

**BEFORE THE
UNITED STATES DEPARTMENT OF
AGRICULTURE, FOOD SAFETY AND INSPECTION
SERVICE (FSIS)**

In the matter of

**BEEF AND MEAT LABELING
REQUIREMENTS: TO EXCLUDE
PRODUCTS NOT DERIVED DIRECTLY
FROM ANIMALS RAISED AND
SLAUGHTERED FROM THE DEFINITION
OF “BEEF” AND “MEAT”**

**PETITION FOR THE IMPOSITION OF BEEF AND MEAT
LABELING REQUIREMENTS: TO EXCLUDE PRODUCTS NOT
DERIVED DIRECTLY FROM ANIMALS RAISED AND
SLAUGHTERED FROM THE DEFINITION OF “BEEF” AND
“MEAT”**

Petitioner:

U.S. CATTLEMEN’S
ASSOCIATION (USCA)

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Date: February 9, 2018

TABLE OF CONTENTS

I.	STATEMENT OF THE ACTION REQUESTED	2
II.	STATEMENT OF INTEREST	3
III.	STATEMENT OF THE GROUNDS FOR GRANTING THE PETITION	3
A.	Legal Basis for Requested Actions	3
B.	Consumer Perceptions With Respect to Alternative Products Labeled as “Beef” or “Meat”	4
i.	<i>The Definitions of “Beef” and “Meat”</i>	<i>4</i>
1.	Common dictionary definitions.....	5
2.	Federal statutory and regulatory definitions.....	6
ii.	<i>Applicability of the FTC’s “Truth in Advertising” Standard</i>	<i>7</i>
iii.	<i>Labeling of Alternative Products as “Beef” and “Meat” in the Market Place</i>	<i>8</i>
1.	Synthetic beef products	9
2.	Lab grown product	10
IV.	CONCLUSION.....	11



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NOT DERIVED DIRECTLY FROM ANIMALS RAISED AND SLAUGHTERED
FROM THE DEFINITION OF “BEEF” AND “MEAT”**

FSIS Docket Clerk
United States Department of Agriculture
Food Safety and Inspection Service (FSIS)
Room 2534 South Building
1400 Independence Ave., SW
Washington, DC 20250-3700

Re: Petition to Establish Beef and Meat Labeling Requirements: To Exclude
Product Not Derived Directly from Animals Raised and Slaughtered from the
Definition of “Beef” and “Meat”

Dear Docket Clerk,

The U.S. Cattlemen’s Association (USCA) respectfully submits this petition requesting that the Department of Agriculture, Food Safety and Inspection Service (FSIS) establish certain beef labeling requirements. Our request is consistent with FSIS’s current policy towards the labeling of beef, but further addresses specific additional concerns.

USCA has long advocated for additional beef labeling requirements to better inform consumers. There are currently no labeling requirements applicable to products labelled as “beef” or more broadly as “meat” mandated by law.

USCA has learned that some major U.S. meatpackers and companies in other countries are heavily investing in creating alternative products that may resemble in appearance and taste beef products, including synthetic “beef” and “beef” grown in laboratories using animal cells, known as “*in vitro*” meat, “bio meat,” “clean meat,” or “cultured meat.” Such products, which are *not* derived from animals born, raised, and harvested in the traditional manner, should *not* be permitted to be marketed as “beef,” or more broadly as “meat” products.

The labels of “beef” or “meat” should inform consumers that the product is derived naturally from animals as opposed to alternative proteins such as plants and insects or artificially grown in a laboratory. Alternative products such as those described above should thus not be permitted to be labeled as “beef,” which is widely understood by consumers to be the flesh of a bovine animal, such as cattle, harvested for use as food, or

as “meat,” which is understood to be derived from animal tissue or flesh for use as food. *See* **Collective Exhibit 1** (definitions of “beef,” “meat,” and related terms).

