



United States Department of Agriculture

Food Safety and
Inspection Service

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

SEP 9 2016

Ms. Pamela Geller
Executive Director
SIOA, a Division of
American Freedom Defense Initiative
1040 1st Avenue #121
New York, NY 10022

Dear Ms. Geller:

We have completed our review of the petition submitted by you on behalf of SIOA, a Division of American Freedom Defense Initiative dated January 17, 2012, and assigned petition number 12-02. The petition requests that, when meat and poultry products consist of or contain meat or poultry derived from a ritually-slaughtered animal, FSIS require that this fact be disclosed on the product label. The petition also requests that FSIS require that the labels of these products identify the type of ritual slaughter employed, e.g., Kosher, Halal. The petition states that failure to provide this “material” information on the label can result in such products being unwittingly purchased by consumers who do not wish to purchase meat or poultry products derived from such methods. Additionally, the petition asserts that labels not required to disclose this “material” information are “deceptive, false, and misleading” and thus, by statutory definition, cause the products to be misbranded. Furthermore, the petition alleges that ritual slaughter affects the resulting meat or poultry products and the lack of labeling identifying the method of slaughter constitutes “economic adulteration.”

After careful consideration of the issues raised in the petition, as well as the supporting documentation, we have concluded that the data presented do not demonstrate that the method by which an animal is slaughtered affects the inherent characteristic of the resulting food. Thus, we disagree with your assertion that the method of slaughter is a material fact that must be disclosed in the labeling of products derived from ritually slaughtered livestock or poultry. Therefore, for the reasons discussed below, we are denying your petition without prejudice.

Background

FSIS is authorized under the Federal Meat Inspection Act (21 U.S.C. 601 *et seq.*) and Poultry Products Inspection Act (21 U.S.C. 451 *et seq.*) (the Acts) to regulate the marking, labeling, and packaging of all meat and poultry products in commerce to ensure that the labeling of such products is truthful and not misleading. There is no express statutory provision that requires that the labeling of meat and poultry products disclose the method used to slaughter the animal from which the product was derived. Statements that inform consumers that a product was derived from a ritually slaughtered animal are special marketing claims and, as such, are permitted if the claims are truthful and not misleading. FSIS does not require that products derived

from ritually slaughtered animals disclose this fact in their labeling because the method of slaughter does not materially change the food.

The FSIS Food Standards and Labeling Policy Book (the Policy Book) describes the circumstances in which the terms “Halal” or “Zabiha Halal” in the labeling of meat or poultry products are likely to be truthful and not misleading.¹ The guidance in the Policy Book states that the use of the term “Halal” or “Kosher” on labeling requires certification by an appropriate third-party authority.

Method of Slaughter and Material Fact

Under the Acts, a product is misbranded if, among other circumstances, its labeling is “false or misleading in any particular” (21 U.S.C. 601(n)(1) and 453(h)(1)). The Acts do not provide specific circumstances under which a label would be considered false or misleading in any particular. In order to further elucidate the meaning of those terms, FSIS has referred to a substantially similar statute for a more robust definition of when a label could be considered false or misleading in any particular. To that end, FSIS has looked at the Federal Food, Drug, and Cosmetic Act (FFDCA) which states that labeling is misleading if it fails to reveal facts material in the light of representations made or suggested in the labeling or material with respect to consequences which may result from the use of the food to which the labeling relates under the conditions of use prescribed in the labeling, or under such conditions of use as are customary or usual (21 U.S.C. 321(n)). Accordingly, when considering regulations and guidance related to labeling claims, FSIS has historically interpreted “false or misleading in any particular” to be a material misrepresentation, as defined within the FFDCA. The scope of “materiality” within the FFDCA definition has been interpreted to mean information directly related to inherent characteristics of the food itself. In other words, the elements required to appear on the label should inform the consumer of the constituents of the product. Information that may be of interest to certain consumers but that does not pertain to the product’s nutritional, organoleptic, or functional characteristics, or any other essential attributes of the food, is, thus, not considered a “material fact” that must be disclosed in the product’s labeling.

The petition did not include information to demonstrate that ritual methods of slaughter affect the attributes of the meat or poultry product or to demonstrate that consuming ritually slaughtered products may have adverse health consequences to consumers. Therefore, FSIS will not consider the means by which an animal is slaughtered or processed (religious or secular) to be “material” information. However, if FSIS is presented with data to demonstrate that a slaughter ritual, or any other similar purposeful process, changes the inherent characteristics of the final product, the difference could be “material” information and therefore, will have to be indicated on the product label.

Method of Slaughter and Economic Adulteration

¹ Available on the FSIS website at: <http://www.fsis.usda.gov/wps/wcm/connect/7c48be3e-e516-4ccf-a2d5-b95a128f04ae/Labeling-Policy-Book.pdf?MOD=AJPERES>

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FSIS disagrees with the petition's claim that products that do not disclose the fact that they are derived from ritually slaughtered animals are economically adulterated. A product is "economically adulterated" if any valuable constituent has been in whole or in part omitted or abstracted; any substance has been substituted; if damage or inferiority has been concealed in any manner; or if any substance has been added so as to increase its bulk or weight, or to reduce its quality or strength, or to make it appear to be better or of greater value than it is (21 U.S.C. 601(m)(8) and 453(g)(8)). In most cases of economic adulteration, a substance is added or intentionally substituted for the purpose of increasing the apparent value of the product.

The petition and supporting material do not include any data to support the claim that ritual slaughter methods affect the attributes of meat or poultry product in such a way that valuable constituents are omitted or substituted, or that the absence of labeling that identifies a product as "ritually slaughtered" somehow conceals damage or inferiority. Thus, we have no basis for concluding that failing to label a product with the method by which an animal is slaughtered constitutes "economic adulteration."

Summary

For the reasons discussed above, we are denying your petition. Because our denial is without prejudice, you are not precluded from submitting a revised petition that contains additional information to support the requested action. In accordance with our regulations, we have posted your petition on the FSIS Web site. We intend to post this response as well.

Sincerely,



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

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cc:

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