



United States Department of Agriculture

April 4, 2016

Food Safety and
Inspection Service

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

Dear Importer or Broker:

The Food Safety and Inspection Service (FSIS) is the public health agency in the U.S. Department of Agriculture responsible for ensuring that meat, poultry, and egg products imported and sold in U.S. commerce are safe, wholesome, and correctly labeled and packaged. FSIS enforces, among other laws, the Egg Products Inspection Act (EPIA) (21 U.S.C. 1031 et seq.). As a possible result of the impact that highly-pathogenic avian influenza (HPAI) has had on U.S.-sourced egg products, FSIS has seen a recent increase in egg products being offered for import into the United States from ineligible sources. FSIS also has seen an increase in egg products that are not eligible to be imported into the U.S. somehow entering this country labeled with incorrect product names. This letter provides guidance on:

- egg products under FSIS jurisdiction,
- misbranded egg products,
- foreign country eligibility,
- the import process, and
- enforcement provisions for ineligible or misbranded egg products that arrive at the borders of the United States or enter U.S. commerce without being presented to FSIS for reinspection as required.

Egg products under FSIS jurisdiction: FSIS regulations (9 CFR 590.5, 590.570, and 590.575) identify egg products under FSIS jurisdiction, including:

- Egg albumin, dried;
- Egg albumin other than dried;
- Dried egg whites;
- Pasteurized Frozen Whole Egg with citric acid;
- Plain Pasteurized Frozen Whole Egg without added ingredients;
- Pasteurized Liquid Yolk with 10% salt;
- Pasteurized Frozen Scrambled Egg Mix with Whole Egg and pepper, starch, and dried milk;
- Frozen Yolks with 10% sugar added;
- Frozen Egg Whites with whipping aids (such as sodium sulfate or triethyl citrate);
- Pasteurized Enzyme Modified Dried Egg Product with Egg Yolks and xanthan gum and citric acid to preserve color, and less than 1% silicon dioxide as an anticaking agent and phospholipase;
- Spray Dried Albumin; and

- Spray Dried Egg Whites with calcium citrate and salt (or other added ingredients).

This list is not all-inclusive. Questions about whether FSIS has jurisdiction over egg products not listed in this letter should be referred to FSIS's Office of Policy and Program Development at <http://askfsis.custhelp.com/>, and the inquiry will be directed to the appropriate egg products subject matter experts in FSIS.

Misbranded Egg Products: For FSIS-regulated products, the use of the generic term "Bird" to identify the type of poultry from which the egg products originated from is unacceptable, and product under FSIS jurisdiction labeled with that term would be considered misbranded. If the egg products are processed from the shell egg of turkey, goose, duck, or guinea (not domesticated chicken), then the name of the poultry is required to be part of the common or usual product name (e.g., Pasteurized Frozen Whole Goose Egg with citric acid). If the egg products are processed from the shell egg of a domesticated chicken, the word "egg" must appear as part of the common or usual product name, but the word "chicken" need not appear.

FSIS has identified the following egg products descriptions that have appeared on the application for import inspection (FSIS Form 9540-1 or FSIS PGA Message Set), the foreign inspection certificate issued by the competent authority in the exporting country, or the labels on imported egg products. These tariff code descriptions are not recognized common or usual names for any egg products that are under FSIS jurisdiction and should only be used for Customs and Border Protection (CBP) purposes. Egg products labeled in this manner would be considered misbranded and not acceptable for shipment to the United States.

- Bird Egg Yolks Dried (because the word "bird" does not specify the type of poultry)
- Bird Egg Yolk Other than Dried (because the word "bird" does not specify the type of poultry)
- Bird Egg Not in Shell Dried, Not Yolk (because the word "bird" does not specify the type of poultry)
- Bird Egg Not in Shell Not Dried (because the word "bird" does not specify the type of poultry)
- Not Dry/Yolk (because the type of poultry, if not produced from chicken eggs, and an accurate and acceptable product description is not specified)
- Food Preparation product (because FSIS determined that the product was an FSIS-amenable egg product based on the product formulation)
- Protein Concentrates and Textured Protein Substances (because FSIS determined that the product was an FSIS-amenable egg product based on the product formulation)

Foreign Country Eligibility: Egg products must come from countries with egg products inspection systems equivalent to that of the United States and must be produced in plants the country has certified as eligible to export to the United States (21 U.S.C. 1046, 9 CFR 590.910(a)). Currently, there are two countries eligible to export egg products to the United States: Canada and The Netherlands. A list of eligible plants can be found on the FSIS web site at: <http://www.fsis.usda.gov/wps/portal/fsis/topics/international-affairs/importing-products/eligible-countries-products-foreign-establishments/eligible-foreign-establishments>.

Import Process: Foreign inspection certificates are required to accompany all egg products shipments to the United States. Upon arrival at the designated FSIS-approved inspection location, FSIS inspection program personnel reinspect all egg products shipments before they are allowed into U.S. commerce. Every lot of product is given a visual inspection for appearance and condition, is checked for certification and label compliance, and is subject to FSIS sampling. Shipments that pass reinspection are allowed to enter U.S. commerce.

USDA's Animal and Plant Health Inspection Service (APHIS) may apply animal disease restrictions to some egg products, which would require an APHIS Veterinary Service permit before FSIS inspects the product. Importantly, imported egg products that require an APHIS Veterinary Service permit for entry into the United States must still be reinspected by FSIS at an approved inspection location.

Egg substitutes, imitation eggs, and similar products that are not considered egg products¹ are under the jurisdiction of the Department of Health and Human Services' Food and Drug Administration.

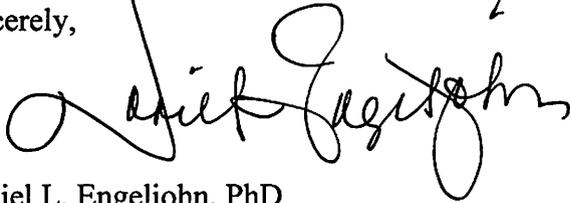
Enforcement: At this time, FSIS will refuse the entry of egg product shipments presented for import reinspection that are ineligible, adulterated, misbranded, or otherwise in violation of the EPIA, as well as the implementing regulations for the Act (9 CFR 590.925). For product that is refused entry, the importer of record must, within 30 days after notification, re-export the product back to country of origin, or voluntarily destroy the product under FSIS supervision (9 CFR §590.945). On May 1, 2016, FSIS may request recalls of ineligible, misbranded products found in U.S. commerce produced after that date, as well as product that has entered commerce without FSIS import reinspection (Failure to Present, or FTP). When a product has been identified as an FTP, FSIS will request, through U.S. Customs and Border Protection (CBP), a redelivery of

¹ The FSIS-amenable egg product component of the exempted food must still come from an approved source (see <http://www.fsis.usda.gov/wps/portal/fsis/topics/international-affairs/importing-products/imported-food-products-containing-a-small-amount-of-meat-poultry-or-processed-egg-product-ingredients>) or eggs containing no more restricted eggs than are allowed in the official standards for U.S. Consumer Grade B shell eggs.

the shipment and appropriate CBP penalties. FSIS may request that the importer of record recall an FTP product, if the shipment cannot be redelivered.

FSIS looks forward to working with foreign governments, importers, brokers, and all interested stakeholders to better ensure that egg products are not adulterated, ineligible for import, or misbranded upon entry into the United States.

Sincerely,

A handwritten signature in black ink, appearing to read "Daniel Engeljohn". The signature is fluid and cursive, with a prominent loop at the end of the last name.

Daniel L. Engeljohn, PhD
Assistant Administrator
Office of Policy and Program Development