



November 10, 2023

Food Safety & Inspection Service  
U.S. Department of Agriculture  
Email: [FSISPetitions@usda.gov](mailto:FSISPetitions@usda.gov)

Re: **Petition 23-03**

Dear Sir or Madam,

Vital Farms partners with more than 300 family farms across the Pasture Belt™ to produce pasture raised eggs. Our mission is to bring ethical food to the table, and for the past sixteen years, we have remained committed to that work. As a Certified B Corporation, we are deeply committed to all our stakeholders, which include our farmers and other suppliers, our employees, our shareholders, our customers and consumers, and the community and environment. As a result, we are delivering wholesome, high quality egg products to American consumers nationwide in retailers both small and large.

I'm writing on behalf of Vital Farms to ask that you deny Petition #23-03, which was submitted by Perdue Farms LLC (Perdue) to the U.S. Department of Agriculture's Food Safety and Inspection Service (FSIS) on March 16, 2023. The Petition requests that FSIS revise its current Compliance Guideline to define separate terms "pasture-raised" and "free range." Vital Farms produces eggs labeled as "pasture raised." Though the products produced by Vital Farms are regulated by FDA, Vital Farms is concerned about the impact this petition will have for industries regulated by FDA, and therefore has an interest in this issue. There are four primary reasons for our opposition.

**1. Amending the requirements to make a "pasture-raised" claim will put unnecessary regulatory burden on American family farms.** The 300+ family farms that we work with have already invested in building their operations to the highest scalable standard for ethically produced eggs. The birds have year-round access to the outdoors on rotating pastures as part of a comprehensive system that ensures animal welfare. This investment in animal welfare is possible because consumers are willing to pay a price premium for pasture-raised eggs. Imposing additional unnecessary hurdles on using a "pasture-raised" claim risks reducing the market opportunities available to our farmers and hindering Vital Farms' ability to compensate producers at a premium for making these investments.

**2. There is more than one way to pasture-raise chickens ethically on a commercial scale.** Our farms prioritize the health and safety of the birds and result in better outcomes for the animals, the farmers, and the full stakeholder community that helps deliver these eggs to consumers. We have a wonderful,

thoughtful barn-based system for raising hens that takes animal welfare and pasture-rotation into account. A single approach to pasture-raised chickens is simply too narrow to encompass the variety of options that exist today – and those that may be developed in the future.

**3. The cost of compliance with the proposed policy changes is unreasonable and, in some cases, anti-competitive.** This is particularly the case with respect to increased or mandated use of mobile coop technology, some of which is subject to intellectual property protection arising from patents, including those held by petitioner. These increased burdens are likely to impose their most significant impact on newer and/or smaller companies—a result squarely at odds with USDA’s current emphasis on ensuring fair and competitive markets for agricultural products.

**4. “Pasture-raised” is a claim made by producers of both USDA and FDA regulated products.** Although the Petition is aimed at products within USDA’s PPIA jurisdiction, any changes to USDA’s regulatory approach to animal-raising claims would place corresponding pressure on FDA to make consistent its approach to animal-raising claims for egg products within the scope of FDA’s jurisdiction. Comments currently on FSIS’s petition docket demonstrate this to be the case. In other words, USDA’s response to this Petition may trigger similar action on other segments of the U.S. food supply.

We appreciate the Agency’s continued effort to provide additional clarity with respect to labeling claims under the authority of FSIS, including the revised FSIS Compliance Guideline for Label Approval issued by the Agency in July 2020. With respect to this petition, Vital Farms asks that FSIS respond to the petition by issuing an Advanced Notice of Proposed Rulemaking (ANPR), which would enable the Agency to gather information from a broad set of stakeholders—producers, processors, retailers, trade associations, and sister agencies, among others—on whether FSIS should independently define and regulate “pasture-raised” claims, in addition to developing further understanding of the economic and other impacts such a change would have on current production practices, and on potential alternatives that may better serve the Agency’s regulatory mandate. An ANPR would also permit an evaluation of the implications of any such proposal on FDA’s current approach to food labeling to ensure consistency across all agencies, including FDA.

I submit these comments in accordance with FSIS’ regulations on petitions, including 9 C.F.R. § 392.7. We appreciate your consideration of this comment and look forward to working with you on this issue in the future.

Sincerely,



Joanne Bal  
General Counsel, Corporate Secretary, and Head of Impact