



United States Department of Agriculture

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Food Safety and  
Inspection Service

March 26, 2020

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Dear Mr. Maxwell and Ms. Balkcom:

The Food Safety and Inspection Service (FSIS) has completed its review of the petition you submitted on behalf of the Organization for Competitive Markets (OCM) and the American Grassfed Association (AGA) dated June 17, 2018 and assigned petition number 18-05. The petition requests that FSIS amend paragraph two of the “Product of USA” entry in the FSIS Food Standards and Labeling Policy Book (the Policy Book) to provide that the labeling of meat products may be labeled as “Product of USA” if it can be determined that significant ingredients having a bearing on consumer preference, such as meat, vegetables, fruit, dairy products, are of domestic origin. As you are aware, to facilitate the submission and public posting of comments on the petition, FSIS posted the petition to [regulations.gov](https://www.regulations.gov). Comments were accepted until September 18, 2019, and FSIS considered the issues raised in the comments as part of its review of the petition.

After careful consideration of your petition and the 2,593 public comments submitted to [regulations.gov](https://www.regulations.gov) in response to your petition, FSIS has concluded that its current labeling policy, which permits meat and poultry products<sup>1</sup> that were derived from animals that may have been born, raised and slaughtered in another country but processed in the United States to be labeled as “Product of USA,” may be causing confusion in the marketplace, particularly with respect to certain imported meat products. Therefore, FSIS is denying the petition and has decided to initiate rulemaking to define the conditions under which the labeling of meat products would be permitted to bear voluntary statements that indicate that the product is of U.S. origin, such as “Product of USA” or “Made in the USA.” As discussed below, we intend to propose that such labeling be limited to meat products derived from livestock that were slaughtered and processed in the United States.

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<sup>1</sup> The Product of USA labeling policy applies to both meat and poultry products. Because the petition focuses specifically on meat products, particularly beef, this response will focus on meat products.

## Legal Authority over the Labeling of Imported Meat Products and Current “Product of USA” Policy

The Federal Meat Inspection Act (FMIA) authorizes FSIS to regulate the labeling of meat products sold in commerce in the United States. As noted in your petition, under the FMIA, any meat or meat food product is misbranded if its labeling is false or misleading in any particular (21 U.S.C. 601(n)(1)).

The import provisions of the FMIA state that meat products from cattle or other amenable species “shall, upon entry into the United States, be deemed and treated as domestic articles subject to the other provisions of [the FMIA] and the Federal Food, Drug, and Cosmetic Act: Provided That they shall be marked and labeled as required by such regulations for imported articles ...” (21 U.S.C. 620(a)). FSIS’s implementing regulations provide that “[a]ll products, after entry into the United States, shall be deemed and treated as domestic products and shall be subject to the applicable provision of the [FMIA] and the regulations in this subchapter and the applicable requirements under the Federal Food Drug and Cosmetic Act . . .” (9 CFR 327.18(a)). In a 1989 final rule that clarified certain provisions of the import regulations, FSIS made clear that “[o]nce product offered for entry has been reinspected by FSIS inspectors and the official mark of inspection has been applied, FSIS considers that such product has been ‘entered’ into the United States, and therefore, is the regulatory equivalent of domestic product.” (54 FR 41045, October 5, 1989).

FSIS’s meat import regulations require that the immediate container of meat products offered for import into the United States bear, among other things, the name of the country-of-origin preceded by the words “product of,” immediately under the name or descriptive designation of the product (9 CFR 327.14(b)(1)). If such imported meat or meat products are intended to be sold at retail, the original packaging with the “product of country” labeling must remain with the product. However, if these products are repackaged or otherwise reprocessed in a federally inspected facility, they are deemed and treated as domestic product for voluntary “Product of USA” labeling purposes. In a 2001 Advance Notice of Proposed Rulemaking (ANPR) on product labeling for United States cattle and fresh beef, FSIS explained that “[Product of USA] has never been construed by FSIS to mean that the product is derived only from animals that were born, raised, slaughtered, and prepared in the United States.”<sup>2</sup>

### Issues Raised in the Petition and Public Comments

The petition asserts that the current “Product of USA” Policy Book entry results in labeling that is misleading to consumers because it allows imported meat that is reprocessed in the United States to be labeled as “Product of USA.” To support this assertion, the petition references several studies that the petitions says demonstrate that consumers support knowing the origin of their food. According to the petition, these studies show that U.S. consumers are interested in knowing the country-or-origin of beef products and are willing to pay a premium for meat from animals born, raised, and slaughtered in the United States. The petition asserts that when

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<sup>2</sup> Product Labeling: Defining United States Cattle and United States Fresh Beef Products (66 FR 41160, August 7, 2001).

imported meat products that have been further processed in an official U.S. establishment are labeled as “Product of USA,” consumers that have a preference for domestic meat cannot make an informed choice because the labeling disguises the true origin of the product.