Indeed, to eliminate the likelihood of confusion and to better inform consumers, USCA contends that labels indicating that a product is “beef” should be limited to product from cattle that have been born, raised, and harvested in the traditional manner. Similarly, products that are labeled as “meat” should be limited to those that are derived from the tissue or flesh of an animal harvested in the traditional manner. As such, USCA requests that FSIS exclude man-made or artificially manufactured products that are not derived from animals born, raised, and harvested in the traditional manner from the definition of both beef and meat. This includes synthetic products from plant, insects, and other non-animal components, as well as any product grown in labs from animal cells.

Pursuant to the statutory and regulatory procedures for filing a petitions with the FSIS, the required information and supporting documentation are provided herein and below. *See* 5 U.S.C. § 553(e); *see also* 7 C.F.R. § 1.28; 9 C.F.R. § 392 & §§ 392.3-392.4.

I. STATEMENT OF THE ACTION REQUESTED

USCA requests that FSIS limit the definition of beef to product from cattle born, raised, and harvested in the traditional manner. Specifically, FSIS should require that any product labeled as “beef” come from cattle that have been born, raised, and harvested in the traditional manner, rather than coming from alternative sources such as a synthetic product from plant, insects, or other non-animal components and any product grown in labs from animal cells.

USCA further requests that the broader definition of “meat” also be limited to the tissue or flesh of animals that have been harvested in the traditional manner. This would similarly prohibit product from alternative sources such as a synthetic product from plant, insects, or other non-animal components and any product grown in labs from animal cells from being labeled as “meat.”

The requested definition of “beef” and “meat” should be applicable to all products that use or might use the designation “beef” (or “meat” when marketed as a beef product) regardless of the country of origin. In other words, the definitions should not be limited to just U.S. product.

The above definitions should be added to the FSIS’ Food Standards and Labeling Policy Book. The Policy Book, which may be updated to reflect current policy developments, is “intended to be guidance to help manufacturers and prepare product labels that are truthful and not misleading.” *See* “Food Standards and Labeling Policy Book,” U.S. Department of Agriculture, Food Safety and Inspection Service, Office of Policy, Program and Employee Development (Aug. 2005) (“FSIS Policy Book”) at Preface, excerpts included in **Exhibit 2** attached hereto.

II. STATEMENT OF INTEREST

USCA is a national organization committed to presenting an effective voice for the U.S. cattle industry and promoting ranching in the United States. USCA is committed to promoting the interests of cattlemen in the United States on issues including the creation and maintenance of the Country of Origin Labeling program, the implementation of a national system of animal disease traceability, and ongoing work to address necessary reforms within the mandatory Beef Checkoff program. USCA is a non-profit corporation registered in Montana with members in twenty-seven states nationwide.

USCA's members include, among others, cow-calf operators, backgrounders, and independent feedlots. Cow-calf operators are ranchers and farmers who have herds of mother cows and who handle calves from birth to the weaning stage, typically five to ten months. Backgrounders, also known as stocker/yearling operators, are ranchers and farmers who handle cattle after the cow-calf stage up to the point of having cattle ready for final finishing at a feedlot, typically until twelve to twenty months of age. Feedlots finish cattle in terms of weight gain for the final three to five months and hold cattle until purchase by slaughterers. Some ranchers are involved in more than one stage (*e.g.*, may raise a calf from birth to fully finished and ready to go to the packing plant). In a born/raised/slaughtered information system, USCA members are involved in the born and/or raised phases.

USCA is concerned with the recent introduction and development of alternative products that are being marketed or may be marketed as though they are "beef". Synthetic products, comprised of plants, insects and other components *not* from animals, are already being sold in restaurants and retail markets as a form of "beef" or meat product. Additional products, most notably products grown in laboratories from animal cells, are under development. Though initial costs for these products were exorbitantly high, costs are rapidly decreasing and lab produced "beef" products are expected to be commercially sold by 2020.

Consistent with USCA's long standing position, USCA maintains that the FSIS should define "beef" (and "meat" when marketed as a beef product) as product from cattle born, raised, and harvested in the traditional manner to exclude any and all alternative products from using the term when not so derived.

