



July 26, 2023

FSIS Docket Clerk
Department of Agriculture
Food Safety and Inspection Service
Room 2534 South Building
1400 Independence Avenue, S.W.
Washington, DC 20250-3700

Re: Petition to Modify the “50-Mile” Import Grant of Inspection Rule

The Meat Import Council of America (MiCA) and the Global Cold Chain Alliance (GCCA) respectfully submit this petition to the U.S. Department of Agriculture’s Food Safety and Inspection Service (FSIS or the Agency) to consider reinterpreting the restrictive “50-mile” policy rule for grants of inspection to establishments performing import inspections (I-houses). The rule, which is an internal policy and not captured by regulation, unnecessarily restricts import inspection activity by arbitrarily limiting approved establishments to operate within a 50-mile geographic radius of a US ocean or land port of entry. The Agency should consider approving grants of inspection for I-houses beyond a 50-mile geographic radius of a US land or sea port of entry where individual circumstances and conditions may justify the action.

About the Petitioners

MiCA is the primary trade association representing the US industry that imports fresh, chilled and frozen beef and sheep meat into the United States. MiCA’s regular members are importers who account for most of the non-North American imports of this product as well as port authorities, refrigerated warehouses, customhouse brokers, truckers and draymen, etc. who provide services in connection with this imported product.

The Global Cold Chain Alliance (GCCA) is an international association representing all major industries engaged in temperature-controlled warehousing, logistics and transportation. GCCA unites all partners to be innovative leaders in the movement of perishable products globally.

MiCA and GCCA appreciates the opportunity to raise this important issue with the Agency.

Summary of Requested Action

MiCA and GCCA hereby petition FSIS to reinterpret the current internal policy requirement which arbitrarily limits grants of inspection for import establishments (I-houses) to facilities located within 50 geographic miles of a US sea or land port of entry. By reinterpreting or modifying this restrictive internal policy, the Agency will offer more flexibility to supply chains, reduce congestion and

bottlenecks at US ports of entry, increase available inspection and cold storage capacity, and provide other benefits to the increasingly overloaded import inspection system. Granting inspection approval to I-house locations outside of the arbitrary 50-mile port of entry radius will further benefit the Agency by increasing efficiency and flexibility, reducing costs, and providing increased food safety benefits.

Specifically, MICA and GCCA request that FSIS consider revising the current 50-mile policy to allow for inland import inspection locations, especially around inland ports of entry. Inland locations can provide the same services and functionality as operations located geographically near a US ocean or land port of entry. The 50-mile policy is decades old, and significant changes have occurred in the supply chain over the last several decades which allow thorough and real time tracking of shipments, alleviating many of the concerns that were in place when the policy was originally adopted. Further, shipping and transportation trends are moving towards increased utilization of inland ports of entry, and meat inspection should follow those broader trends.

Factual Background

All meat and meat product imports into the United States, regardless of country of origin, must be presented for reinspection by the Agency upon arrival at a US port of entry. Reinspection activity takes place at commercial cold storage facilities that have applied for, and received, grants of inspection. FSIS import inspectors located at these facilities check documents, certification, labels, and examine each shipment for general condition and wholesomeness. Reinspection of imported product is an integral component of the overall US meat and poultry food safety system.

Port of entry reinspection activities are directed by the FSIS Public Health Information System (PHIS), a centralized computer database that stores reinspection results from all ports of entry for each country and for each establishment. Reinspection of products is performance-based in that better performing foreign establishments have their products reinspected less frequently. The I-house is responsible for staging the product and providing the documentation to the inspectors for review.

The PHIS determines the type of reinspection based on compliance history of the establishment and country. Several types of inspection (TOI) may be assigned by the PHIS including net weight checks of retail packages; examination of the containers' condition; examination for product defects; incubation of canned goods; and laboratory analysis for product composition, microbiological contamination, residues, and species. Additionally, FSIS randomly samples products at ports for drug and chemical residues.

Products that pass reinspection are stamped with the USDA mark of inspection and are allowed to enter US commerce for distribution and use as if they were produced domestically. If imported meat or poultry products do not meet U.S. requirements, they are stamped "US Refused Entry" and within 45 days must be exported, destroyed, or converted to animal food (if eligible and with the approval of the Food and Drug Administration).