The public comments submitted in support of the petition also stated that the use of “Product of USA” labeling should be limited to products from livestock that were born, raised, and slaughtered in the United States. Most of these were comments submitted by individual consumers, farmers, and ranchers, as well as trade associations representing these groups, labor unions, and animal welfare advocacy organizations. Several comments stated that the term “Product of USA” implies that the product was derived from livestock that were born, raised, and slaughtered in the United States and, therefore, is misleading when applied to imported products that have been further processed in an official U.S. establishment.

In addition to stating that FSIS’s “Product of USA” labeling policy is misleading to consumers, the petition asserts that the policy is also causing financial harm to U.S. family farmers and independent ranchers by giving an unfair market advantage to companies that further process imported meat. The petition states that domestic producers that are transitioning their operations to grass-fed beef are particularly disadvantaged because large multinational companies that import less expensive foreign grass-fed beef to be processed in U.S. establishments are benefitting from the premium that consumers are willing to pay for grass-fed beef labeled as “Product of USA.” Many of the public comments submitted in support of the petition also agreed that the current policy gives certain companies that import foreign grass-fed beef an economic advantage.

Comments from other cattle producer trade associations, meat processor trade associations, Canadian and Mexican livestock producer trade associations, and the Canadian and Mexican governments did not support the petition. These comments stated that FSIS’s “Product of USA” labeling policy has never been limited to livestock born, raised, and slaughtered in the United States. The comments stated that the current policy accurately reflects Congressional intent with respect to imported products as enacted in the FMIA and its implementing regulations. Comments from the Canadian and Mexican governments noted that the Canadian and U.S. livestock industries, and the Mexican and U.S. cattle industries, are highly integrated, and that both Canada and Mexico export a significant number of live cattle into the United States each year for feeding, slaughter, and processing. The comments expressed concerns about measures that could potentially disrupt these integrated livestock supply chains.

### Discussion

After considering the supporting information included in the petition, along with the supporting public comments, FSIS has concluded that permitting imported meat products that are further processed in a federally-inspected establishment to be labeled “Product of USA” may be misleading to consumers and may not meet consumer expectations of what “Product of USA” signifies. FSIS also agrees that to address these issues, the Agency needs to establish clear parameters that prescribe which meat product may voluntarily be labeled with U.S. origin statements, such as “Product of USA,” and “Made in the USA.”

In addition, as part of its review, FSIS also considered the comments that did not support the petition. After considering these comments, FSIS has concluded that the concerns expressed about measures that could potentially affect the integrated livestock supply chains between the United States and Canada, as well as the integrated cattle supply chain between the United States and Mexico, have merit. As noted in the petition and the public comments, Canada exports a significant number of live cattle, hogs, sheep, and goats to the United States every year for slaughter and processing, and Mexico exports a large number of cattle to the United States to be fed, slaughtered, and processed. Thus, many official U.S. slaughter and processing establishments use Canadian and Mexican cattle as the source animals for their meat and meat products.

Therefore, after considering the issues raised in the petition and all public comments, FSIS is denying the petition and has decided to initiate rulemaking to limit “Product of USA” and certain other voluntary U.S. origin statements to meat products derived from livestock that were slaughtered and processed in the United States. The Agency has determined that a voluntary U.S. meat product origin labeling policy that focuses on where the product is made, i.e., where the livestock are slaughtered and processed, without regard to where the source animals were born, may more accurately reflect what “origin” means with respect to meat products processed in the United States and will thus result in labels that are truthful and not misleading. Rather than revise the Policy Book as requested in your petition, FSIS has decided to initiate rulemaking to address “Product of USA” and other voluntary U.S. origin labeling statements because these issues have generated a significant amount of public interest and the Agency wants to ensure that any changes to its current policy are accomplished by an open and transparent process. FSIS believes that the rulemaking process will allow the Agency to develop a voluntary U.S. origin labeling policy that addresses the diverse issues raised by the public comments in a manner that is consistent with the FMIA.

In accordance with our petition regulations, we have posted your petition on the FSIS website (9 CFR 392.6). We intend to post this response as well.

Sincerely,



Rachel A. Edelstein  
Acting Assistant Administrator  
Office of Policy and Program Development