III. STATEMENT OF THE GROUNDS FOR GRANTING THE PETITION

A. Legal Basis for Requested Actions

U.S. citizens have the right to petition the government to add, amend, or repeal rules under the Administrative Procedure Act (5 U.S.C. § 553(e)). Citizens may petition to amend U.S. Department of Agriculture (USDA) rules specifically under 7 C.F.R. § 1.28 and 9 C.F.R. § 392.

FSIS has primary responsibility for the regulation of food labeling for meat producers under the Federal Meat Inspection Act (FMIA). The FMIA states that meat or meat food

products shall be “misbranded” if its “labeling is false or misleading in any particular.” *See* 21 U.S.C. § 601(n)(1).

Products are considered to be mislabeled where, amongst other things, they are “offered for sale under the name of another food,” are “an imitation of another food, unless {the} label bears, in type of uniform size and prominence, the word ‘imitation’ and immediately thereafter, the name of the food imitated,” or “purports to be or is represented as a food for which a definition and standard of identity or composition has been prescribed by regulations” without conforming to the applicable definition and standard. *Id.* at § 601(n)(2)-(3), (7).

FSIS regulations for the “labeling and preparation of standardized products” further provide that “{a}ny product for which there is a common or usual name must consist of ingredients and be prepared by the use of procedures common or usual to such products{.}” *See* 9 C.F.R. § 319.1.

Currently, FSIS regulations at 9 C.F.R. §§ 412.1 – 412.2 require that modifications to the labeling requirements be submitted to the FSIS for approval. The FSIS considers labeling claims for meat on a case-by-case basis.

Pursuant to this legal authority, USCA requests that the Secretary of Agriculture make the aforementioned changes to the Food Standards and Labeling Policy Book outlined in the Statement of Action Requested. *See* Section I, *supra*.

B. Consumer Perceptions With Respect to Alternative Products Labeled as “Beef” or “Meat”

Current labeling practices may cause consumer confusion in the market place. To demonstrate consumer perceptions with respect to “beef” and “meat,” we first explain the definition of the terms as proffered by a variety of sources including common dictionary definitions and the U.S. Department of Agriculture (USDA), which are widely understood by consumers. We next present the Federal Trade Commission’s “Truth in Advertising” standard, which requires that advertisements be truthful, not misleading, and, where possible, backed by scientific evidence. Finally, we show the facial confusion caused by current labeling practices based on recent articles, advertisements, and menus, as well as U.S. Food and Drug Administration (FDA) precedent.

i. The Definitions of “Beef” and “Meat”

Beef, meat, and related products have been defined by a variety of sources, including dictionaries, U.S. statute, and the USDA’s Agriculture and Marketing Service (AMS) and FSIS regulations. *See* **Collective Exhibit 1** (definitions of “beef,” “meat,” and related terms). These definitions are not applicable to alternative products, which, as discussed in more detail below, are not derived from animals harvested in the traditional manner.

1. Common dictionary definitions

Common dictionary definitions of the term “beef” indicate that the term refers to the meat of a slaughtered bovine animal. Specifically, the Merriam-Webster Dictionary defines beef as “the flesh of an adult domestic bovine (such as a steer or cow) used as food,” or alternatively as “a steer or cow fattened.” *See Beef Definition*, Merriam-Webster.com (last visited Jan. 29, 2018), part of **Collective Exhibit 1**. Oxford Dictionary similarly defines beef as “flesh of a cow, bull, or ox, used as food” or “{a} cow, bull, or ox fattened for its meat.” *See Beef Definition*, OxfordDictionaries.com (last visited Jan. 29, 2018), part of **Collective Exhibit 1**. *Accord Beef Definition*, dictionary.cambridge.org (last visited Jan. 29, 2018) (defining “beef” as “the flesh of cattle eaten as meat”), part of **Collective Exhibit 1**.

