



November 13, 2020

Docket Clerk
U.S. Department of Agriculture
Food Safety and Inspection Service
1400 Independence Avenue SW
Room 6065
Washington, DC 20250-3700

**RE: Prior Label Approval System: Expansion of Generic Label Approval;
Docket Number FSIS-2019-0019; submitted online via www.regulation.gov**

Introduction

Family Farm Action Alliance (FFAA) welcomes the opportunity to provide comment on the United States Department of Agriculture (USDA) Food Safety and Inspection Service (FSIS) Prior Label Approval System: Expansion of Generic Label Approval Proposed Rule (PR).

FFAA is a national research, policy development, market innovator, and advocacy organization working to build a sustainable, inclusive economy in which everyone has the right to share in the prosperity they help build while respecting our land, natural resources, and neighbors around the world. We focus our efforts on: 1) anti-monopoly reform, 2) regenerative agriculture, 3) resilient local and regional food systems, and 4) market innovation. The USDA-FSIS PR sits squarely within the interest of our supporters, comprised of farmers, small business owners, and rural constituencies.

FFAA was pleased to learn of FSIS's forthcoming "Product of USA" rulemaking for meat and meat products in response to multiple Petitions for Rulemakings submitted on behalf of livestock producers.

Requested Action

Recommendation: FFAA urges FSIS to exclude "labels that display geographic landmarks, such as a foreign country's flag, monument, or map" for meat, poultry, and egg products

from the PR. FFAA proposes FSIS wait to take up any “geographic landmark” or country of origin specific label rule change until after the forthcoming FSIS “Product of USA” label rulemaking has been finalized.

FFAA’s concern lies with the “geographic landmark” criterion being included under the expanded generic labeling prior approval, and the subsequent possibility of the provision undergoing further change in the forthcoming FSIS “Product of USA” rulemaking. This chain of events could confuse and harm meat and poultry producers, and small processors in an unfair marketplace. With consumers willing to pay up to a 28% premium on “Product of USA” or “Made in the USA” (MUSA) labeled products¹, it is of utmost diligence of FSIS to ensure an accurate label for producers to differentiate their product in the marketplace, and to empower consumers (private, institutional, and commercial) in their food purchasing choices.

Under FSIS’s current rule², labels of geographic significance are misleading to consumers. Currently, meat and meat products that are born, raised, and harvested outside of the US can be imported, undergo a packaging change, and be labeled a “Product of the USA.” This is known as the processing “significant transformation” loophole. The knowingly deceptive labeling accomplished through a “significant transformation” loophole, currently legal under FSIS rules, robs consumers of the choice to make a truly informed decision at the supermarket shelf, and puts producers and processors at a market disadvantage. Further, allowing the expansion of “geographic landmark” labeling as written in the PR, would signal the Administrator of FSIS is not exercising their authority to ensure food label integrity granted in the Federal Meat Inspection Act³ and the Poultry and Poultry Products Inspection Act⁴ to their full ability.

While we have utmost confidence in Agency inspector integrity and competence, we are not supportive of the PR as written, knowing the upcoming “Product of USA” rulemaking could drastically change regulations for geographically significant labeling on meat, poultry, and egg products. If generic prior approval labeling regulations are to expand to “geographically significant” claims, subsequent changes to “geographically significant” claims in the forthcoming rule would add administrative burden to Agency inspectors and meat processors.

¹ “Made in the USA: An FTC Workshop.” Federal Trade Commission. Staff Report of the Bureau of Consumer Protection. June 2020. Xinyao Kong, FTC-2019-0063-0014, FTC-2019-0063-0023. https://www.ftc.gov/system/files/documents/reports/made-usa-ftc-workshop/p074204_-_musa_workshop_report_-_final.pdf Accessed 8 September 2020.

² “Standards and Labeling Policy Book.” U.S. Department of Agriculture Food Safety and Inspection Service. Office Policy, Program and Employee Development. Aug. 2005. <https://www.fsis.usda.gov/wps/wcm/connect/7c48be3e-e516-4ccf-a2d5-b95a128f04ae/Labeling-Policy-Book.pdf?MOD=AJPERES>. Accessed 8 September 2020.

³ [21 U.S.C. § 607\(d\)](#)

⁴ [21 U.S.C. § 457 \(d\)](#)

The forthcoming “Product of USA” rule has the potential to substantially alter labeling approval requirements under a “Product of USA” label. Upon such changes, it would be of due diligence for FSIS to review geographic and place of origin label claims for meat and meat products. FFAA recommends no further action on the PR.

We appreciate your consideration of this recommendation, and look forward to working with FSIS on the finalization and implementation of the rule.

Sincerely,

A handwritten signature in cursive script that reads "Joe Maxwell". The signature is written in a dark ink and is positioned below the word "Sincerely,".

Joe Maxwell
President & CEO
Family Farm Action Alliance