



MEAT IMPORT COUNCIL OF AMERICA, INC.

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Laurie I. Bryant
Executive Director

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Re: Salvaging Transportation Damage

This submission is provided on behalf of the Meat Importers Council of America, Inc. ("MiCA") regarding the requirement for salvaging Transportation Damage.

MiCA is an incorporated trade association, which represents the U.S. industry that imports fresh, chilled and frozen beef and sheep meats into the United States. MiCA's Regular members are importers who account for most of the non-NAFTA imports of this product into the United States. MiCA's membership also includes organizations such as port authorities, refrigerated warehouses, customhouse brokers, etc. who provide services in connection with this imported product, as well as users of the same.

As per the FSIS Regulations and policy when meat, poultry, and egg products are refused entry for transportation damage they are identified as non-compliant product. The official import establishment sorts and removes the non-compliant product from the lot before continuing with reinspection. Import inspection program personnel are to control the sorted product until final disposition is determined by tag or marking the product U.S. Refused Entry.

Import inspection personnel verify that disposition of refused entry product occurs within the regulatory time limits. The import inspection personnel are to verify that the disposition of refused entry product is completed.

Currently disposition for transportation damage/exposed product is as follows:

1. Exportation (return) of the product to the originating country or to a third country, if permitted (see 9 CFR 327.13(a)(2), 381.202(a)(2), 590.945(a)).
2. Destruction of the product for human food purposes (9 CFR 327.13(a) (2), 381.202(a) (2), 590.945(a)) by one of the following methods:
 - a. Landfill;
 - b. Rendering;
 - c. Incineration – normally required by APHIS when product is refused entry for animal disease restrictions; or
 - d. Denaturing the product so it cannot be used for human food (9 CFR 325.13, 327.25, 381.202(e)).
3. Conversion of the product to animal food (9 CFR 327.13(a)(2), 381.202(a)(2)) if permitted and approved by the Food and Drug Administration (FDA), and that permission is communicated to the DO.

For imports FSIS does not allow transportation damage/exposed product to be rectified or corrected (reconditioned) but does allow it for domestic product, as well as imported product when the damage occurs after passing inspection at the I house.

The Code of Federal Regulations states;

§327.13 Foreign products offered for importation; reporting of findings to customs; handling of articles refused entry. (a)(1) Program inspectors shall report their findings as to any product which has been inspected in accordance with this part, to the Director of Customs at the original port of entry where the same is offered for clearance through Customs inspection. (2) When product has been identified as "U.S. refused entry," the inspector shall request the Director of Customs to refuse admission to such product and to direct that it be exported by the owner or consignee within the time specified in this section, unless the owner or consignee, within the specified time, causes it to be destroyed by disposing of it under the supervision of a Program employee so that the product can no longer be used as human food, or by converting it to animal food uses, if permitted by the Food and Drug Administration. The owner or consignee of the refused entry product shall not transfer legal title to such product, except to a foreign consignee for direct and immediate exportation, or to an end user, e.g., an animal food manufacturer or a renderer, for destruction for human food purposes

"Refused entry" product must be delivered to and used by the manufacturer or renderer within the 45-day time limit. Even if such title is illegally transferred, the subsequent purchaser will still be required to export the product, or have it destroyed as specified in the notice under paragraph (a)(5) of this section. (3) No lot of product which has been refused entry may be subdivided during disposition pursuant to paragraph (a)(2) of this section, except that removal and destruction of any damaged or otherwise unsound product from a lot destined for re-exportation is permitted under supervision of USDA prior to exportation.

Additionally, such refused entry lot may not be shipped for export from any port other than that through which the product came into the United States, without the expressed consent of the Administrator based on full information concerning the product's disposition, including the name of the vessel and the date of export. For the purposes of this paragraph, the term "lot" shall refer to that product identified on MP Form 410 in the original request for inspection for importation pursuant to §327.5. (4) Product which has been refused entry solely because of misbranding, in lieu of exportation or destruction pursuant to paragraph (a)(2) of this section, may be brought into compliance with the requirements of this part, under supervision of an authorized representative of the Administrator.

Domestically reconditioning of product is permitted. It falls under the following policies and regulations;

9 CFR 301.2 Definitions. Adulterated. This term applies to any carcass, part thereof, meat or Meat food product under one or more of the following circumstances.... (Transportation Damage is not listed as adulterating product).

9 CFR 318.2 Reinspection, retention, and disposal of meat and poultry products at official establishments. If a product has become soiled or unclean by falling on the floor or in any other accidental way or if the product is affected with any other condition which the inspector deems capable of correction, in which case the product shall be cleaned (including trimming if necessary).