Significantly, other dictionaries clarify that beef is derived from bovine animals that have been “killed” or “slaughtered” for their meat. *See, e.g., Beef Definition*, Dictionary.com (last visited Jan. 29, 2018) (defining beef as “the flesh of a cow, steer, or bull raised and *killed* for its meat”); *Beef Definition*, TheFreeDictionary.com (last visited Jan. 29, 2018) (defining beef as the “flesh of a *slaughtered* full-grown steer, bull, ox, or cow”) (emphasis added), part of **Collective Exhibit 1**.

The aforementioned sources generally define “meat” as animal tissue or flesh used as food. *See, e.g., Meat Definition*, Merriam-Webster.com (last visited Jan. 30, 2018) (“animal tissue considered especially as food”); *Meat Definition*, OxfordDictionaries.com (last visited Jan. 30, 2018) (“flesh of an animal, typically a mammal or bird, as food”), part of **Collective Exhibit 1**.

The two alternative products highlighted above, *i.e.*, a synthetic product from plant and/or insects and a lab grown product from an animal cell, do not constitute “beef” or “meat” pursuant to these standard dictionary definitions. Indeed, in each definition discussed above, beef is defined as the derivative of a bovine animal, while meat is described as animal tissue or flesh. The synthetic product, however, is derived from plants, insects and other non-animal components. In addition, the definitions emphasize that beef is from fattened cattle that have been killed or slaughtered. Lab grown product, however, is artificially grown in a petri dish from animal cells. As such, these alternative products do not meet the traditional definition of “beef” or “meat” and are in fact marketed as vegan.

As previously noted, pursuant to FSIS regulations, “{a}ny product for which there is a common or usual name must consist of ingredients and be prepared by the use of procedures common or usual to such products{.}” *See* 9 C.F.R. § 319.1. The common names of “beef” and “meat” are widely understood by consumers to be the tissue or flesh of animals that have been slaughtered for food. As such, any products that are labeled as “beef” or “meat” that are neither derived from animals, nor slaughtered in the traditional manner are misbranded. If synthetic or lab grown “beef” is intended to be an imitation of traditional beef, it must be labeled as such. 21 U.S.C. § 601(n)(3).

2. Federal statutory and regulatory definitions

The definitions of “beef,” “meat,” and other related products, as set forth in federal statutes and regulations, are generally consistent with the standard dictionary definitions and supports USCA’s position with respect to alternative products.

The term “meat food product” is defined in the Federal Meat Inspection Act (FMIA) as “any product capable of use as human food which is made wholly or in part from any meat or other portion of the carcass of any cattle, sheep, swine, or goats.” *See* 21 U.S.C. § 601(j). “Prepared” meat refers to meat that has been “slaughtered, canned, salted, rendered, boned, cut up, or otherwise manufactured or processed.” *Id.* at § 601(l).

USDA AMS regulations specifically define “beef” as the “flesh of cattle,” which is in turn defined as “live domesticated bovine animals regardless of age.” 7 C.F.R. § 1260.118-119. Beef products are defined in the AMS regulations as “edible products produced in whole or in part from beef{.}” 7 C.F.R. § 1260.120. Meat is more broadly defined by the AMS regulations as “the edible part of the muscle of any cattle, sheep, swine, or goats, which is skeletal or which is found in the tongue, in the diaphragm, in the heart, or in the esophagus, and which is intended for human food{.}” 7 C.F.R. § 98.2.

The USDA FSIS regulations further define specific beef products, including ground beef, hamburger, and beef patties. *See* 9 C.F.R. § 319.15. Specifically, ground beef is defined as “chopped fresh and/or frozen beef with or without seasoning and without the addition of beef fat{,}” while hamburger and beef patties are defined as “chopped fresh and/or frozen beef with or without the addition of beef fat as such and/or seasonings.” *See id.* at 9 C.F.R. § 319.15(a)-(c).

