Frequently asked Questions on “Product of USA” Labels for Meat and Poultry Products

What is current law?
Products made in meat and poultry facilities in America, by workers in America, inspected by the U.S. Department of Agriculture (USDA) and bearing the USDA mark of inspection may be labeled “Product of the USA.”

An imported product may be considered a domestic product if it undergoes a “substantial transformation” commonly defined as a change in the product’s name, character, or use that results in a new and different article of commerce. For example: a steer walks into a meat packing facility and after harvesting and processing – the ultimate in “substantial transformation” – is packaged as boxed beef for foodservice, retail sale or export.

Under current law, if a company chooses to focus its marketing on country of origin, it may do so. A company may voluntarily label its product “born, raised and slaughtered in the U.S.” as long as it can verify the claim.

For more see:
The Federal Meat Inspection Act
FSIS policy
The Tariff Act

What is the proposed change?
The proposal would limit the claims so only products made from livestock born, raised, harvested, and processed in America could be labeled a “Product of the USA.”

While a voluntary label, this overly prescriptive definition would exclude many popular products made in America, by workers in America and under inspection from the USDA. Those products include certain brands of popular American foods like hot dogs, sausage, bacon, ground beef, sliced ham, spareribs, veal chops, boneless hams, steaks, burger patties, pepperoni and much, much more.

What is the North American Meat Institute's (Meat Institute) position on the new proposed rules?

The proposed rule is problematic because:

- It conflicts with federal law: see The Federal Meat Inspection Act and The Tariff Act;
- It could trigger international trade retaliation;
- It will increase prices for consumers;
- It will place additional duties on FSIS, which is already overburdened and understaffed.
- It is a significant change from FSIS stated intention provided just three years ago when the agency denied a United States Cattlemen's Association petition and said it planned to initiate rulemaking to:

> *"limit 'Product of USA' and certain other voluntary U.S. origin statements to meat products derived from livestock that were slaughtered and processed in the United States."*

Is this proposed "Product of the USA" rule similar to the mandatory Country of Origin Labeling (COOL) rules repealed by Congress in 2015?

Yes. Although this proposed "Product of USA" rule is voluntary, it would impose the same standard as the mandatory Country of Origin Labeling statute repealed by Congress in late 2015.

Importantly, the proposed rule would be broader than mandatory COOL because it also includes processed products and products for foodservice, which were not subject to mandatory COOL.

Why did Congress repeal the COOL statute?

Canada and Mexico challenged COOL as a nontariff trade barrier and from 2009-2015 the United States government fought to preserve the law. But the U.S. government lost four appeals before the World Trade Organization (WTO) and the WTO authorized Canada and Mexico to retaliate and levy more than $1 billion in tariffs on goods ranging from meat to wine, chocolate, jewelry and furniture. Congress stepped in and repealed COOL in the Consolidated Appropriations Act of 2016. Then-USDA Secretary Tom Vilsack was forced to stop enforcement of COOL for beef and pork, bringing the U.S. into compliance with the WTO's ruling and avoiding a trade war.

Will the proposed rule avoid $1 billion in retaliatory tariffs from Canada and Mexico?

No. The proposed "Product of the USA" rule does not consider the integrated nature of the North American meat and poultry industry. Livestock and meat products from Canada and Mexico are shipped, tariff-free, across the border for slaughter and processing in the United States. Likewise, meat products are shipped from the United States to Canada and Mexico. This integrated competitive market allows for more affordable beef and pork for American consumers.

Although the proposed "Product of the USA" policy is voluntary it would require meat packers and processors who wish to make the claim to segregate cattle, hogs, and meat from other nations. This segregation was the basis for the WTO finding and is what allows Canada and Mexico to levy tariffs on American goods.

The WTO authorized Canada and Mexico to retaliate in 2015. They still retain that authorization and could initiate retaliation without any further action by the WTO.

What does this mean for consumers?
Consumers will pay more for meat and poultry products and any goods Canada and Mexico target in their retaliation.

