

March 7, 2017

Docket Clerk  
U.S. Department of Agriculture  
Food Safety and Inspection Service  
Patriots Plaza 3  
1400 Independence Avenue, SW  
Mailstop 3782, Room 8-163A  
Washington, DC 20250-3700

**Re: Docket No. FSIS-2016-0044: Draft Guidance: "Best if Used By" Product Labeling, FSIS  
Constituent Update, December 16, 2016.**

Dear Sir or Madam:

The North American Meat Institute (NAMI or Meat Institute) is the leading voice for the meat and poultry industry and provides essential member services including legislative, regulatory, scientific, international, and public affairs representation. Together, the Meat Institute's members produce the vast majority of U.S. beef, pork, lamb, and poultry and the equipment, ingredients, and services needed to produce the highest quality products. The meat and poultry industry is committed to offering a diverse choice of products to consumers that allows them to choose the foods that best fit their personal lifestyles and family needs. The Meat Institute appreciates the opportunity to comment on the above-referenced docket.

Reducing food waste is important. The United States Department of Agriculture (USDA) estimates that 30 percent of food is lost or wasted at the retail and consumer level. Product date labeling language that informs the consumer about product attributes is a tool that may reduce food waste, along with consumer education and expanded acceptance of donations. To be effective, however, such labeling must not be misleading or confusing. Standardized date labeling language that can be easily understood by consumers, whether for product quality or safety, could be useful in reducing food waste. Because of the diversity of the Meat Institute's membership and the products they produce, there is not universal agreement on product quality date labeling language. The Meat Institute offers several perspectives for the Food Safety and Inspection Service's (FSIS or the agency) consideration.

**"Best if Used By" is Ambiguous for Certain Meat and Poultry Products.**

"Best if Used By" is an ambiguous and potentially confusing designation for fresh meat and poultry products. Many of these products have been labeled with a "Use or Freeze By" designation for years. "Use or Freeze By" provides consumers clear direction and offers an alternative to disposal. Although it may not be appropriate for all meat and poultry products, freezing is an acceptable option to preserve fresh meat products. There are food industry initiatives that propose using this language for safety-based dating, yet it is already often used to denote quality. Freezing is one way to extend the usability of perishable products, which will help reduce food waste. "Best if Used By" may not be understood in this context.

### **Date Labeling has a Food Safety Element for Certain Meat and Poultry Products.**

Once inspected and passed as wholesome, it is presumed that meat and poultry products are free from pathogens. Despite the low rate of product contamination, the industry takes measures to inhibit the growth of pathogens should they be present. For products that may have a food safety consideration when determining shelf-life, *e.g.* ready-to-eat deli meats, ensuring the effectiveness of *Listeria* inhibitors is a key component in product dating.

Shelf-life in ready-to-eat products is often based on *Listeria* control, not organoleptic concerns. Scientific validation may demonstrate a  $>2$  log of *Listeria* outgrowth at X-number of days from an artificial inoculant, thus a product's shelf-life will be set within that time frame. For example, if *Listeria* outgrowth is shown at 110 days, then the shelf-life may be set at 90 days. Although the product may be both microbiologically safe and organoleptically acceptable beyond that product shelf-life date, *Listeria* might grow at a rate faster than spoilage bacteria.

Even in properly handled and refrigerated product, *Listeria* can grow to a level of concern without causing noticeable spoilage. Many companies formulating products with *Listeria* growth inhibitors label them with a "Use By" date consistent with the time the product was formulated to inhibit *Listeria*. Even in products treated with high pressure processing or a surface treatment, some injured *Listeria* cells may remain and could recover. In these cases, the meat and poultry industry often applies a "Use By" date to ensure product safety, therefore consumers should not be told that it is safe to consume ready-to-eat meat and poultry products after the "Use By" date.

The Meat Institute is concerned that consumers will not identify the risk of potential *Listeria* outgrowth, if the decision is purely made from an organoleptic evaluation from a "Best If Used By" date for some ready-to-eat meat and poultry products. A distinction should be made between a "Best If Used By" date, where the product may be consumed after the date if there are no signs of spoilage, and a "Use By" date, where product should not be consumed after the date even if there are no signs of spoilage. Ensuring consumers have safe meat and poultry products is the industry's foremost concern.

### **Variables Outside the Control of Meat and Poultry Companies Affect Product Date Labeling and Food Waste.**

Meat and poultry companies have cold chain control to the point of delivery. Beyond delivery, however, it is out of the company's control to ensure products are handled safely and at the appropriate temperature. Transportation, warehousing, retail conditions, and home storage all play a role in a product's shelf-life. Non-meat perishables requiring a more moderate temperature may often be mixed with meat and poultry products during transportation. Retail meat cases are frequently kept at temperatures warmer than recommended for meat and poultry products. These variables make it difficult to ensure the products will meet or exceed the product quality date.

**Understandable Language and Consumer Education are Keys to Reducing Food Waste.**

The Meat Institute recognizes the importance of standardized language but questions remain whether consumers will understand the meaning. "Best if Used By" may imply to the average consumer that when the date is passed, the product is likely "bad" – an assumption that could be the furthest from the truth. If FSIS standardizes "Best if Used By" as the phrase to be implemented, then there must be an education and information effort to help consumers understand the phrase. Even with consumer education, the phrase may still not be understood by many. Without those consumer education efforts, however, it is unlikely standardized date labeling language will help achieve the intended goal: reducing food waste.

**Summary**

As demonstrated in these comments, several factors could further confuse consumers about standardizing product date labeling. Recognizing there are food industry initiatives, and possibly legislative actions, to standardize date labeling, there remain differing perspectives on which language is most useful to the consumer. FSIS should consider the variables when determining the most appropriate language for product quality date labeling. Whatever the type of dates applied, they should be determined by meat and poultry companies, with the scientific documentation to support the dates applied to their products.

Thank you for the opportunity to comment on FSIS's draft guidance on date labeling. If you have questions about these comments or anything else about this issue, please contact me.

Respectfully submitted,



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Vice President, Regulatory and Scientific Programs

cc: Barry Carpenter  
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