Though the general term “beef” is not defined in the FSIS Policy Book, specific beef products, such as “beef a la mode,” “beef and gravy,” “beef burgundy or bourguignonne,” “beef marsala,” “beef roulade,” and “beef slices a-la-pizzaiola,” are included. *See* FSIS Policy Book at 9, 16, and 21, excerpts included in **Exhibit 2** attached hereto. The definitions of these and other beef products included in the Policy Book indicate a minimum percentage of beef content; for example, each of the aforementioned products must contain at least 50 percent beef. *Id.* Certain beef products defined by the Policy Book further contemplate that the bovine animal will be slaughtered. The term “aged beef,” for example, is defined in part as beef “maintained in a fresh unfrozen state for a minimum of 14 days from the day of slaughter.” *Id.* at 9.

The FSIS Policy Book likewise contains definitions of various meat products, such as “meat casseroles,” “meat curry,” “meat pies,” “meat spreads,” and “meatballs.” *See* FSIS Policy Book at 106, and 108-10, excerpts included in **Exhibit 2** attached hereto. As with the various beef products outlined above, there are similar minimum meat percentage requirements for these meat products. *See id.*

As previously noted, a product is misbranded where it fails to conform to a definition or standard prescribed by regulation. *See* 21 U.S.C. § 601(n)(7). In this case, the

alternative products meet neither the statutory definition of “meat food product,” nor the USDA regulatory definitions of beef, beef products, and meat. The synthetic product is comprised of plants, insects and other non-animal components and, as such, does not contain meat from the flesh of cattle or any other animal pursuant to the requirements in the definitions above. In addition, the lab grown product is not derived from cattle that have been slaughtered in the traditional manner, as contemplated by the definitions of beef products outlined in the FSIS Policy Book.

By way of analogy, the FDA has found similar vegan imitations of products to be misbranded when they purport to be the standardized food item as defined by the regulations. *See Collective Exhibit 3* attached hereto (FDA case precedent on vegan alternatives to standardized food items). Most notably, in 2015, the FDA issued a warning to Hampton Creek Foods for its use of a misleading name and imagery of a cracked egg on the labels of its vegan “Just Mayo” and “Just Mayo Sriracha” products. *See “Hampton Creek Foods Warning Letter,”* FDA Department of Health and Human Services (Aug. 12, 2015), included in **Collective Exhibit 3** attached hereto. Specifically, the FDA found the company’s use of the term “mayo” to be impermissible because the product did not contain eggs as required by the regulatory definition of “mayonnaise.” *Id.* at ¶ 3. The FDA determined that the “[t]he use of the term ‘mayo’ in the product names and the image of an egg may be misleading to consumers because it may lead them to believe that the products are the standardized food, mayonnaise, which must contain eggs as described under {the regulations}.” *Id.*

Though the company was ultimately allowed to continue using the trade name “Just Mayo,” the FDA required it to “use bigger type on the front of the label for the list of product attributes like ‘egg-free.’” *See* Stephanie Strom, “F.D.A. Allows Maker of Just Mayo to Keep Product’s Name,” *NY Times* (Dec. 17, 2015), included in **Collective Exhibit 3** attached hereto.

ii. Applicability of the FTC’s “Truth in Advertising” Standard

The Federal Trade Commission (FTC) regulates unfair or deceptive acts, including false and misleading advertising of foods, drugs, devices, and cosmetics. *See* 15 U.S.C. § 52; *see also Collective Exhibit 4* attached hereto (explanation of the FTC’s “Truth in Advertising” standard).

The FTC regulations prohibit advertisements for food products that are “misleading in a material respect.” *See id.* at § 55(a)(1). As such, the FTC applies a “truth in advertising” standard, *i.e.*, ads must be “truthful, not misleading, and, when appropriate, backed by scientific evidence.” *See* “Truth in Advertising,” *FTC.gov* (last visited Jan. 29, 2018), part of **Collective Exhibit 4**. This standard is applicable to all advertisements, including ads that appear in newspapers and magazines, online, or on billboards. *Id.*

In determining whether an advertisement is misleading, the FTC will consider both “representations made or suggested by statement, word, design, device, sound, or any combination thereof,” as well as “the extent to which the advertisement fails to reveal facts material in the light of such representations{.}” *See* 15 U.S.C. § 55(a)(1). The

FTC’s “Policy Statement on Deception” further notes that an ad is deceptive if it is “likely to mislead consumers acting reasonably under the circumstances” and is “important to a consumer’s decision to buy or use the product.” *See* FTC Policy Statement on Deception (Oct. 14, 1983), part of **Collective Exhibit 4**.

