



October 14, 2019

Office of Policy and Program Development
Food Safety Inspection Service
United States Department of Agriculture 1
400 Independence Avenue, SW
Washington, D.C. 20250

Re: Petition Number 19-04

Dear Sir or Madam:

The American Sheep Industry Association (ASI) appreciates the opportunity to provide comments on petition number 19-04 submitted on September 5, 2019 by The Lamb Company (Petitioner). ASI is the national trade organization representing the interests of the 100,000 sheep farmers and ranchers located throughout the country who produce America's lamb and wool.

ASI opposes the petition submitted and supports the agency's definition of "spring lamb" or "genuine spring lamb" in 9 CFR 317.8(b)(4) as *is applicable only to carcasses of new-crop lambs slaughtered during the period beginning in March and terminating not beyond the close of the week containing the first Monday in October*. Our comments and concerns are outlined below.

Statement of Interest

ASI is troubled that the overall objective of the petition is to essentially allow for a foreign interest to increase the quantity of lamb imported into the U.S. and misleadingly market its lamb products to U.S. consumers as "spring lamb" or "genuine spring lamb" year-round.

U.S. imports of lamb meat have increased significantly over the last two decades. Australia and New Zealand, supply nearly all (99.5%) of U.S. lamb imports and directly compete with U.S. lamb. Currently, imports account for about one-half the total annual supply of lamb meat in the U.S.¹ Australia and New Zealand lamb sells at lower prices compared to American lamb placing American lamb producers at a disadvantage in their own marketplace. Furthermore, Australia and New Zealand have launched consumer marketing campaigns in the U.S. in the past year in an effort to capture more market share in the U.S. lamb market.

¹ USDA Economic Research Service, USDA National Agricultural Statistics Service, and Livestock Marketing Information Center.



As defined “spring lamb” and “genuine spring lamb” accurately describes spring lamb based on the U.S. seasonal production in which lambs are born in the spring and summer months based on production factors (i.e. forage supplies) and, importantly, to supply the market at peak consumer demand (i.e. Easter holiday). American consumers expect when purchasing “spring lamb” or “genuine spring lamb” to be exactly such, lambs born during the northern hemisphere season. The American lamb industry has devoted significant resources to develop marketing programs and consumer trust in purchasing “spring lamb” and “genuine spring lamb”.

As with any product definition or branded programs, companies must plan accordingly. It is not the Agency’s responsibility to amend product definitions to allow a specific company to avoid the costs of having to change its production and marketing model. We also point out that the issues stated by the Petitioner about “having to pull product” and “must market its products under two different sets of labeling...” are also issues faced by U.S. and Australian lamb industry stakeholders. None of which have petitioned the agency to change the definition. Thus, we can presume that those companies are able to supply and market spring lamb product per the regulation. Regardless of what the Petitioner can market in Canada, this is a U.S. agency definition and a U.S. market, not a North American market.

Statement of Grounds

- A. The Original Basis and Purpose of the Spring Lamb Regulation is Unclear but Appears to be Largely a Historical Artifact

While the origin for the definition is debatable, the reality is the definition is not outdated and not arbitrary.

There is a value in marketing “spring lamb” and “genuine spring lamb” to consumers as there are U.S. companies that purposely demand lamb products that meet the “spring lamb” and “genuine spring lamb” definition during the time of year that such product can be supplied and marketed to consumers. These companies have developed programs in response to consumer preferences and willingness to pay a premium for “spring lamb” and “genuine spring lamb” products. If the definition was outdated then there would be no such demand to supply “spring lamb” and “genuine spring lamb”.

As noted above, the definition accurately describes spring lamb based on the U.S. seasonal production of lamb in which lambs are born in the spring and summer months based on production factors (i.e. forage supplies) and importantly to supply the market at peak consumer demand (i.e. Easter holiday).

- B. Whatever Its Original Purpose, the FSIS Definition of "Spring Lamb" Is Now Obsolete
 - 1. The Definition is Outdated Because It Does Not Reflect Modern Industry Practices



Similar to any industry, lamb production in the U.S. has evolved in response to economic factors at all stages in the production and marketing chain. Despite this, the majority of the American lamb supply continues to be produced from spring lambing operations. While the petition references production models in California and Texas as favorable to fall-lambing production models, it fails to mention that the Texas lamb industry is heavily focused on the non-traditional, ethnic market which differs drastically in terms of consumer tastes and preferences than that of the traditional market to which the Petitioner would be marketing its product. The non-traditional market demands feeder lambs from traditional marketing channels for direct consumption.² The petition also references accelerated lambing production systems as being capable of supplying product outside the definition. Accelerated lambing programs are a small segment of the total U.S. production and while capable, the economics have not supported a significant shift to this type of production system in the U.S.

We do not argue that imports from Australia and New Zealand account for about one-half the total annual supply of lamb meat in the U.S. and international market factors have greater impact on the American lamb industry today than in the past. As noted above, imported lamb is often sold at a lower price point than American lamb. However, we are concerned that the objective of the petition is to increase lamb sales in the U.S. (most likely at a lower price) and increase its market share, which will negatively impact U.S. lamb producers, industry stakeholders, and the sustainability of the U.S. sheep and lamb industry. It will also impact consumer welfare in that false advertising will occur as consumers expect "spring lamb" and "genuine spring lamb" to be produced in accordance with the northern hemisphere seasonal patterns. This definition applies to the U.S. lamb market and regulations in other countries, such as Canada, are irrelevant. If a company opts to market its product in different countries, it is the obligation of the company to comply vs. change the regulations to meet its needs.

The petition references chefs, the food service sector, and comments from industry as stating the term "spring lamb" is outdated. We question the references as being a selective few, outdated, and cited out of context. Instead we recommend the agency review comments from industry stakeholders that are supplying and marketing "spring lamb" and "genuine spring lamb" per the definition and refer to marketplace which does support the need for the definition.

2. FSIS Has Previously Acknowledged That the Definition of "Spring Lamb" May Need to Be Modified or Repealed

As stated in the petition: "Nonetheless, it is important to note that none of the comments submitted to the ANPRM docket-which included comments from both domestic and foreign lamb producers-expressed concern over FSIS modifying or repealing the definition of spring lamb." While the Petitioner claims the absence of comments is because it "lacks significance" we

² Julie Shifflett, G. Williams, and P. Rodgers, *Nontraditional Lamb Market in the United States: Characteristics and Marketing Strategies*



disagree and put forth that the definition as written is meeting the needs of the American lamb industry and consumers.

3. Repeal of the Spring Lamb Regulation Would Not Impact Any Other USDA Regulation or Policy

Repeal of the “spring lamb” label will impact those companies utilizing this regulated term in their consumer marketing programs. If repealed, these companies will be forced to invest additional resources to obtain approval by the agency’s Labeling and Program Delivery program as a result of one foreign entity wanting to change the current regulation to satisfy their needs.

Concluding Comments

ASI strongly opposes the petition and fully supports the agency’s definition of “spring lamb” in 9 CFR 317.8(b)(4). This petition is not being driven by the American sheep and lamb industry nor consumers but by a foreign interest desiring to expand its presence in the U.S. lamb market and market a lamb product to consumers that is misleading.

Regards,

A handwritten signature in cursive script that reads "Benny Cox".

Benny Cox
President
American Sheep Industry Association