



United States Department of Agriculture

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Food Safety and  
Inspection Service

1400 Independence  
Avenue, SW,  
Washington, D.C.  
20250-3700

October 6, 2020

Mr. Gary Jay Kushner  
Counsel to the American Veal Association  
Hogan Lovells US LLP  
Columbia Square  
555 Thirteenth Street, NW  
Washington, DC 20004

Dear Mr. Kushner:

The Food Safety and Inspection Service (FSIS) has completed its review of the July 14, 2016, petition you submitted on behalf of the American Veal Association (AVA) and assigned petition #16-06. The petition requests that FSIS initiate rulemaking to establish a regulatory definition for veal and other immature cattle that reflects established industry practices. The petition specifically requests that FSIS define "veal" as "any immature bovine having a dressed carcass weight up to 425 pounds and administered only United States Food and Drug Administration [(FDA)] approved medications and feed, formula, nutritional and herbal supplements in accordance with [FDA] regulations." The petition also requests that FSIS establish "optional" subcategories for "milk-fed veal," "formula-fed veal," and "grain/grass-fed veal" based on the live animal's diet and its dressed carcass weight, and for "bob veal" based on a dressed carcass weight of less than 100 pounds. Finally, the petition requests that FSIS define "calf" for labeling purposes as any immature bovine that does not meet any of the requested veal definitions. According to the petition, these recommended definitions would "protect consumer expectations" through codifying existing industry and regulatory practices.

After careful consideration of the issues raised in the petition, FSIS has decided to deny your petition without prejudice. FSIS has determined that the petition does not include the necessary consumer research or other supporting data to demonstrate that a regulatory definition for "veal," based primarily on the dressed carcass weight and compliance with FDA regulations, is needed to meet consumer expectations for products labeled as "veal." FSIS has also determined that, for labeling purposes, it is not necessary to define optional veal subcategories based on the live animal's diet and dressed carcass weight because our current procedures for approving labels bearing animal raising claims provide producers with flexibility and are effective in ensuring that labels bearing these claims are truthful and not misleading. Finally, FSIS has decided not to establish a regulatory definition for "bob veal" based solely on a dressed carcass weight of less than 100 pounds, as requested in your petition, because we believe our current definition more accurately reflects the animal's characteristics and is more consistent with FDA's Center for Veterinary Medicine's (CVM's) bovine classifications for drug approval purposes. This definition appears on the FSIS website, on

industry websites, in Agency instructions to FSIS personnel, and in the FSIS regulations for the purposes of the handling of certain livestock carcasses.

#### Current Regulatory Requirements for Labeling Meat Products as “Veal” and Information Available to Consumers

*Labeling requirements:* As you are aware, FSIS’s labeling regulations do not prescribe requirements for the labeling of meat products as “veal” or “calf.” However, the USDA Agricultural Marketing Service (AMS) develops and maintains Institutional Meat Purchase Specifications (IMPS) and grading standards that provide guidance for industry on the labeling of these products.<sup>1,2</sup> Under the IMPS, factors other than live weight are considered when deciding how to label products from veal and calf animals—specifically, the pallor of the meat, the texture of the lean muscle, the color of the bone marrow (bright red), and the contour of the carcass. The product names and abbreviations for fresh veal and calf products listed in the IMPS have been reviewed by the FSIS Labeling and Program Delivery Staff (LPDS) and found to be consistent with FSIS labeling policies. FSIS consulted with AMS when evaluating your petition, and AMS supports FSIS’s consideration of the IMPS factors and criteria when assessing labeling claims.

FSIS allows certain labels that bear only mandatory labeling features and that comply with the Agency’s labeling regulations to be generically approved (9 CFR 412.2(a)(1)). Generically approved labels do not need to be submitted to FSIS for approval before they can be used on product in commerce. However, to prevent labeling claims that are false and misleading, any label with a special statement or claim, including an animal raising claim, must be submitted to FSIS for prior approval (9 CFR 412.1(c)(3)). Examples of animal-raising claims include, but are not limited to, “formula-fed,” “grain-fed,” and “pasture-raised.” As part of the label approval process, FSIS verifies the accuracy of these claims on a case-by-case basis by reviewing the supporting documentation submitted with the label approval application.<sup>3</sup> FSIS will approve the claim if it is truthful and not misleading, and the establishment submits documentation to substantiate the claim. Whether a label is generically approved or subject to FSIS prior approval, FSIS inspection personnel verify that labels comply with regulatory requirements through the General Labeling task in the Agency’s Public Health Information System. FSIS considers this approach effective to ensure that veal products bearing labels that include animal raising claims are not misbranded.

*Consumer information:* Although there is no USDA codified definition of veal, information is currently available for consumers on both FSIS and industry websites that describes the characteristics of veal and veal meat. For example, the FSIS website states that “[v]eal is the meat from a calf or young beef animal” and that “[a]

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<sup>1</sup> Institutional Meat Purchase Specifications – Fresh Veal; available at [http://www.ams.usda.gov/sites/default/files/media/IMPS\\_300\\_Fresh\\_Veal\\_%26\\_Calf%5B1%5D.pdf](http://www.ams.usda.gov/sites/default/files/media/IMPS_300_Fresh_Veal_%26_Calf%5B1%5D.pdf).

