National Pork Producers Council

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Docket Clerk
Docket No. 00-036A
U.S. Department of Agriculture
Food Safety and Inspection Service
Room 102 Cotton Annex Building
300 12th Street, SW
Washington, DC 20250-3700

00-036A
00-036A-1004
Barbara Determan

Dear Sir/Madam:

The National Pork Producers Council (NPPC) appreciates the opportunity to present our comments on the notice, Docket No. 00-036A, on the Food Safety and Inspection Service (FSIS) Advanced Notice of Proposed Rulemaking (ANPR) on "Product Labeling: Defining United States Cattle and United States Fresh Beef Products." [1]

NPPC is a national organization that represents, through forty-four affiliated state associations, the nation's pork producers. NPPC membership accounts for most of America's commercial pork production. The U.S. pork industry is one of this country's most important agricultural sectors, accounting in a typical year for more than $10 billion in annual farm sales. U.S. pork production generates overall economic activity of approximately $64 billion annually and supports an estimated 600,000 American jobs.

NPPC Opposes Changes to Current Product Labeling Definitions

While the ANPR is styled as a cattle and beef issue, NPPC has been advised by FSIS that any changes to the labeling of beef and beef products which result from a rulemaking in this matter will apply not only to beef but to all species, including pork. NPPC supports the current FSIS labeling regulations and objects to any changes made in conjunction with this ANPR. However, NPPC might support changes made in conjunction with this ANPR if such changes were restricted to cattle/beef pursuant to a pilot program with all costs incurred by the users. If, and only if, such pilot program is successful should it be considered for the pork industry.

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[1] 66 Fed. Reg. 41,160 (August 7, 2001).

The Other White Meat.

Current FSIS origin labeling regulations and practices are clearly summarized in the ANPR and need not be repeated herein. NPPC supports these regulations and practices. The ANPR is silent with respect to pork. There is no reason or justification for changing the current FSIS regulations and practices for pork origin labeling. Indeed, any change in current FSIS regulations and practices would increase costs which most certainly would be passed back to producers in the form of lower prices for their hogs; would send conflicting and confusing signals to consumers; and, would undermine the U.S. negotiating position on establishing common rules of origin in international trade.

The ANPR notes at the outset that the Conference Committee report which accompanied the Agriculture Appropriations Act of 2000 directs the U.S. Department of Agriculture (USDA) to consult "with the affected industries [in order] to promulgate regulations to define which cattle and fresh beef products are Products of the U.S.A."[2] <u>However, as detailed in the ANPR, the FSIS regulations (9 CFR 317.8) already "permit fresh beef products to be labeled with terms such as 'U.S. (Species),' 'U.S.A. Beef,' and 'Fresh American Beef."</u> [3] Moreover, the ANPR explains that "FSIS interprets these terms to mean that the cattle to which the terms are applied were born, raised, slaughtered and prepared in the United States or in specific geographic locations in the United States."[4] Thus, current FSIS regulations appear to satisfy the issue raised in the Conference Committee report and, even with respect to beef, there is no reason for a change to FSIS rules or practice.

The ANPR explains that USDA's Agricultural Marketing Service has developed a voluntary certification program through which "livestock, meat, and meat products are eligible to be labeled as 'U.S. Beef' because they are derived from animals that were born, raised, slaughtered, and prepared in the United States."[5] On the basis of voluntary, fee-for-service AMS certification, FSIS would permit the use of U.S. origin labels on qualifying beef products.

Given that current FSIS regulations permit product to be labeled as "U.S. Beef" and that AMS has developed a certification program for such product, NPPC believes that the type of program envisioned in the conference report can be launched now. There is no need for new rulemaking. However, NPPC understands that the National Cattlemen's Beef Association (NCBA) may have some interest in including within the definition of "U.S. Beef" beef products that originate from cattle that are raised, fed a minimum of 100 days, and processed in the United States.[6] If NCBA is supporting this type of 100-day

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[2] Id. at 41,160.
[3] Id.
[4] Id.
[5] Id. at 41,161
[6] U.S. feedlot operators, primarily in the Southwest, annually import over one million Mexican feeder cattle. Most of these feeders are NCBA members who are concerned that efforts to slow or eliminate imports of Canadian cattle may have negative implications for their operations.

exception for the U.S. Beef label, NPPC questions the basis in science and law for such exception. The following comments apply to the possibility of a new regulatory initiative based on a 100 day exception or some other argument that seeks to change existing FSIS country-of-origin labeling requirements.[7] The comments respond to the questions posed in the ANPR.

1. Should cattle finished in the United States, but born and raised for a time in another country, be considered a product of the United States for USDA labeling purposes? What effects on the domestic and international markets would be imposed by defining which U.S. cattle and fresh beef products are products of the United States?

As a threshold matter, NPPC does not believe that certification of such a system is possible. The U.S. imports significant numbers of feeder cattle from Mexico and Canada which are not typically segregated from U.S. born cattle, and the U.S. has no national tracking system for cattle.

As previously stated NPPC supports current FSIS regulations and practice with regard to identifying the origin of pork and other species, including beef. With respect to livestock born and raised for some period of time in another country, NPPC believes that the point at which slaughter occurs is, and should be, the point at which origin is conferred for pork and other species, including beef. Indeed, NPPC shares the position of the United States government in the current negotiations in the World Trade Organization Rules of Origin Committee. The European Union, Korea and Japan oppose the U.S. These countries are arguing in the WTO for a rule identifying the country of birth, or the country in which the animal was fed for a specified period of time, as the origin of beef and pork for customs valuation purposes.

