label claim on a pork sausage product, records from a process setting facility located in New Jersey, demonstrating that the product was sliced and packaged in the facility.

The Epis compliance guideline for label approval is available on the FSIS website.

The guideline helps establishments determine whether their labels must be submitted to the FSS labeling and program delivery staff for approval.

The guidance was updated in March 2024 to include examples of voluntary US Origin label claims and the types of documentation that establishments may maintain to support the use of the claims.

The guidance is open for public comment until May 17th, 2024.

Public comments can be submitted at www.regulations.gov.

Now on this next portion of the presentation, we'll go over some of the most frequently asked questions that we've been asked since the final rule published.

So the first question is, does the new rule apply to products for export from the United States?

And the answer is no.

The regulatory requirements for voluntary US Origin label claims will not apply to products intended for export from the United States.

Additional export requirements maintained by foreign countries that have been officially communicated to FSS by the importing country can be accessed in the FSS export library.

FSS will continue to conduct export certification activities for FSS regulated products intended for export to foreign countries.

Our next question is will FSS grant a temporary label approval if a label bears the voluntary claim made in the USA or product of USA?

If the claim does not comply with nine CFR 412.3 after January 1st, 2026, and the answer is that FSS will not grant temporary label approvals for these claims, establishments have until January 1st, 2026 to bring labels into compliance and they can do that by ensuring that all ingredients produced under Fss, mandatory inspection or voluntary inspection services are derived from animals born, raised, slaughtered and processed in the United States.

Sourcing all ingredients other than spices and flavorings in multi ingredient products and the product are from domestic origin and ensuring that all the preparation and processing steps have occurred in the United States.

Alternatively, establishments that are currently making these claims may cover up the claim on their printed labels with a pressure sensitive sticker after January 1st, 2026.

Our next question is for poultry products labeled with a voluntary US origin claim.

When is the poultry considered born in the context of the new regulations?

So under the final rule, born in the case of poultry is hatched from the egg.

Therefore, poultry hatched in the US will meet the requirement for these claims that the animal was born in the US.

If the country in which the egg was laid and or in which the unhatched egg was handled was a country other than the US, this would not exclude the poultry product from bearing a voluntary US origin claim such as product of USA.

Next is a question about eggs in the context of egg products under FSS jurisdiction.

For egg products labeled with the voluntary US origin claim, when is the egg product considered born in the context of the new regulations?

So under the final rule, born in the case of an egg product is broken from the egg.

Therefore, eggs broken in the US will meet the requirement for these claims that the animal was born in the US.

Will the new 9 CFR 412.3 labeling regulations related to US Origin claims be required on labeling similar to the required AMS cool labeling requirements?

And the answer is no.

US Origin claims made in the USA and product of USA on meat and poultry products are voluntary.

Similarly, qualified claims such as cooked, sliced and packaged in the US and beef born and raised in the USA are also voluntary.

If a product is not eligible to bear these types of claims on labeling after January 1st, 2026, then the claim may be removed.

If a meter poultry product is derived from animal slaughtered in the US, may the label make the claim harvested in the US instead of slaughtered in the US.

And the answer here is yes.

The term harvested may be used in place of slaughtered on labeling.

When making a qualified US origin claim other than product of USA or made in the USA, most all of the steps that occurred in the US be listed in the claim and the answer is no.

For example, if a multi ingredient pork product is made from pork born, raised, slaughtered and processed in the US and all processing steps of the finished product occurred in the US but one or more ingredients in the product are not of domestic origin.

Some examples of voluntary claims that could be made with adequate support on the label are pork born and raised in the US without reference to slaughter or any processing steps.

Cook sliced and packaged in the US without reference to the animals used in the product or simply packaged in the US, referencing just one step which occurred in the US.

Does the new rule apply to processing aids?

The answer here is no.

Ingredients that are present in a meter poultry product in an insignificant amount and that have no functional or technical effects in the finished meat or poultry product are considered to be processing AIDS and are exempt from ingredient labeling.