<sup>2</sup> United States Standards for Grades of Veal and Calf Carcasses; available at [http://www.ams.usda.gov/sites/default/files/media/Veal\\_%26\\_Calf\\_Carcass\\_Standard%5B1%5D.pdf](http://www.ams.usda.gov/sites/default/files/media/Veal_%26_Calf_Carcass_Standard%5B1%5D.pdf).

<sup>3</sup> Additional guidance is available at <https://www.fsis.usda.gov/wps/wcm/connect/6fe3cd56-6809-4239-b7a2-bccb82a30588/RaisingClaims.pdf?MOD=AJPERES>.

veal calf is raised until about 16 to 18 weeks of age, weighing up to 450 pounds.”<sup>4</sup> The FSIS website also states that “[t]he majority of veal calves are special-fed” and explains that “[s]pecial, milk fed, and formula fed are the names given to nutritionally balanced milk or soy based diets fed to calves”<sup>5</sup> and that “typical lean meat on a veal carcass has a grayish pink color.”<sup>6</sup>

Information provided on industry websites is generally consistent with the information provided by FSIS, with slightly older market-ready ages and heavier live weights. For example, the AVA website states that “[m]ilk-fed veal calves are fed a nutritionally-balanced diet of a milk-replacer, and in most cases, they also receive grain” and that “[m]ilk-fed is also sometimes referred to as ‘special-fed’ or ‘formula-fed’.” The website explains that “milk-fed calves are raised for about 22 weeks and marketed at 500 pounds...”<sup>7</sup> The Beef Checkoff’s Veal Farm website informs consumers that veal calves are raised for 20-22 weeks, until they weigh 475-500 pounds and that “[s]pecial-fed veal calves (also known as milk-fed and formula-fed veal calves) are fed nutritionally-balanced milk or soy-based diets.” The website also explains that veal meat is light in color because of “the age of the calf and the level of myoglobin (iron content) in the muscle.”<sup>8</sup>

The FSIS website and the Beef Checkoff’s Veal Farm website both describe “bob veal” as veal calves marketed up to 3 weeks of age or up to 150 pounds in weight.<sup>9,10</sup> For residue testing purposes in FSIS Directive 10,800.1, *Residue Sampling, Testing and other Verification Procedures under the National Residue Program for Meat and Poultry Products*<sup>11</sup> defines bob veal in a similar manner but also includes rumen development. As noted in the directive, for the purpose of handling livestock carcasses from animals suspected of containing certain biological residues, the FSIS regulations define a livestock “calf” as “a calf up to 3 weeks of age or up to 150 lbs” (9 CFR 310.21(b)(1)).

#### Requested Definition for Broad Veal and Calf Category

The petition asserts that a regulatory definition for “veal” based primarily on dressed carcass weight would meet consumer expectations and avoid the need for FSIS inspection personnel and processors to inquire subjectively about meat tenderness or color or the animal’s digestive development. However, the petition

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<sup>4</sup> Veal from Farm to Table; available at: [https://www.fsis.usda.gov/wps/portal/fsis/topics/food-safety-education/get-answers/food-safety-fact-sheets/meat-preparation/veal-from-farm-to-table/ct\\_index](https://www.fsis.usda.gov/wps/portal/fsis/topics/food-safety-education/get-answers/food-safety-fact-sheets/meat-preparation/veal-from-farm-to-table/ct_index); Ask USDA: What is veal?; Available at: <https://ask.usda.gov/s/article/What-is-veal>.

<sup>5</sup> Veal from Farm to Table; Ask USDA: What is special fed veal?; available at: <https://ask.usda.gov/s/article/What-is-special-fed-veal>

<sup>6</sup> Veal from Farm to Table; Ask USDA: What is the normal color of veal?; available at: <https://ask.usda.gov/s/article/What-is-the-normal-color-of-veal>

<sup>7</sup> <http://www.americanveal.com/animal-care-housing>

<sup>8</sup> <https://www.vealfarm.com/questions-and-answers>

<sup>9</sup> Veal from Farm to Table; available at: [https://www.fsis.usda.gov/wps/portal/fsis/topics/food-safety-education/get-answers/food-safety-fact-sheets/meat-preparation/veal-from-farm-to-table/ct\\_index](https://www.fsis.usda.gov/wps/portal/fsis/topics/food-safety-education/get-answers/food-safety-fact-sheets/meat-preparation/veal-from-farm-to-table/ct_index); Ask USDA: What is veal?; available at: <https://ask.usda.gov/s/article/What-is-veal>

<sup>10</sup> <https://www.vealfarm.com/veal-farming>

<sup>11</sup> FSIS Directive 10,800.1, *Residue Sampling, Testing and other Verification Procedures under the National Residue Program for Meat and Poultry Products*, 3/3/2014; available at: <https://www.fsis.usda.gov/wps/wcm/connect/147066f0-564c-4590-b36f-97ffc5ab9797/10800.1.pdf?MOD=AJPERES>.

does not include consumer research or other supporting data to demonstrate that consumers consider dressed carcass weight to be a defining characteristic of meat products labeled as “veal.”