Historically, FSIS has restricted grants of inspection to I-houses that are located within a 50-mile geographic radius of a US land or sea port of entry. This policy has been in place for many years and is not a statutory or regulatory requirement, but rather the Agency's internal policy.

Legal Framework

There are no statutory or regulatory requirements for grants of inspection to be limited to facilities located within 50 miles of a US port of entry.

Rather, FSIS informally adopted the practice decades ago as a result of a US Government Accounting Office (GAO) audit¹ conducted in July 1990 and reaffirmed after considerations that arose in the wake of the September 11, 2001 terrorist attacks. It is a policy that has been developed primarily in response to Agency resource and labor constraints, rather than for specific food safety or animal health concerns.

As then USDA FSIS Administrator Al Almanza stated in letter dated July 26, 2013, to the then North American Meat Institute Vice President of International Trade Policy William Westman

“At this time, we are committed to use of the 50-mile radius because of resource constraints and because of the need to ensure that essential food defense measures are effective. Under the proposal you set forth, FSIS would need to have at each receiving establishment approved as an official import inspection establishment an inspector that is fully trained to perform import reinspection activities. Such an approach would greatly increase the number of inspection personnel that FSIS would need, at a time when budget and personnel resources are scarce.”

There are no US Customs and Border Protection (CBP) regulations that prohibit movement of imported product from a port of entry to an establishment anywhere in the United States. As per the USDA FSIS 9540-1 Import Inspection Application:

IN CONSIDERATION of the U.S. Director of Customs and Border Protection granting me/us permission to transfer the packages of foreign food product described on this form which are offered for entry into the United States, I/we agree, under bond filed with said director of Customs and Border Protection and subject to penalties prescribed in laws enacted by Congress and regulations issued there under by the Secretary of Homeland Security, to hold the said food product intact at the location indicated above until it has been inspected and passed by a food inspector from the Food Safety and Inspection Service or has been otherwise disposed of under the supervision of a U.S. Customs and Border Protection Officer or a FSIS inspector.

Supporting Information

The Agency should revise its current policy regarding the 50-mile geographic radius. The Agency should consider the following information and functionalities in re-interpreting the internal policy:

- US Customs and Border Protection (CBP) operations, inspection, and exam sites are located throughout the country and are not bound by a 50-mile policy interpretation. Based on some

¹ *United States-Canada Open Border Proposal for Meat and Poultry Inspection*, T-RCED-90-96 Published: Jul 12, 1990. <http://www.gao.gov/products/T-RCED-90-96>

estimates, there are 314 “Ports of Entry” into the US, with a large number located far from geographic ocean or land ports.²

- CBP regulations define the US “border” as any area that is within 100 miles of “an external boundary of the United States³,” which is double the current FSIS policy.
- Transportation hubs that allow for the heavyweight movement and unloading of containers away from an ocean or land port of entry (inland rail hubs, for example) are an increasingly critical component of evolving logistics and transportation policy in the US, and are specifically designed to reduce congestion at ocean and land ports of entry. By conducting government regulatory and oversight activities at designated inland areas away from land and ocean ports of entry, transportation supply chain disruptions are reduced and bottlenecks may be significantly relieved. Meat import inspection activities should follow broader US Government regulatory and transportation policy trends in this regard.
- More FSIS inspection resources can be dispatched for import inspection by utilizing existing infrastructure. For example, FSIS inspectors who are trained on export inspection activities at inland ports or rail hubs could be cross-trained to conduct import inspections. The Agency would gain flexibility and react to rapidly changing market conditions and supply chains.
- The PHIS tracks shipment arrivals at import establishments. If a shipment fails to arrive or present for inspection at the designated import establishment, the Agency will have this information readily available and will be able to take necessary action to protect public health and food safety. Financial penalties and possible recalls, as is currently implemented, may result if an import does not present for FSIS inspection.
- Restrictions on the movement of certain high-risk products, for example due to animal health concerns as identified by USDA-Animal and Plant Health Inspection Service (APHIS), could be managed by existing systems (CBP ACE or PHIS). Failures to present, intensified inspections and increased designated imported product can all likewise be identified and managed by existing systems and infrastructure, requiring certain products to present closer to a geographic border facility as individual circumstances dictate.
- Import inspection of meat products is a reinspection process. The actual inspection occurs in the point of origin in the equivalent countries which all have well established food safety systems that share data and information with USDA on a consistent basis. Advanced food safety and labeling programs have been implemented by USDA FSIS that include Prior Notification, PHIS adjustments based on data (Exam Ratios for Normal, Intensified, and

