



October 9, 2001

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FSIS Docket Clerk
Department of Agriculture
Food Safety and Inspection Service
Room 102 Cotton Annex Building
300 12th Street, S.W.
Washington, D.C. 20250-3700

Re: Docket #00-036A

Dear Sir or Madam:

This letter responds to the advance notice of proposed rulemaking (ANPR) published in the August 7, 2001, *Federal Register*. In the ANPR the Food Safety and Inspection Service (FSIS) invited comments on the need for regulations clarifying the definitions of "United States cattle" and "United States fresh beef products" for labeling purposes.

The American Meat Institute (AMI) is a national association representing the interests of poultry and meat slaughterers and processors and their suppliers throughout North America. AMI members account for a very large share of the meat and poultry products manufactured in the United States. AMI member-companies represent that segment of the industry that would be the most directly affected by any change in beef (or other meat and poultry) origin labeling regulations. On behalf of its members, AMI submits the following comments:

AMI strongly opposes change in current origin labeling requirements for beef (or other meats and poultry). The ANPR was issued in response to a mandate included in the Conference Report accompanying the 2000 Agriculture Appropriations bill. Other than that statement, there is no convincing evidence that there is a real problem that needs to be addressed by additional federal regulation. Accordingly, FSIS should be guided by the wisdom embodied in the adage, "If it ain't broke, don't fix it."

The ANPR provides an excellent summary of current FSIS origin labeling regulations and practices, but provides no compelling justification for new regulation. In fact, any change in current FSIS regulations and practices would be costly and damaging to the beef industry, provide no benefit to consumers, and undermine U.S. efforts in international negotiations focusing on establishing uniform global rules of origin.

According to the ANPR, the Conference Report stated that clarifying regulations would facilitate the development of voluntary, value-added promotion programs that benefit U.S. producers, business, industry, consumers, and commerce. However, FSIS regulations already "permit fresh beef products to be labeled with terms such as 'U.S. (Species),' 'U.S.A. Beef,' and 'Fresh American Beef.'" (9CFR 317.8) Further, as the ANPR points out, "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.” We believe current FSIS interpretation of these selected origin marks is logical and proper, as well as “truthful, accurate and not misleading.”

According to the ANPR, producers and processors voluntarily may label products with such geographic claims and other production claims so long as those claims are substantiated. In that connection, the ANPR advises that USDA’s Agricultural Marketing Service (AMS) has a voluntary certification program and is prepared to certify that beef and beef products are eligible to be labeled as “U.S. Beef” when derived from cattle born, raised and slaughtered in the United States. We understand that AMS would audit production and preparation records and that there would be a fee charged by AMS for this service. On the basis of voluntary, fee-for-service AMS certification, FSIS would permit the use of U.S. origin labels on qualifying beef products.

In sum, all of the elements necessary to support the type of program endorsed in the referenced Conference Report – except one -- are in place. The key element missing is sufficient retail demand for beef from cattle certified to have been U.S.-born and raised. Evidence of such demand would be the willingness of American consumers to pay higher prices at the supermarket to compensate producers, processors and retail marketers for certification, segregation, signage, and other added costs associated with producing certified “U.S. Beef.” Thus far, that demand has not manifested itself. However, it is the proper role of the industry – not the government – to foster and provide for that demand.

Against this backdrop, we will address the specific questions posed in the ANPR. The preceding three paragraphs focus on a labeling program that would be voluntary, more restrictive and limited in scope, and an exception from the general rule. Unless otherwise specified, the following comments apply to the possibility of a new regulatory initiative that would change existing FSIS country-of-origin labeling requirements:

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?

Present FSIS policy with regard to identifying the origin of beef (or other meat or poultry products) is proper and appropriate. With specific regard to cattle born and raised for a time in another country, the point at which slaughter occurs is, and should be, the point at which origin is conferred for beef. This is fully consistent with the position the United States Government has taken – with the support of the U.S. beef industry and (we assume) with FSIS knowledge and concurrence -- in ongoing negotiations in Geneva in the World Trade Organization (WTO) Rules of Origin Committee. In those discussions the U.S. is strongly opposing efforts by the European Union, Korea and Japan to establish 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.