The origin meaning if there are domestic origin or not of domestic origin of processing aids, will not impact the use of a voluntary US Origin label claim.

And the final of the Q&A S today is how do I know what is considered a spice or flavoring in the context of this rule for purposes of labeling multi ingredient products with volunteer US origin claims such as product of USA spices are defined in 21 CFR 182.10 and flavorings are defined in 21 CFR 182.20.

And on our final slide here, you'll see the address for ask if fascias, which is how you can submit your written questions for written policy response to questions, not only related to the final rule which we discussed today, but also to other labeling policy questions and non labeling policy questions as well.

The labeling and program delivery staff can also be reached by telephone for questions and we have a link on this slide that also connects to some useful general labeling information.

So at at this time, we're going to address your questions.

Umm, as they as they come in and you can use the chat function for that.

Before we begin addressing questions, though, I do want to note that if we come across a question that we do not yet have a definitive answer to, rather than make a policy determination right now, we will take note of your question and we'll discuss the question internally within the Office of Policy to make sure we provide an accurate, consistent response.

If we do not have an answer for question that you asked today, you may submit that question via asked if the SAS so that we can get back to you directly.

So at this time we are going to start compiling your questions and try to go through them in order.

And there's a couple of us here that are going to work on the answers to those.

So let's transition to that.

If you'll give me just a moment.

Yeah.

OK.

That's the first question.

Is this ruling?

Does this ruling apply to lard and tallow?

If yes, do antioxidant antifoam additives need to be US sourced?

So yes, product of labeling requirements.

The regulations would apply to lard and tallow.

And if the antioxidant or anti foaming additives are processing aids and do not umm or not functional in the product that do not have a technical effect on the product but are for use in as processing aids, they do not.

If they are declared on the label as a qualifier to the product name, then yes, they would need to be sourced in the US or of domestic origin.

OK, OK.

If I am using an edible casing on the product, does the casing have to be of US origin?

Yes it would, if you're making a product if USA or made in the USA claim, UMM, then yes, edible casings in the context of this rule would be considered ingredients and would have to be sourced domestically.

And then the second question is pretty similar to the last one.

Would edible natural casings for sausage be considered an ingredient or packaging for purposes of this claim, yes, pretty much.

That was the same question as before.

Good question.

The answer is yes.

OK.

The next question is, can you please confirm that labels are considered to be in compliance at the time of production versus labels on product in inventory or in commerce?

So.

So I think what's being asked here is umm, you know, we talked about this this date of January 1st, 2026, that day's that date is tied to when the when labels are applied to products.

So it would not on the labels already packaged and labeled or in commerce.

As of 1126, those would not.

You know, there's would not be subject to the compliance date of 1126.

OK.

Our next question is how does this relate to M USA claim requirements from the FTC?

Does all or virtually all not apply to packaging?

So we'll have to get back to you on that one.

All I can say is that it or our rule that USDA or FSIS rule final rule applies to me.

Poultry and egg products and where there may be similarities in the rules, we would have to, but the compliance would be under FBI, says final rule and not FTC.

But we can do additional, you know, we'll go back and look at the questions specifically to see if they are we actually all or virtually all is meaningful to our.

OK, the next and go ahead, sorry if we could just get your contact information, whoever.

Umm, submitted question 5.

We'll get back to you directly.

Yeah, you can put your email in the chat if you like.

You can also do ask FSS either way.

Let's see.

Our next question is can made with US pork claim be made when using the US flag for a multi ingredient pork product that's been born raised, slaughtered in the US, but vegetables from another country?

So let's see the US flag.

So it wouldn't we.

You've got the US flag, so you're going to need a qualifying statement and that would be made with US pork.

Umm.

I think that with the the the flag represents umm.

The flag represents product that is born that the meat is born, raised and slaughtered or harvested in the US.

So if you said something like me used or pork used is made in the USA to.

Qualify the flag.

That should be accepted.

I mean it.

Yeah, it looks like made with US pork that that claim would be OK if the pork was born, raised and slaughtered in the US, so that statement would be accurate.

