

February 11, 2021

Dr. Michael E. Wooten
Administrator
Office of Federal Procurement Policy
Office of Management and Budget
Washington, DC 20503



Dear Dr. Wooten,

On behalf of the United States Cattlemen's Association (USCA) and its nationwide membership of cow-calf producers, backgrounders, feedlot operators, livestock haulers, and independent meat processors, we write to you today in regard to President Joseph R. Biden's Executive Order titled, "*Ensuring the Future Is Made in All of America by All of America's Workers*", and signed on January 25, 2021.

The Executive Order directs federal government agencies to "maximize the use of goods, products, and materials produced in, and services offered in, the United States." It is our understanding that the Executive Order also charges the Federal Acquisition Regulatory Council to consider the definition of what it means for products to be "Made in the U.S.A." and to increase how much of a product's parts must originate in the U.S. to be eligible for the Buy American program.

Currently, there exists a loophole which allows imported beef product, most often lean ground trim from South America, to be transported to our borders; undergo a "significant transformation", which can be as *insignificant* as trimming, rewrapping, or blending a small percentage of domestic product; and then claim the "Product of the U.S.A." label on the final product.

In July 2020, the Federal Trade Commission issued a notice of proposed rulemaking¹ related to "Made in USA" (MUSA) and other unqualified U.S.-origin claims on product labels. USCA, along with other livestock stakeholder groups, provided further testimony² on the misapplication of MUSA claims on U.S. beef products.

The *Fall 2020 Unified Agenda of Regulatory and Deregulatory Actions* noted that the U.S. Department of Agriculture's (USDA) Food Safety and Inspection Service (FSIS) intends to propose³ to amend its regulations during Spring 2021 to define the conditions under which the labeling of meat product labels can bear voluntary statements indicating that the product is of

¹ FTC Seek Comments on MUSA Rulemaking, Matter No. P074204, Posted on July 16, 2020, <https://www.federalregister.gov/documents/2020/07/16/2020-13902/made-in-usa-labeling-rule>

² Comment from United States Cattlemen's Association, Posted by the Federal Trade Commission on Sep 15, 2020, <https://beta.regulations.gov/comment/FTC-2020-0056-0590>

³ Voluntary Labeling of Meat Products With "Product of USA" and Similar Statements, <https://www.reginfo.gov/public/do/eAgendaViewRule?pubId=202010&RIN=0583-AD87>

U.S. origin, such as Product of USA, or Made in the USA. The notice of proposed rulemaking is a direct result of a petition for rulemaking submitted to USDA FSIS by USCA on October 23, 2019.⁴

USCA asks the Federal Acquisition Regulatory Council to examine the arguments related to the improper labeling of U.S. beef that are laid out in our response to the Federal Trade Commission's notice of proposed rulemaking and our petition for proposed rulemaking submitted to USDA FSIS in October 2019, both of which are attached herein.

With the existence of this loophole, it is virtually impossible to provide assurance that the federal Buy American program will in any way benefit U.S. cattle producers.

Further, through this Executive Order, President Biden has directed the Federal Acquisition Regulatory Council to propose amendments to provisions in the Federal Acquisition Regulation (FAR), title 48, Code of Federal Regulations that would increase the numerical threshold for domestic content requirements for end products and construction materials; and increase the price preferences for domestic end products and domestic construction materials.

USCA recommends the following amendments to 48 CFR § 470.103 that would realign how USDA procures meat products for domestic food assistance programs:

- Under subsection (d) of 48 CFR § 470.103: *Product derived from animals*. With respect to the procurement of products derived from animals, a product shall not be considered to be a product of the United States unless that animal was born, raised, slaughtered or further processed in the United States.

Further, USCA urges the Federal Acquisition Regulatory Council to reaffirm its role as enforcer of Federal Acquisition Regulations. This Executive Order provides an incredible opportunity for the Council to remind federal agencies of their responsibility to use federal purchasing, and other forms of federal assistance, as a way to proactively invest in American industry. USCA encourages this Council to work with the Director of Made-in-America at the Office of Management and Budget (OMB) to oversee the implementation of this Executive Order.

We thank you for your consideration of our recommendations. Please direct questions to USCA's Washington, DC office.

Sincerely,

A handwritten signature in black ink that reads "Brooke Miller" followed by a stylized monogram "MD".

Dr. Brooke Miller, M.D.
President, U.S. Cattlemen's Association

⁴ Petition Submitted by U.S. Cattlemen's Association, Posted on Oct 23, 2019, <https://www.fsis.usda.gov/wps/portal/fsis/topics/regulations/petitions>