The FTC has rigorously enforced its “truth in advertising” standard in context of food products, such as nutritional and dietary supplements and pet food. *See, e.g.*, Press Release, “Mars Petcare Settles False Advertising Charges Related to Its Eukanuba Dog Food,” FTC.gov (Aug. 4, 2016); Press Release, “FTC Approves Final Consent Orders Settling Charges that Companies Deceptively Claimed Their Genetically Modified Nutritional Supplements Could Treat Diseases,” FTC.gov (May 12, 2014), part of **Collective Exhibit 4**.

The FTC “truth in advertising” standard further supports USCA’s position with respect to the alternative products reviewed. Specifically, the marketing of a plant-based burger as “beef” or “meat” is potentially deceptive because consumers would reasonably expect products labeled as such to be derived from animals slaughtered in the traditional manner. However, none of the alternative products derived from plants, insects or other non-animal sources and currently being sold in restaurants or grocery stores as a form of “burger” actually contain beef or any other meat, as it is defined by standard dictionaries, U.S. statutes, and USDA regulations. As demonstrated below, moreover, some of these synthetic products are being sold along-side traditional beef products in the market place, increasing the likelihood of consumer confusion.

iii. Labeling of Alternative Products as “Beef” and “Meat” in the Market Place

The absence of a definition of “beef” or “meat” and specific rules and parameters as to what constitutes them is resulting in mislabeling and may lead to consumer confusion. Without more stringent guidance as to what constitutes beef, such mislabeling will continue in the market place.

As previously noted, USCA is concerned with two categories of alternative products under development or currently being sold in the United States: (1) synthetic products made from alternative proteins, and (2) “lab grown beef” from animal cells, also known as “*in vitro*,” “bio meat,” “clean meat,” or “cultured meat.” Both categories of alternative products should not be permitted to use the “beef” label. These alternative products are *not* from an animal, born, raised and harvested in the traditional manner and, as such, do not meet the standard, statutory, and regulatory definitions of beef and beef products.

As discussed below, both the synthetic product and the lab grown product from animal cells directly compete, or will soon directly compete, against actual beef products that are born, raised and harvested in the traditional manner. *See* **Collective Exhibit 5** attached hereto (the development and labeling of the alternative products in the market place). Thus, in USCA’s view both categories should be excluded from the definition of “beef.”

Currently, there is no definition of what constitutes a “beef” or “meat” product. In light of the new market for synthetic products, new regulations should be adopted limiting the “beef” and “meat” labels to animals born raised, harvested, and processed in the traditional way.

1. Synthetic beef products

Synthetic products, which are derived from plants, insects and other non-animal components, are currently being sold in retail stores, specialty restaurants, and national chain restaurants.

One example of a synthetic product is one produced by Impossible Foods, which promotes “a plant-based burger that smells, tastes, looks and even feels like ground beef.” *See* Matt Simon, “The Impossible Burger: Inside the Strange Science of the Fake Meat that ‘Bleeds,’” *Wired.com* (Sept. 20, 2017), part of **Collective Exhibit 5**. On its website, Impossible Burger labels a photo of its meatless product, which is identical to raw ground beef in appearance, as “For the Love of Meat.” *See* Impossible Burger, *ImpossibleFoods.com* (last visited Jan. 29, 2018), part of **Collective Exhibit 5**. As previously discussed, “meat food product{s}” are defined by statute as products “made wholly or in part from any meat or other portion of the carcass of any cattle, sheep, swine, or goats.” *See* Section B.i.2., *supra*; *see also* 21 U.S.C. § 601(j). USDA regulations also define meat as “the edible part of the muscle of any cattle, sheep, swine, or goats, . . . which is intended for human food{.}” *See* Section B.i.2., *supra*; *see also* 7 C.F.R. § 98.2. Despite being labeled as such, the Impossible Burger does not contain meat as define by statute and USDA regulations.

