



United States Department of Agriculture

Food Safety and  
Inspection Service

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

Mr. Leonard Lang  
Import Export Associates, Inc.  
2034 Coast Guard Drive  
Stafford, VA 22554

DEC 30 2019

Dear Mr. Lang:

The Food Safety and Inspection Service (FSIS) has completed its review of Import Export Associates, Inc.'s July 21, 2017, petition requesting that FSIS amend its policy to allow safe handling instructions (SHI) on the protective coverings of meat products shipped in an immediate container that bears all mandatory labeling features. Under the current policy, outlined in FSIS Standards and Labeling Division Policy Memo 090B, Protective Coverings (December 18, 1990) and FSIS Directive 9900.5, *Label Verification of Imported Meat, Poultry, and Egg Products*, if a protective covering bears a mandatory labeling feature other than the official inspection legend, such as SHI, it is then considered the immediate container and subject to all applicable labeling requirements prescribed in 9 CFR 317.2. This policy reflects requirements for the labeling of immediate containers prescribed in 9 CFR 317.1.

In the petition, you request that FSIS change its policy to allow protective coverings that do not bear all mandatory labeling features to bear SHI. You state that under the current policy FSIS import inspection personnel are refusing entry to packaged products shipped in a fully labeled shipping carton if the products' protective covering bears SHI without all other required labeling features. You assert that while FSIS permits the shipment to be accepted for entry if the product is re-labeled to add the other mandatory labeling features, this process is costly. In addition, you state that allowing SHI to remain on a protective covering would enhance public safety. Therefore, you conclude, the existing FSIS policy to prohibit SHI on protective coverings of meat products that do not bear all mandatory labeling features under 9 CFR 317.2 is contrary to the Agency's mission to protect public health.

After careful consideration of the petition, we have determined that it does not contain sufficient information to demonstrate that the requested action would benefit industry or consumers or improve food safety. The petition does not include, for example, information on how frequently FSIS import inspectors refuse entry for meat products bearing SHI on the protective coverings. In addition, while you assert that there are costs associated with re-labeling the protective coverings of imported product, the petition does not include information on the extent to which import establishments re-label products that do not meet regulatory requirements or the estimated costs associated with re-labeling the product. Further, we have reviewed the policy and determined that it both reflects regulatory requirements and promotes public health through ensuring consistent

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information in the labeling of both imported and domestic meat products. Therefore, for the reasons discussed below, we have decided to deny your petition without prejudice.

The FSIS regulations in 9 CFR 317.1 prescribe requirements for the labeling of immediate containers. These regulations state that receptacles or coverings that constitute the immediate container of a product must bear all mandatory labeling features required under 9 CFR 317.2. The regulations define "immediate container" as "the receptacle or other covering in which any product is directly contained or wholly or partially enclosed" (9 CFR 301.2).

In addition to prescribing labeling requirements for immediate containers, 9 CFR 317.1(a) excludes certain product packaging that would otherwise meet the definition of "immediate container" from the labeling requirements in 9 CFR 317.2. However, these regulations do not exempt the imported product discussed in your petition. The FSIS regulations in 9 CFR 317.1(a)(1) provide that wrapping intended solely to protect unprocessed dressed carcasses and primal parts against soiling or excessive drying is not subject to the labeling requirements in 9 CFR 317.2, if such wrapping bears the official inspection legend and does not include any other mandatory labeling features. The regulations permit such wrappings to bear certain optional features, such as company brand names, trademarks, or code numbers that do not include any information required under 9 CFR 317.2. Further, 9 CFR 317.1(a)(2) provides that uncolored transparent coverings that bear no written, printed, or graphic matter, and which enclose any product that complies with the marking requirements in 9 CFR part 316, are exempt from the labeling requirements in 9 CFR 317.2. The regulations in 9 CFR part 316 address the marking of carcasses, parts, and certain meat food products.

The current regulations prescribe the specific type of information that is required to appear on a package of a meat product, whether the package is an immediate container, a protective covering, or a transparent covering. The existing FSIS instructions to the field and guidance documents that you cite in the petition reflect the regulatory requirements for immediate container labeling in 9 CFR part 317. FSIS Directive 9900.5, *Label Verification of Imported Meat, Poultry, and Egg Products*, directs import inspection personnel to verify that protective coverings on product in shipping containers comply with 9 CFR 317.1(a). The FSIS Standards and Labeling Division Policy Memo 090B, *Protective Coverings* (December 18, 1990), addresses under what circumstances immediate containers can be considered protective coverings. The policy memo states that transparent film bags enclosing unprocessed meat cuts can be considered protective coverings and exempt from certain marking and labeling requirements when the bags are placed in a container which meets all mandatory labeling requirements of an immediate container. These documents reflect regulatory requirements and provide industry with clear guidance to maintain labeling compliance and inspectors with clear instructions to ensure that meat product labeling meet regulatory requirements, regardless of whether the packaging is considered an immediate container or protective covering.

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We appreciate and share the public safety concerns you raise in the petition. The Agency's existing regulations on SHI promote food safety by ensuring that the information that appears on the packaging of meat products is consistent. Consistent packaging information, in turn, ensures that product labeling is not misleading. Your petition requests that we allow, but not require, protective coverings to bear SHI. Thus, if we were to grant your petition, some meat products in protective coverings would be labeled with SHI, while others would not. Retailers are required to re-label products in protective covering to add all of the mandatory labeling features prior to their sale at retail. Inconsistent SHI information on protective coverings raises public health risks because retailers may begin to rely on protective coverings to bear SHI when they re-label raw meat products. Because not all protective coverings would have SHI, this regulatory change could result in the inadvertent omission of this important labeling feature on some raw meat products sold at retail. Thus, your request to allow SHI on incomplete labels could lead to the public health risks that FSIS seeks to prevent through existing policy.

For the reasons discussed above, we are denying your petition without prejudice. Because our denial is without prejudice, you are not precluded from submitting a revised petition that contains additional information, such as the information described above, to support the requested action. In accordance with our petition regulations, we have posted your petition on the FSIS website (9 CFR 392.6). We intend to post this response as well. If you have any questions concerning the status of your petition, you may contact Mary Porretta, Petitions Manager, Issuances Staff, at (202) 720-5627.

Sincerely,



Terri Nintemann  
Assistant Administrator  
Office of Policy and Program Development