² see: <https://www.vox.com/2015/2/7/7993273/border-port-map>

³ 8 CFR 287 (a)(1) defines US CBP’s “reasonable operating distance” as 100 air miles from the border.

Increased Inspections), and E-certification. All have advanced food safety and labeling inspection processes.

- FSIS already allows *de facto* inland import inspection. For example, several import inspection establishments operate in the Chicago-land area. Product that enters the US through a sea port of entry on the East or West coast, or via road in Detroit, is currently able to designate those establishments located in Chicago for inspection and travel there without issue. There is no reason why this current, existing practice could not be extended to other areas of the country.
- FSIS policy currently allows for flexibility in inspection procedures to accommodate congestion and delays at US ports of entry, and this policy change would be in the same vein. The USDA has allowed storage at non-inspected inland warehouse sites for up to 30 days (FSIS Notice 44-21 issued on October 8, 2021). This allowance led to trucks shipping product throughout the United States without prior inspection. Further, FSIS revised the Temporary Allowances for Official Import Inspection Establishments, by extending it for an additional 6 months until October 6, 2022 (FSIS Notice 18-22 published on April 6, 2022)⁴.
- The FSIS import inspection application refers to the US Director of Customs and Border Protection and imported product offered for entry into the United States. The importer of record (IOR) or their representative (US Customs Broker) must apply for FSIS inspection of imported product and provide the application to FSIS no later than the time the entry is made with CBP. Entry can be made anywhere with entry being recorded in the PHIS corresponding to the Prior Notice and Estimated Date of Arrival requirements. This aligns with our request for inland import establishment approval.
- Inland import inspection can streamline the inspection process by providing additional options for inspecting imported products. The options could follow several flow paths to be inspected, depending on their intended use. These “paths” may include the following processes:
 - Product makes entry at a US port and is recorded in PHIS,
 - Importer/broker estimates the time of arrival for the product at a designated inspection facility located either at an inland port facility or a site near the port of entry. The importer/broker may list an import establishment at the port, an inland warehouse, or a domestic processing establishment that has import inspection capabilities onsite.
 - The product arrives at the designated site and is inspected and either used in processing or stored at that site.
 - The product arrival and inspection data are entered into the PHIS system by the receiving inspector, ensuring product reaches the designated facility.

⁴ FSIS Notice 18-22: <https://www.fsis.usda.gov/policy/fsis-notice/18-22>

- Refused entries other regulatory actions are handled the same way as is currently handled onsite.
- FSIS has eliminated specific inspector job descriptions, making all inspectors Consumer Safety Inspectors (CSI). There is no difference between an import inspector, export inspector, and domestic inspector, minimizing the need for additional import-specific inspectors or redeployment of staff within the USDA inspector ranks. Current CSIs can be trained on import inspection procedures as needed throughout the country on a local or regional basis as supply chains dictate.

Full Statement of Agency Action Requested

USDA-FSIS should reinterpret current internal policies requiring all import facilities seeking grants of inspection to be geographically located within 50 miles of a US land or sea port of entry. The Agency should allow grants of inspection for imported product from facilities beyond the 50-mile radius when individual circumstances warrant that decision. The Agency has the power to approve or deny a grant of inspection based on a variety of factors and can make that decision adequately on a case-by-case basis when reviewing all factors associated with a facility's specific application. These factors may include labor constraints, volume limitations, and other factors.

MICA and GCCA are available to answer any questions or discuss elements of this proposal. For additional questions, please contact Steve Sothmann of MICA (Steve@micausa.org/202-587-4261) or Lowell Randel of GCCA (lrandel@gcca.org/202-406-0212). Thank you for your consideration of this proposal.

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