



May 23, 2023

Honorable Paul Kiecker, Administrator
Food Safety and Inspection Service
U.S. Department of Agriculture
Washington, D.C. 20250

Re: Petition 23-03

Dear Mr. Administrator:

The Further Processors Division of United Egg Association (UEA) appreciates the opportunity to comment on a petition from Perdue Foods LLC that seeks to “remove ‘pasture-raised’ from claims considered synonymous with ‘free range’ and further amend its current Compliance Guideline such that ‘pasture-raised’ is separately and specifically defined.”

UEA’s members are processors of egg products regulated by the Food Safety and Inspection Service (FSIS) and therefore have an interest in the agency’s regulations and guidance documents affecting claims about production methods. UEA members account for the large majority of egg products processed under federal inspection.

Many UEA members are also producers of shell eggs, and while the Food and Drug Administration (FDA) holds jurisdiction over shell eggs, actions by FSIS may create precedents that eventually would have an impact on eggs sold at retail.

We encourage FSIS to proceed with caution on Perdue’s petition. While we realize that the company’s operations involve the broiler sector and not egg layers, the regulations and guidance definitions are discussed in the petition in terms of “chickens,” without explicitly excluding layers, and so any changes made by FSIS could affect claims made, now or in the future, as to processed egg products.

The definitions which the petition seeks to change are presently part of guidance rather than regulation. Should FSIS decide to consider changes, and should the agency also determine that such definitions are best left in guidance rather than going through rulemaking, we strongly encourage FSIS to issue any revisions to guidance documents in draft form, so that the public has a chance to comment. While it is true that the public is able to comment on Perdue’s petition now, that petition does not and could not

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state exactly what FSIS, as opposed to Perdue, might propose. Therefore, any course of action that did not include an additional comment period would deprive the public of the opportunity to make its views known, fully informed of the agency's thinking and proposals.

With respect to the merits of the petition, we consider the following information relevant to how any changes might ultimately affect further processors of eggs.

Egg producers commonly differentiate free-range vs. pasture in the layer industry through established non-governmental certification schemes. Though the two most popular certifications for these claims do not match precisely (*see comparison table below*), they have provided stability for the industry and ensure that on-label raising claims related to free-range and pasture production methods meet established standards. Importantly, these certifications already ensure that free-range and pasture are neither interchangeable nor misleading in eggs and do have vegetation requirements.

In the layer industry, the established certifications follow a scheme similar to USDA's proposed National Organic Program, with hens being provided outdoor access at a specific square footage per hen. This is in contrast to Perdue's petition, which requests that pasture claims be based on a percentage of an animal's life being spent on pasture. A percentage of time on pasture, rather than access to set square footage, not only does not align with well-established layer certifications but also creates impractical issues, such as implementation in housing that is not mobile, claims in colder climates, the welfare of hens that may prefer the microenvironment in a house, and extreme weather events.

In the event that FSIS proposes changes similar to those sought by Perdue, we urge the agency to make it clear that the revised definitions are limited to broiler chickens, and to establish any definitions applicable to layers on the basis of square footage per hen, not time spent on pasture.

Thank you for your consideration of UEA's views.

Sincerely,



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Certifying Body	Egg Free Range	Egg Pasture Raised
Certified Humane Farm Animal Care	2.0 sq. ft. / bird	108.0 sq. ft. / bird
American Humane Certified	21.8 sq. ft. / bird	108.8 sq. ft. / bird

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