



Chicago, May 5th, 2017

VIA FEDERAL EXPRESS

U.S. Department of Agriculture (USDA) Food Safety and Inspection Service (FSIS)
Docket Clerk, Patriots Plaza III
1400 Independence Avenue, S.W. - Room 8-163 A, mailstop 3782 - Washington, DC 20250-3700

Ref.: "Policies and Regulations Governing the use of Beef Heart Meat, Tongue Meat, and Esophagus used in products and further clarification of labeling policy standards of identity"

Dear Sir or Madam:

Enclosed please find a Petition for Rulemaking, directed to the Food Safety and Inspection Service (FSIS) and United States Department of Agriculture (USDA). As detailed in the Petition, Petitioner request that the agency review the current policies and directives related to policies surrounding the use of beef heart meat in products such as corned beef regulated as per 9 CFR 319.100 - Corned beef. In addition the clarification of Tongue Meat and Esophagus used in products and the labeling standards of identity of identity is requested.

Beef heart meat is cardiac muscle trimmed from the ventricular wall of a beef heart. It is included in the definition of meat in 9 CFR 301.2. There is no limitation on the use of beef heart meat in the standards of identity for chopped beef, ground beef, or hamburger. Therefore, beef heart meat can be used in unlimited quantities and declared as "beef" on the label in these products.

In contrast, beef heart is any portion of the heart cap (i.e., efferent and afferent vessels, pericardial fat, atria, and auricles cranial to the atrio-ventricular septum and clearly demarcated from the ventricular portion of the heart by the coronary band) with or without attached ventricles. Beef heart is not meat, but beef heart is defined as meat byproduct in 9 CFR 301.2. Meat byproducts are not permitted components of chopped beef, ground beef, or hamburger.

The petitioner is requesting that the use of beef heart meat, based on the definition in 9 CFR 301.2 be extended to other products such as Corned Beef. A standard, uniform policy based off of the regulation (s) would require that if heart meat is considered meat then it should be permitted in all products at the same level of use. The current policy related to heart meat is also unclear for Tongue Meat and Esophagus and needs further clarified on use as an ingredient defined as meat in Canned Corned Beef. Clarification on Standards of Identity of products is requested so industry may meet the requirements of Generic Labeling.

Please note that Petitioner request expedited review of this Petition, because the action requested by Petitioner is intended to provide uniform rules and regulations governing the reassessment of imported product. Based on the foregoing, Petitioner request that FSIS review this Petition ahead of other pending petition.

Sincerely,

A handwritten signature in black ink, appearing to read "Pedro Beloto", is written over a horizontal line.

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PETITION

**" Policies and Regulations Governing the use of Beef Tongue, Esophagus and Heart Meat used in products and further clarification of labeling policy standards of identity"
Before the United States Department of Agriculture, Food Safety Inspection Service**

To:

U.S. Department of Agriculture (USDA) , Food Safety and Inspection Service (FSIS), Docket Clerk, Patriots Plaza III, 1400 Independence Avenue, S.W., Room 8-163A, Mailstop 3782, Washington, DC 20250-3700



I. Introduction

The Food Safety and Inspection Service (FSIS) is the public health agency in the U.S. Department of Agriculture responsible for ensuring that the nation's commercial supply of meat, poultry, and egg products is safe, wholesome, and correctly labeled and packaged.

On November 7, 2013, the Food Safety and Inspection Service (FSIS) amended its prior label approval regulations to expand the circumstances in which certain types of labels are generically approved. The Labeling and Program Delivery Staff (LPDS) evaluates four categories of labels (9 CFR 412.1 (c)): labels for religious exempt products (9 CFR 412.1 (c)(1), labels for export with deviations from domestic requirements (9 CFR 412.1 (c)(2), labels with special statements and claims (9 CFR 412.1 (c)(3), and labels for temporary approval (9 CFR 412.1 (c)(4). The LPDS staff also evaluates all labels for egg products and all labels for exotic species under voluntary USDA inspection. All other label applications may be generically approved without specific evaluation by LPDS.

As announced in February 2017 USDA's Food Safety and Inspection Service (FSIS) had overturned a 40-year-old policy that prohibited beef heart and beef tongue meat from being added to ground beef. "Meat" is the key word. Beef heart meat is the muscle that's been trimmed from the heart wall. "Beef heart" includes the meat and essentially everything else—the blood vessels, fat, and blood chambers. Beef tongue meat does not include the blood vessels or nerves. Such nonmeat parts are considered meat by-products and are not allowed in ground beef but the trimmed heart meat, defined as meat by regulation is permitted to be used in ground beef. To that extent heart meat, beef meat, should be eligible to be used in all products at levels defined by the industry, their formulations, and products.

II. FSIS Policy and Background

As per 9 CFR 319.100 Corned beef shall be prepared from beef briskets, navels, clods, middle ribs, rounds, rumps, or similar cuts using one or a combination of the curing ingredients specified in a regulation permitting that use in this subchapter or 9 CFR chapter III, subchapter E, or in 21 CFR chapter I, subchapter A or subchapter B. Canned product labeled "Corned Beef" shall be prepared so that the weight of the finished product, excluding cure, salt, and flavoring material, shall not exceed 70 percent of the fresh beef weight.