The purpose of the WTO discussion is to create uniform international rules of origin for tariff assessment purposes. While such rules do not automatically dictate rules of origin for domestic labeling purposes, it is confusing and illogical to maintain separate and different rules of origin. The U.S., as well as all other WTO-member countries, will be

bound by the origin rules that emerge from the ongoing WTO process. Given that the U.S. has taken a firm stand in those discussions, FSIS should refrain from further actions that undermine the U.S. position and serve the interests of our adversaries in that process.

Regarding the impact on domestic and international markets, a new regulation that would require beef producers, slaughterers, processors, distributors and retailers to distinguish beef from animals born and raised in the United States from beef which originates from animals that are not native born (or meet some arbitrary residency requirement) would impose substantial new costs on the U.S. beef industry. Although of little or no value to beef consumers, creating differentiation would make both categories of beef more expensive and less competitive with other meats, poultry and fish. In that connection, pork and poultry producers – the major competitors for beef --have successfully increased efficiency and lowered costs of production in recent years. However, the beef industry increasingly has been singled out as the target of new and costly government regulations. The net impact is that beef has lost market share to competing meats in the domestic market and has become relatively less competitive in foreign markets.

Clearly, the greatest threat posed to the U.S. beef industry by the notion that the U.S. should adopt a stricter regulatory standard for defining U.S.-produced beef is that key export markets will insist on receiving only that beef which originates from animals born and raised in the U.S. The U.S. is uniquely vulnerable to such action because it (1) has become increasingly dependent on beef exports, (2) imports substantial numbers of live cattle from Canada and Mexico which are commonly commingled with the U.S. herd, and (3) has no national tracking system for cattle. One year ago Korea – the U.S.’ third largest beef export market – threatened to impose a residency requirement on U.S. beef. As FSIS is aware, U.S. exports to this critical market would have been stopped if efforts to convince Korea to retract this requirement had been unsuccessful. In the ongoing WTO negotiations, Both Korea and Japan – the U.S.’ largest beef export market – are supporting a “born-in” rule or a residency requirement for beef.

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?

In connection with a voluntary program that would require AMS monitoring and certification, 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 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 noted above, AMI believes current FSIS policies governing origin labeling for beef are proper and appropriate. We advocate no change. New regulations imposing animal birth or residency requirements as a condition for carrying a "U.S. Beef" label would increase production, processing and marketing costs, decrease the competitiveness of beef in the domestic and international marketplaces, and could potentially devastate U.S. beef export markets.

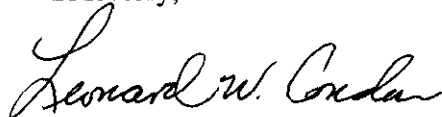
4. How can industry and FSIS aid consumers in gaining a greater understanding of the suggested terms used to identify a product of the USA? What types of information would be useful to gauge consumer response to a particular term used to market U.S. products? What factors would be influential in a consumer's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

No evidence has been presented indicating that consumers are dissatisfied with current FSIS labeling policies. In fact, there is ample evidence that most of the pressure for beef labeling changes comes from producer groups and their elected representatives who are motivated by a desire to reduce imports of live Canadian cattle. Reluctance to acknowledge a protectionist objective is the primary reason that proponents of change have been unable to articulate a coherent justification.

As Americans, we are justifiably proud of the free and open economic system that has made us the richest and strongest country in the world. A fundamental principle of our economic system is that the market is the most efficient mechanism for allocating resources. In that connection, AMI is concerned about the growing level of government regulation targeted at the beef industry. Most regulation focuses on the processing sector. Regrettably, it is often initiated and supported by some in the producing sector seeking a painless solution to cyclically low cattle prices. The cumulative effect of this creeping regulatory burden has been to increase the cost of beef to U.S. and foreign consumers and frustrate efforts to grow markets for U.S. beef, to the detriment of the entire U.S. beef industry. Further expansion of the regulatory load on beef processors and marketers represents a much greater threat to the long-term global competitiveness of the U.S. beef industry than continued imports of Canadian cattle.

There is no legitimate justification for changing present FSIS origin labeling requirements. AMI appreciates this opportunity to comment. If you have any questions about these comments or would like to discuss this matter further, please contact me.

Sincerely,



Leonard W. Condon
Vice President for International Trade