

# Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## DEPARTMENT OF AGRICULTURE

### Food Safety and Inspection Service

#### 9 CFR Parts 317 and 327

[Docket No. 00-036W]

RIN 0583-AC85

#### Product Labeling: Defining United States Cattle and United States Fresh Beef Products

**AGENCY:** Food Safety and Inspection Service, USDA.

**ACTION:** Notice of withdrawal of advance notice of proposed rulemaking.

**SUMMARY:** The Food Safety and Inspection Service (FSIS) is withdrawing an advance notice of proposed rulemaking (ANPR) entitled "Product Labeling: Defining United States Cattle and United States Fresh Beef Products," which was published in the **Federal Register** on August 7, 2001. In the ANPR, the Agency requested comments on the need for regulations to clarify the definition of "United States cattle" and "United States fresh beef products," and whether such products should bear labeling claims that are different from the claims that are permitted under FSIS' current policy. Under FSIS policy, beef products that are made from animals that are documented to have been born, raised, slaughtered, and prepared in the United States are permitted to be labeled as USA products. The country-of-origin labeling provisions (Section 10816) in the Farm Security and Rural Investment Act of 2002 (the Farm Bill) <sup>1</sup> supplant the issues raised in the ANPR and, therefore, FSIS is withdrawing the ANPR.

**ADDRESSES:** Send an original and two copies of comments to the FSIS Docket Clerk, Docket # 00-036W, Room 102 Cotton Annex Building, 300 12th Street, SW., Washington, DC 20250-3700. Any comments will be available for public inspection in the Docket Room from

8:30 a.m. to 4:30 p.m., Monday through Friday.

#### FOR FURTHER INFORMATION CONTACT:

Robert C. Post, Ph.D., Director, Labeling and Consumer Protection Staff, FSIS, by telephone at (202) 205-0279 or by fax at (202) 205-3625.

#### SUPPLEMENTARY INFORMATION:

##### Background

FSIS published the ANPR (66 FR 41160) in response to the Conference Report accompanying the Agriculture Appropriations for 2000.<sup>2</sup> The report directed the Secretary of Agriculture, in consultation with the affected industries, to promulgate regulations to define which cattle and fresh beef products are "Products of the U.S.A." The report also directed the Secretary to determine the terminology that would best reflect in labeling that such beef products are, in fact, U.S. products. The 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.

Under the mandate of the Federal Meat Inspection Act (21 U.S.C. 601 *et seq.*), FSIS issues regulations to ensure that labeling statements about the origin of a product are truthful, accurate, and not misleading. Under FSIS regulations, producers and processors wishing to make such labeling statements on the labels of products shipped from Federal establishments must submit documentation that verifies that the statements are truthful and accurate.

The Department's Agriculture Marketing Service (AMS) has the authority to establish voluntary programs under the Agricultural Marketing Act of 1946 (7 U.S.C. 1621-1627) to verify/certify the origin of animals, which can be reflected in labeling statements. However, producers wishing to make such statements are not required to have their production practices verified/certified by an AMS program. In 1998, AMS proposed program guidelines to certify that 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. There was to be a fee for this service, however, and no firm took advantage of it.

#### Provisions in the 2002 Farm Bill

On May 13, 2002, the President signed the Farm Bill into law. The new law amends the Agriculture Marketing Act of 1946 to require retailers to inform consumers of the country-of-origin of covered commodities at the point of final retail sale. The term "covered commodity" is defined in the law as muscle cuts of beef (including veal), lamb, and pork; ground beef, lamb, and pork; wild and farm-raised fish and shellfish; perishable agricultural commodities (fresh fruits and vegetables); and peanuts. The Act directs the Secretary, through AMS, to implement the requirements by September 30, 2004.

On October 11, 2002, AMS published a notice in the **Federal Register** (67 FR 63367) entitled "Establishment of Guidelines for the Interim Voluntary Country of Origin Labeling of Beef, Lamb, Pork, Fish, Perishable Agricultural Commodities, and Peanuts Under the Authority of the Agricultural Marketing Act of 1946." In accordance with the notice, during the interim period between the signing of the law and its implementation date, compliance with the guidelines is voluntary. One of the provisions of the Farm Bill is that a retailer of beef, lamb, and pork may designate the covered meat commodity as having originated in the United States only if it is "exclusively born, raised, and slaughtered in the United States."

As a result of the enactment of the Farm Bill, FSIS is withdrawing the ANPR and will not proceed with further regulatory action pursuant to this rulemaking.

#### Summary of Comments on the ANPR

FSIS received 1,036 comments on the 2001 ANPR from trade associations, consumer groups, farmers unions of various states, the Canadian Government, the U.S. Chamber of Commerce, and citizens/consumers. More than 900 comments were from write-in campaigns by cattle producers/consumers who support the definition for labeling purposes as "born, raised, slaughtered, and processed (prepared) in the United States." There was almost no support for any other labeling terminology, no support for a petition

<sup>1</sup> Public Law 107-171 (May 13, 2002).

<sup>2</sup> Agricultural, Rural Development, Food and Drug Administration, and Related Agencies Appropriation Act, 2000 (Public Law 106-78 (October 23, 1999)).