And uh, I think that, yeah, that would be OK.

You could also say pork born raised slaughtered in the US, but since made with US, pork would mean the same thing.

OK.

Our next question is, does this new ruling apply to product names with brands that require further qualification of where it was produced?

For example, Virginia brand Ham made in Iowa, so it they do so.

So right now and after January 1st, you know the use of brand does have to be followed by a a qualifying statement that states where the product was made.

That's the stuff, right?

Well, the nature of that claim is going to change after one one.

So currently, Virginia Branham made in Iowa means the last processing step occurs in Iowa, and that's fine until January 1st, 2026.

But January 1st, 2026 Virginia brand Ham made in Iowa will need to meet made in

Iowa.

So if it doesn't umm, the step would be a little bit different.

So you could describe specific steps.

So Virginia brand ham sliced and packaged in Iowa or in the US it would.

So if you can't make it made in Iowa and its entirety born raised, slaughtered all ingredients, all steps doesn't apply, you could you could use it different claim for that Virginia brand ham.

OK.

Our next question is we understand this is a final rule, but with the Agency consider a threshold, in this example a minimal amount of pork sourced from Canada around 5%.

And no, I mean the whole like, let's say you are making ground beef and you have a ground beef where 95% of the pork is born raised and slaughtered in the US and 5% is of Canadian origin.

Then the claim made in the USA or product of USA would not be acceptable.

OK.

Our next question is does Missouri style pork?

That's injected with a solution require that all the ingredients as well as the pork need to be all from Missouri.

Sort of the answer to that one is no.

Missouri Style style is umm one of those terms that you can use it.

It will have a different meaning.

So FSS doesn't have a Missouri style.

So OK, if you're gonna use Missouri style pork on a multi ingredient product, then that's the type of claim that's gonna need to have third party support.

So you'll need someone qualified to define Missouri style to define it and describe how your product meets that requirement and if that's if, you've got documentation to support that Missouri style is this and this pork meets it, then Missouri style pork.

Would be fine without any further qualification.

The ingredients Nessus wouldn't necessarily didn't need to be of domestic origin, or even the animals born, raised and slaughtered because it would be.

I would we just need to meet that style.

Let's see.

Our product is a shelf stable pork based material that requires further processing,

requires frying for finished product and it's sold.

B2B, I'm not sure what that means.

This is a flight of B2B packaging that is never used or consumer sales.

So that might be wrong the this not quite sure we understand the full question, but remember that the use of these claims is voluntary.

So if the pork raised material is born, raised and slaughtered in the US, born, raised, slaughtered and processed in the US, then.

And it's single ingredient.

Then you can make the claim product of USA or made in the USA.

Yeah.

And we we just got clarification from a colleague.

Thank you.

That B2B is business to business.

So yeah, the the this, the the regulations apply whether product is sold direct to consumers or you know for further processing at another establishment or for HR I it's.

Umm, you know that there's not a we don't treat business to business, HR, I any any different than sales direct to consumers and as as Raz mentioned it is a voluntary claim.

But if it is made, it would need to comply.

OK, it at this time I think we've answered all the questions we can give it another.

I did want to mention that the slides will be available as well as the entire webinar on the FSIS.

Website Shortly and for those of you that had some.

Difficulty jumping online and provided us with a website or I mean excuse me, an email address we can email you the slides after this.

Is over after this webinar concludes.

We're just saying, OK, any other questions?

Any other questions?

I think.

Thank you Franco for helping guide us through them.

I think we've, we've answered or addressed all of them, just going back to a question that was asked about the FTC, uh, we in our role, we did not use all or virtually all because as as I mentioned this, this is a rule that covers me poultry and egg products and does not crossover to what FTC FTC has in their language.

All right.

Well, umm, thank you all for joining us today.

We appreciate your you're interested in this subject and your your great questions.

And remember, ask if access is available to you.

If you have more questions and umm, thank you all for your time today and you all have a great day. Bye.