Who benefits from the change to "Product of the USA" labeling rules?
No economic data supports the proposed rule.

A review of COOL conducted by USDA in 2015, during USDA Secretary Tom Vilsack's prior tenure in the Obama Administration, concluded,

> *… while there is evidence indicating consumer interest in COOL information, the evidence does not support a conclusion that COOL significantly increases consumer demand ….*
>
> *… livestock producers face costs for implementing COOL even though cattle and hogs (*as opposed to retail beef and pork*) are not COOL covered commodities*.

These key findings, both a failure to increase consumer demand and producers incurring additional costs, apply whether the labeling is mandatory or voluntary.

And there is no evidence that the situation has changed since USDA's last analysis.

In fact, consumer demand for meat and poultry is consistently high. According to a consumer study of retail sales called "The Power of Meat" conducted by Anne-Marie Roerink of 210 Analytics, in 2021, nearly all American households, 98.5 percent, bought meat.

It is noteworthy that mandatory COOL was in place from 2009 to 2015; during that time per capita beef consumption declined 11.5 percent, and per capita pork consumption hit its lowest point since 1976. In 2016 alone, the first year after COOL was repealed, per capita beef consumption grew 5 percent and per capita pork consumption grew 2 percent.

How much meat and poultry is imported from Mexico and Canada?

The U.S. exports more meat and poultry to Mexico and Canada than is imported from those nations.

On average, the U.S. exports 13-15% of its total beef production, whereas annual beef imports represent 8-12% of domestic production. The highly-integrated nature of the North American meat and livestock industry ensures the U.S. can maintain its high-quality, abundant beef supply to satisfy increasing domestic demand, while also meeting the industry's trade commitments. For example, the significant volume of variety meats sent to Mexico returns value to U.S. producers and reduces food waste by ensuring parts of the animal not commonly consumed in the U.S. have access to a viable export market, where demand for such cuts and products is high.

Mexico is the largest market for pork, by both volume and value, with 2022 U.S. pork and pork variety meat exports to the country exceeding $2.04 billion. Canada is the U.S.'s fourth largest pork export market. In 2022, U.S. pork exports to Canada surpassed $866 million. U.S. imports of Canadian pork reached $1.4 billion in 2022, and pork imports from Mexico were just shy of $190 million.

Mexico is the top poultry export market, whereas Canada is the third largest poultry export market. In 2022, the US imported $512,666 in poultry from Canada and just $20,859 From Mexico.

Why is FSIS proposing the new definition of "Product of the USA"?
Citing consumer confusion, USDA conducted a consumer sentiment study about the "Product of the USA" label.

Consumer opinion and transparency is important to the meat and poultry industry. However, there is no evidence this rule will increase already high consumer demand for meat and poultry products.

In fact, Kansas State University Professor Glynn Tonsor's Meat Demand Monitor for April, 2020 found country of origin was 11th out of 12 consumer considerations when making purchasing decisions. Taste, freshness, safety, price, nutrition, health, appearance, convenience, hormone/antibiotic free and animal welfare were all more important to consumers than where the animal was born.

Will the new "Product of USA" rules help livestock producers?
No. Although supporters of COOL and the proposed "Product of USA" rule like to claim that mandatory COOL increased prices beef producers received in the years leading to the repeal in 2015, this assertion ignores basic supply and demand fundamentals. In 2015, cattle prices saw record highs because there was a limited supply of cattle to harvest increasing demand. And today, without COOL, cattle prices are again approaching record highs, also due to supply and demand.

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With questions please contact Sarah Little, NAMI, at (443)440-0029.

About North American Meat Institute
The Meat Institute is the United States' oldest and largest trade association representing

packers and processors of beef, pork, lamb, veal, turkey, and processed meat products. NAMI members include over 350 meat packing and processing companies, the majority of which have fewer than 100 employees, and account for over 95 percent of the United States' output of meat and 70 percent of turkey production.

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