Corned beef other than canned shall be cured in pieces weighing not less than 1 pound, and if cooked, its weight shall not exceed the weight of the fresh uncured beef. Beef cheek meat, beef head meat and beef heart meat may be used to the extent of 5 percent of the meat ingredient in preparation of this product when trimmed as specified in § 319.81. When beef cheek meat, beef head meat, or beef heart meat is used in preparation of this product, its presence shall be reflected in the statement of ingredients required by part 317 of this subchapter. The application of curing solution to beef cuts, other than briskets, which are intended for bulk corned beef shall not result in an increase in the weight of the finished cured product of more than 10 percent over the weight of the fresh uncured meat.

As per a recent askfsis question on Beef Heart Meat use in Canned Corned Beef - Heart meat is defined as meat in FSIS regulations. While ground beef does not limit the use of heart meat or require labeling, other FSIS standards of identity do have limitations or labeling requirements. Corned beef (which includes canned corned beef) is one of these standards. As described in the standard, a canned corned beef may contain up to 5% of the meat block. When added, it needs to be identified as "beef heart meat" in the ingredients statement.



When asked about tongue meat and esophagus in corned beef the answer *The standard in 9 CFR 319.100 only has restrictions with cheek meat, head meat, and heart meat.* The question that still remains not only for Canned Corn Beef, but other products, is clarification related to the policy on how these items should be labeled (as meat?, or Tongue meat?, etc.) and if there is a permitted limit.

The Labeling Policy Book <https://www.fsis.usda.gov/wps/wcm/connect/7c48be3e-e516-4ccf-a2d5-b95a128f04ae/Labeling-Policy-Book.pdf?MOD=AJPERES> identifies various standards including the use of heart meat, tongue meat, tongue, etc. being permitted in Chili, Lunchmeats, and other products at levels above 5%.

Labeling and Program Delivery Staff Policy Guidance Example

Heart or heart muscle, tongues, or tongue meat and cheek meat can be included in “Luncheon Meat” under the following restrictions:

- a. Hearts or heart meat or tongues or tongue meat must be declared individually by species in the ingredients statement on the label.
- b. No restriction on the percentage limits of hearts, heart meats, tongues, and tongue meats in the formulation.
- c. The terms “heart meat” and “tongue meat” refer to the muscle tissue remaining after heart caps, glands, nodes, connective tissue, etc. are trimmed away.

With the Generic Labeling regulatory requirement the policy related to the labeling and standard of identity of certain products is needed so that industry can be in compliance with FSIS.

III. Request

JBS Sampco is requesting a review of this current FSIS policy related to beef heart meat. The current requirements limit the amount used in the production of Canned Corned Beef while other products are permitted heart meat at a level higher than 5%. In addition, Tongue Meat and Esophagus use in the product if any is permitted should be defined. For all the terminology related to accurate labeling is also requested.

As per 9 CFR 301.2; Meat-

(1) The part of the muscle of any cattle, sheep, swine, or goats which is skeletal or which is found in the tongue, diaphragm, heart, or esophagus, with or without the accompanying and overlying fat, and the portions of bone (in bone-in product such as T-bone or porterhouse steak), skin, sinew, nerve, and blood vessels which normally accompany the muscle tissue and that are not separated from it in the process of dressing. As applied to products of equines, this term has a comparable meaning.

(i) Meat does not include the muscle found in the lips, snout, or ears.

(ii) Meat may not include significant portions of bone, including hard bone and related components, such as bone marrow, or any amount of brain, trigeminal ganglia, spinal cord, or dorsal root ganglia (DRG).



We are requesting that the policy related to the regulation be reviewed and amended. Heart meat is considered meat and should be permitted in products like corned beef at levels not restricted by the current regulation.

In addition, we are requesting clarification on Tongue Meat and Esophagus. With the development of the Generic Labeling Regulation the definition and terminology surrounding certain products is ill defined by FSIS.

Searching multiple areas and policies such as the USDA Labeling Policy Guide
<https://www.fsis.usda.gov/wps/wcm/connect/7c48be3e-e516-4ccf-a2d5-b95a128f04ae/Labeling-Policy-Book.pdf?MOD=AJPERES>

Labeling Policy Memorandums
https://www.fsis.usda.gov/wps/wcm/connect/92485d36-be7f-451b-9153-7a921b13dc72/Policy_Memos_082005.pdf?MOD=AJPERES,

and a Guide to Food Labeling
https://www.fsis.usda.gov/wps/wcm/connect/f4af7c74-2b9f-4484-bb16-fd8f9820012d/Labeling_Requirements_Guide.pdf?MOD=AJPERES

requires due diligence, interpretation, and further clarification related to policy. Sometimes the end result is questionable. We are seeking clarification on products standard of identity and terminology related to specific products?

We appreciate USDA FSIS looking into this matter. We look forward to your response.

Sincerely,



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