As stated above, AMS’s grading standards primarily refer to the color and texture of the lean carcasses, rather than the dressed carcass weight, to differentiate between veal, calf, and beef carcasses.<sup>12</sup> For example, the AMS standards describe typical veal carcasses as having “a grayish pink color of the lean that is very smooth and velvety in texture...” and typical calf carcasses as having “a grayish red color of the lean” and “a flakier type of fat...” (see § 54.113 Differentiation between veal, calf, and beef). Thus, under the AMS grading standards, meat products graded as veal would have different color and texture characteristics than meat products graded as calf. The AMS IMPS for fresh veal and calf products also primarily refer to the color and texture of the lean carcasses to distinguish veal and calf products.

Although your petition states that AMS has established detailed grading standards for veal and calves, it does not address whether consumers expect products labeled as “veal” to have the color and texture characteristics necessary to be graded as veal by AMS or whether consumer expectations are based primarily on a dressed carcass weight without regard to the color or texture of the meat. Additionally, as noted above, the color and texture characteristics for veal posted on the FSIS website and the Beef Checkoff Veal Farm website are consistent with AMS’s grading standards for veal.

The petition also requests that the regulatory definition for “veal” require that the source animal be fed and administered only FDA-approved substances in accordance with FDA regulations. However, the petition does not explain why such a provision is imperative to the regulatory definition. FDA’s current regulations do not permit any substance to be used in an extra-label manner for food animal production purposes, whether administered through feed or otherwise, regardless of how the final meat product is labeled (see 21 CFR part 530).

#### “Optional” Definitions for Milk-Fed, Formula-Fed and Grain/Grass-Fed Veal

In addition to requesting a broad veal regulatory definition, the petition requests that FSIS establish “optional” subcategories in its regulations for “milk-fed veal,” “formula-fed veal,” and “grain/grass-fed veal.” The requested subcategories would be based on the live animal’s diet and its dressed carcass weight.

As noted above, FSIS evaluates meat and poultry product labels bearing claims about the source animal’s diet on a case-by-case basis. When reviewing labels that include these and other animal raising claims, FSIS evaluates documentation submitted with the label approval application in support of the claim to verify the accuracy of the claim. FSIS currently approves labels for veal products that include claims about the animal’s diet, such as “special-fed,” “milk-fed,” “formula-fed,” and “grass-fed,” if the label approval application includes, among other things, a feed formulation and the formulation does not include substances that are not permitted by the claim.

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<sup>12</sup> United States Standards for Grades of Veal and Calf Carcasses; available at [http://www.ams.usda.gov/sites/default/files/media/Veal\\_%26\\_Calf\\_Carcass\\_Standard%5B1%5D.pdf](http://www.ams.usda.gov/sites/default/files/media/Veal_%26_Calf_Carcass_Standard%5B1%5D.pdf).

FSIS disagrees that it needs to establish regulatory definitions for “milk-fed veal,” “formula-fed veal,” and “grain/grass-fed veal.” Animal production practices vary and are continuously developing. FSIS does not have the statutory authority to regulate on-farm animal production, and thus its codification of animal raising claims could inappropriately restrict developments in animal production practices by operations that would benefit from the use of a truthful claim. Furthermore, FSIS does not believe that specifying a dressed carcass weight is necessary for the Agency to ensure that a claim about the animal’s diet in the labeling of a veal product is truthful and not misleading.

“Optional” Bob-Veal Definition

The petition also requests that FSIS establish a regulatory definition for “bob veal” as “veal with a dressed carcass weight of less than 100 pounds.” As discussed above, information is currently available to consumers on FSIS and industry websites that describe “bob veal” as “veal calves marketed up to 3 weeks of age or at a weight up to 150 pounds.” FSIS is not aware of, nor did the petition include, data that suggests that this description does not meet consumer expectations for the labeling of these products. Furthermore, because the FDA’s CVM considers veal distinct from cattle for purposes of its drug approval process, it is important for FSIS to classify veal at slaughter for residue purposes in a manner that is consistent with FDA/CVM, which takes into consideration rumen development. The definition of “bob-veal” in FSIS Directive 10,800.1 also takes into consideration rumen development.

For the reasons discussed above, we are denying your petition. Because your denial is without prejudice, you are not precluded from submitting a revised petition that contains additional information to support the requested action. If you have any questions, please contact Rosalyn Murphy-Jenkins, Director, Labeling and Program Delivery Staff at 301-504-0878.

In accordance with FSIS regulations, the petition was posted on the FSIS website. The Agency intends to post this response as well.

Sincerely,

A handwritten signature in black ink, appearing to read "Rachel Edelstein". The signature is fluid and cursive, with the first name "Rachel" being more prominent than the last name "Edelstein".

Rachel Edelstein  
Assistant Administrator  
Office of Policy and Program Development