FSIS Directive 12,600.2 Activities Requiring Inspection – Product Reconditioning

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If an establishment has a written procedure for reconditioning contaminated product in its Sanitation SOP, is the establishment allowed to follow the Sanitation SOP procedure and recondition contaminated product without inspection coverage as indicated in [FSIS Directive 12,600.2 Reimbursable Overtime Inspection Services at Meat and Poultry Establishments](#) Part VII. 5. performing sanitation procedures in accordance with its Sanitation Standard Operating Procedures (Sanitation SOPs)?

No, the establishment may only recondition contaminated product during the hours covered by inspection program personnel (IPP). The reference in FSIS Directive 12,600.2 Part VII. 5. is specific to sanitation (e.g., cleaning) procedures. Although an establishment is allowed to place product reconditioning procedures in their Sanitation SOP, reconditioning of contaminated product is not a sanitation procedure that prevents product contamination. A product reconditioning procedure addresses contaminated product and how the establishment will render the product wholesome and unadulterated before it is put back into production. Product reconditioning procedures generally include trimming, cutting, and sometimes repacking and labeling product, all of which are specifically required to be conducted under inspection coverage. The handling of product during the reconditioning procedure may only be performed with verification by IPP.

Based on the FSIS posted data Import Inspection has refused entry on the following for shipping/transportation damage-

Year	Lots	Pounds	Possible Salvaged Product (estimate)
2016	12,620	1,888,801 lbs.	944,400 lbs.
2017	9743	1,382,591 lbs.	691,296 lbs.
2018 (January thru March)	2688	377,187 lbs.	188,594 lbs.

While some of the boxes refused have complete sides exposed most have a small hole or tear (See attached pictures). The possibility to salvage 50 % of the transportation damage could occur.

Proposal:

- 1 - Transportation damaged product would be sorted and removed from all lots of imported products;
- 2 - If the lot passes reinspection, sorted boxes are re-evaluated based on the damage (minor damage end ¼ panel or box damaged to excessive more than a ¼ of the box unusable/adulterated) per box;
- 3 - Boxes to be reconditioned are presented to USDA and taken to reinspection room for reconditioning; (Note: As per FSIS Directive 9900.2 – “Other Consumer Protection (OCP) Defects: The OCP defects may result in a failed TOI, depending upon the rate of non-compliance and the effect on the product’s usability (example: grease, rail, dust, etc. are OCP defects). The rate of transportation damage, if excessive to a lot (more than 10% - same as blood stained cartons) may cause the disapproval of lot salvaging.
- 4 - Boxes eligible for reconditioning will have damaged product cut off and completely removed in a sanitary manner (damage is accounted for in refused entry data), and
- 5 - Reconditioned product will be re-boxed, re-weighed, and relabeled under FSIS guidelines and marked U.S. Inspected and Passed. This meets the guidelines of the current OCP category.
- 6- Product which is severely damaged will be marked "United States Refused Entry" and disposed of under FSIS supervision.

Proposal Positives:

1. The proposal is equivalent to the requirements of the FSIS domestic inspection program.
2. The proposal reduces waste of product that may be wholesome. The adulterated piece is removed from the box.
3. The contact hazard is removed by trimming/cutting an entire end piece in a sanitary environment. Note: As the product is being salvaged if the adulteration is more extensive the unit can be destroyed.

4. The remaining portion, not damage, is trimmed and packed in an area that has SSOP's and is sanitary. Lot numbers or a code can be used to tie the new product to original lot for traceback.

5. The labeling would be the same as is done at any ID Warehouse.

6. The remaining portion is identified FOR COOKING ONLY utilizing all the controls that FSIS currently has in place. By sending for cooking only the statement addresses how the product should be prepared or handled so that the pathogen is eliminated or reduced to an undetectable level. Some import establishments have FOR COOKING ONLY labels (they conduct domestic processing).

7. Proposed procedure will allow unadulterated products not to be needlessly destroyed. Reconditioned product will move only to an approved cooking establishment under the same process as is currently used right now for similar products.

8. Using a 10% lot defect deterrent prevents anyone from trying to circumvent the system (10% is same allowance used for blood stained cartons)

In Closing:

We fail to see any merit in the current restrictions regarding the salvage of transportation damaged product. With food safety and waste issues presenting a continual challenge for all who operate in the supply chain, as well as for the ultimate consumer, any voluntary action that endeavors to assist in salvaging and reconditioning a wholesome product should be encouraged and not be subject to the penalties surrounding destruction of entire cases of product.

The current regulations and domestic policies support the proposal. We believe it is a beneficial addition in terms of maintaining product integrity and reducing waste.

We ask that this policy be reviewed and tested.

We look forward to your favorable consideration of this proposal.

Sincerely yours,

A handwritten signature in black ink, appearing to read "L. Bryant", enclosed in a thin black rectangular border.

Laurie Bryant
Executive Director
Meat Importers Council of America, Inc.