



Associação Brasileira das  
Indústrias Exportadoras de Carnes

Brazilian Beef  
Exporters Association

Carmen M. Rottenberg  
Administrator  
Food Safety and Inspection Service  
U.S. Department of Agriculture  
1400 Independence Ave.  
S.W. Washington, DC 20250-3700

Re: Petition to Amend Current Port-of-Entry (POE) Definition and Policies Regarding Loose Tins

Dear Administrator, Rottenberg:

The Brazilian Beef Association (ABIEC) is submitting this petition regarding the Food Safety and Inspection Service's (FSIS) current definition and policies associated with abnormal containers of low acid canned foods identified as "Loose Tin" when there is no incidence of spoilage microorganisms. Accordingly, this petition is requesting that:

- 1) When the FSIS laboratory analysis of a loose tin determines there is no incidence of microorganisms, the entire production lot is accepted and passed without sorting;
- 2) Such production lots are not subject or attribute to any follow-up actions by FSIS, e.g., increased reinspection at POE; and
- 3) Defective containers (e.g., loose tin, springer, hard/soft swell, leaker) identified at POE are returned, in a timely manner, to the foreign producer so that the root cause of the processing deviation or canning defect can be identified and corrected to prevent the production of similar processing/canning defects.

FSIS Directive 9900.2, dated May 16, 2017, provides FSIS Inspection Program Personnel (IPP) with instructions on how to conduct reinspection on shipments of imported meat, poultry, and egg products at official import inspection establishments.

This includes the reinspection of thermally produced products. Accordingly, when thermally processed / commercially sterile products (rigid metal or glass containers, semi-rigid containers, retort pouches and trays) are presented for reinspection, the IPP are to verify the general condition of the entire lot to determine if there are any abnormal containers that could present a food safety concern.

In the COCE1 Table of this Directive, FSIS identifies abnormal containers as "critical defects," which includes loose tin with the following definition, "*A rigid container which does not appear swollen, but slight pressure reveals a looseness, or whose end or ends do not show evidence of full vacuum, thus allowing movement of either end.*"

This categorization of loose tin as an abnormal container does not agree with the definition of an abnormal container in FSIS Regulation 9 CFR 318.300 (a), which states, "*A container with any sign of swelling or product leakage or any evidence that the contents of the unopened container may be spoiled.*"



In addition, in the FSIS Microbiology Laboratory Guidebook (3rd Edition/1998 10-1) "EXAMINATION OF HEAT PROCESSED, HERMETICALLY SEALED (CANNED) MEAT AND POULTRY PRODUCTS," loose tin is not a defect identified as a condition that causes probable spoilage in canned food. Instead, it identifies loose tin as a condition that is not related to food spoilage.

Furthermore, we understand that FSIS does not define loose tin as an abnormal container in the domestic inspection program, and that the domestic inspection program takes into consideration the absence of microorganisms as the determining factor of that the product is safe and wholesome.

Accordingly, it appears that imported thermally processed canned products are treated differently than domestic product and scrutinized at a different acceptance level. We believe this is in violation of the WTO Sanitary and Phytosanitary Agreement regarding trade between two Members.

[https://www.wto.org/english/docs\\_e/legal\\_e/15-sps.pdf](https://www.wto.org/english/docs_e/legal_e/15-sps.pdf)

Currently, FSIS's policy at POE is to identify and refuse entry of thermally processed canned product as loose tins when its laboratory analysis concludes there is no incidence of microorganisms. We fully understand and agree that underprocessed product and leaking cans that result in the growth of microorganisms does pose a potential public health concern. However, it is not a public health concern when there is no evidence of underprocessed product or leaking cans and when the laboratory analysis confirms no recovery of microorganisms. Our investigation regarding this matter has concluded that the underlying cause of this type of loose tin is due to a poor vacuum.

It is important to note that USDA's Agricultural Marketing Service and the U.S. Food and Drug Administration do not identify nor classify loose tin as a defective container, whether abnormal or not. As you know, both of these U.S. government agencies have the responsibility for the domestic production and importation of the canned food products not regulated by FSIS. The non-categorization of loose tin is verified through U.S. regulations 7 CFR Part 42 (U.S. Standards for Condition of Containers) and 21 CFR Part 113 (Thermally Processed Low-Acid Foods Packaged in Hermetically Sealed Containers), respectively.

<https://www.gpo.gov/fdsys/granule/CFR-1999-title7-vol2/CFR-1999-title7-vol2-part42>

<https://www.gpo.gov/fdsys/granule/CFR-2011-title21-vol2/CFR-2011-title21-vol2-part113>



In regards to providing the FSIS identified defective containers to the foreign producer, FSIS Directive 9780.1, dated October 7, 2015, states that when POE findings indicate non-compliance shipments, FSIS is to work with the exporting country's Central Competent Authority to ensure that appropriate corrective action is taken. Currently, FSIS does not allow foreign countries to obtain any sample of the defective cans.

To help determine the root cause of the defective cans and thermal processing deviations, it is essential for the foreign producer obtain the defective cans to assess and, if necessary, remove defective cans from the market place and prevent future problems.

### **Proposal for regulatory or policy change:**

To that end, we are requesting that FSIS amend its current definitions and policies as follows:

- 1) To coincide with other U.S. government regulatory agencies and other countries, eliminate loose tin as a container defect. If this is not acceptable to FSIS then, as a minimum, re-categorize loose tin as an abnormal container only where adulteration through microorganisms is present. Accordingly, when the laboratory results indicate no incidence of microorganisms, FSIS shall identify the canned product as safe and wholesome. This change will correspond with the FSIS domestic inspection program and will comply with the FSIS definition of abnormal container as stipulated in 9 CFR 318.300.
- 2) Eliminate the sorting of lots that are identified as a Loose Tin where there is no microbial contamination. Accordingly, such product shall be inspected and passed, and actions taken by FSIS against the foreign establishment or country would not be applicable since loose tin defects with no microbial contamination are safe and wholesome.
- 3) Foreign establishments, upon request, should be able to obtain in a timely manner defective cans / pouches to assess and identify any production issues, i.e., thermal processing deviations and canning defects.

Brazil and its thermal processing establishments take food safety seriously. We continue to take steps to assure that meat products produced for the domestic market and for export are safe and wholesome. Any issues that involve defective thermally processed products and containers are being closely reviewed and immediately addressed.

We strongly believe that FSIS's current approach to refusing imported canned product based on loose tins where there is not a food safety issue (i.e., no presence of microbial contamination) needs to be aligned with the FSIS domestic program, other U.S.



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government regulatory agencies, and other countries. In addition, we believe that such canned product is safe and wholesome.

In addition, we believe that current FSIS regulations and domestic policies support this proposal. We ask that this policy be reviewed, and changes made to the current import policy.

We look forward to your favorable consideration of this proposal.

Sincerely yours,

A handwritten signature in blue ink, appearing to read 'Antônio Jorge Camardelli', is written over a light blue horizontal line. The signature is fluid and cursive, with a prominent peak at the end.

Antônio Jorge Camardelli  
Presidente

Cc: Paul Kiecker Deputy Administrator  
Bill Smith Assistant Administrator  
Roberta Wagner Assistant Administrator  
Matthew Michael, Director Issuances Staff  
Barry Rhodes, Branch Chief Import Operations