Although the WTO rules will not establish rules of origin for domestic labeling purposes but, rather, for the purpose of customs classification, it makes no sense to maintain separate and different rules of origin. When the WTO rules of origin for meat are finalized, all members of the WTO, including the U.S., will be bound by the rules. In the interim, FSIS should not issue any new rule that conflicts with the U.S. position in the WTO negotiations.

Notwithstanding the negative trade policy implications, a change in the FSIS regulations will cost money. Without question, a new regulation that would differentiate beef/pork from animals born and raised in the United States from beef/pork which originates from animals that are not native born (or meet the 100-day exception or some other arbitrary residency requirement) would have to be paid for by someone. According to the U.S. General Accounting Office,

[7] It is not clear whether NCBA seeks an exemption from its labeling initiative for ground beef products. Over 50% of the beef consumed in the United States is consumed as ground beef. NPPC submits that if additional labeling is needed, it should apply to all types of beef products.

> U.S. packers, processors, and grocers would, to the extent possible, pass their compliance costs back to their supplier – U.S. cattle and sheep ranchers [and pork producers] – in the form of lower prices or forward to consumers in the form of higher retail prices.[8]

There is no compelling evidence to suggest that the consumer is going to pay for it. Consumers are chiefly concerned with safety[9], price, and quality. America's huge trade deficit is evidence enough that consumers are not going to pay more for a U.S. made product. Moreover, retailers, distributors, processors and packers are going to resist paying for the additional cost of labeling. That leaves the producer to absorb the cost of the additional labeling.

U.S. pork producers are aware of the recent buy U.K. pork campaign launched in the United Kingdom. This massive program, which includes labeling, has been a huge failure. The U.K. pork industry has expended large sums of money on this initiative only to see its market share fall further to imported pork.

The impact on U.S. producers from a change in the FSIS regulations in international markets is potentially devastating. With 96 percent of the world's population living outside the United States, the future health of U.S. pork producers is dependent on their ability to increase exports. Since the Uruguay Round Agreement went into effect, U.S. pork exports to the world have increased 100 percent in volume terms and 108 percent in value terms and the U.S. has become a net-exporter of pork. In 2000 the U.S. exported a record 568,203 metric tons of pork valued at $1.31 billion. This year will mark the 10th consecutive year that pork exports set a record and in May 2001 pork exports represented over 10 percent of pork production for the first time ever. Exports have become so important to the industry that according to a recent study by two Iowa State University Economists, a cessation of U.S. pork exports this year (due for example to an embargo or animal disease outbreak) would cause cash hog prices in 2001 to plummet by $17.80 per head ($6.87 per cwt).

If FSIS changes its regulations it sends a signal to U.S. meat export markets that they should insist on receiving only that beef or pork which originates

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[8] Beef and Lamb: Implications of Labeling by Country of Origin, U.S. General Accounting Office, January 2000 at 2.

[9] Country of Origin labeling is not a food safety issue. Imported products are inspected under a system of inspection that must be equivalent to U.S. inspection. NPPC would object strenuously if imported pork was not safe. The U.S. imports some pork from Canada and Denmark. Canadian and Danish pork do not carry negative images in the minds of U.S. consumers. Danish and Canadian pork and other specialty pork products imported into the U.S. likely will benefit from any type of labeling program.

from animals born and raised in the U.S. Indeed, last year Korea threatened to impose a residency requirement on U.S. beef – a move that, if implemented, would have halted U.S. beef exports to Korea.

2. What labeling terminology would be most accurate and appropriate in conveying the idea that the product is a product of the U.S.A.? Would terms such as "U.S. Cattle" and "U.S. Fresh Beef Products" or "USA Beef" and "Fresh American Beef" be more appropriate? Are there other terms that commenters would suggest that would appropriately convey that the cattle and beef products originate in the United States?

NPPC does not believe that U.S. consumers want or would pay for such labeling of pork. NPPC is skeptical about the demand of consumers for such labeling of beef. However, if the beef program was voluntary and based on current FSIS regulations a label such as "U.S. Beef: produced from cattle born and raised in the U.S." would be appropriate. Beef that is not produced under the AMS-administered voluntary program, but that is obtained from cattle slaughtered under U.S. federal inspection could continue to be marked "Product of the U.S.A."

3. What other kinds of verification programs does FSIS need to employ to ensure that the labeling terms are truthful, accurate and not misleading. What are the estimated costs, recordkeeping, inventory management, labeling, etc.) that are associated with such programs?

As previously indicated, NPPC opposes any change to the existing regulations. If changes are made to the regulations, such changes should be specific to beef. Any such changes would, as noted above, increase costs and jeopardize exports.

4. How can industry and FSIS aid consumers in gaining in gaining a greater understanding of the suggested terms used to identify a product of the USA? What types of information would be useful to gauge consumer response to a particular term used to market U.S. products? What factors would be influential in a consumer's decision to purchase beef labeled as a product of the USA?

This matter is before FSIS not because of consumer dissatisfaction with the current labeling regulations. Rather, a certain segment of the U.S. cattle industry would like to reduce or eliminate imports of Canadian cattle. When these same producers attempted to restrict imports of Canadian and Mexican cattle imports by means of the U.S. unfair trade laws, the U.S. pork industry was negatively impacted. Mexico responded by initiating antidumping cases on not only U.S. cattle and U.S. beef but also on U.S. hogs. U.S. hog producers have lost Mexico as a hog export market and are being forced to spend a lot of time and money in trying to reopen Mexico to U.S. hog exports. Pork producers must not again be forced to suffer the consequences of another ill-conceived idea launched by a group of cattle producers.

In conclusion, the current regulations are working well and should not be changed. To the extent that any changes are made, they should be specific to beef.

Sincerely,

Barbara Determan

Barb Determan
President