Similarly, Southern California’s Beyond Meat sells a “plant-based burger that looks, cooks, and tastes like a traditional burger” in retail stores and restaurant chains. *See* Jill Ettinger, “TGI Fridays to Run Meatless Monday Campaign After Vegan Burger Launch,” *Organicauthority.com* (Jan. 9, 2018), part of **Collective Exhibit 5**. To directly compete with traditional beef products, Beyond Meat strategically merchandises its products adjacent to traditional meat in grocery stores. *Id.* Indeed, Beyond Meat’s website shows that its burger patties are virtually indistinguishable when sold next to traditional ground beef. *See* “The Beyond Burger,” *BeyondMeat.com* (last visited Jan. 29, 2018), part of **Collective Exhibit 5**. Like the Impossible Burger, Beyond Meat patties are labeled as “meat” even though they do not meet the statutory definition of a “meat food product,” the regulatory definition of “meat,” nor contain any meat as so defined. *See* Section B.i.2. *supra*; *see also* 21 U.S.C. § 601(j).

In addition, Beyond Meat sells “Beefy,” “Beyond Beef Crumbles,” which are advertised as a “beefy kick for any ground beef recipe.” *See* “Products: Beyond Beef Crumble,” *BeyondMeat.com* (last visited Jan. 29, 2018), part of **Collective Exhibit 5**. These products do not contain beef, but rather non-meat ingredients such as “Pea Protein Isolate,” “Rice Flour,” and “Yeast Extract.” *Id.* As discussed above, USDA regulations define beef as the “flesh of cattle” and ground beef as “chopped fresh and/or frozen beef with or without seasoning and without the addition of beef fat{.}” *See* Section B.i.2. *supra*; *see also* 7 C.F.R. § 1260.119; 9 C.F.R. § 319.15(a). Beyond Beef

Crumbles do not comport with these regulatory definitions despite being labeled as “beef” and as a substitute for “ground beef.” *Id.*

In addition, as with the FDA case involving Just Mayo and Just Mayo Sriracha products, where the labeling of eggless, vegan mayonnaise with imagery of a cracked egg was found to be misleading, Section B.i.2 *supra*, Beyond Beef labels its “Beyond Beef Crumble” with the image of a cow. *See* “Products: Beyond Beef Crumble,” BeyondMeat.com (last visited Jan. 29, 2018), part of **Collective Exhibit 5**. For the same reasons and concerns articulated in the FDA mayo case, this label should not be permitted since it is misleading to consumers.

Fueled by investments from philanthropists like Bill Gates and traditional meat companies like Tyson Foods Inc., both Impossible Burger and Beyond Meat have rapidly expanded and are becoming more prevalent in the market place. *See* Shruti Singh, “Bill Gates and Richard Branson Back Startup That Grows ‘Clean Meat,’” Bloomberg.com (Aug. 23, 2017), part of **Collective Exhibit 5**. For example, Impossible Burger is dramatically increasing its production capacity with a new factory that will have the capacity to produce 12 million pounds of burgers per year. *See* Adele Peters, “In Its New Factory, Impossible Foods Will Make 12 Million Pounds Of Plant-Based Burgers A Year,” FastCompany.com (Mar. 29, 2017), part of **Collective Exhibit 5**. Likewise, Beyond Beef was recently added to the menu at more than 500 TGI Fridays chains nation-wide. *See* Jill Ettinger, “TGI Fridays to Run Meatless Monday Campaign After Vegan Burger Launch,” Organicauthority.com (Jan. 9, 2018), part of **Collective Exhibit 5**. Notably, the TGI Fridays’ menu simply lists “The Beyond Meat Cheeseburger” alongside traditional burgers with a picture that is indistinguishable from the other, traditional beef burgers on the menu. *See* TGI Fridays Menu, tgifridays.com (last visited Jan. 30, 2018), part of **Collective Exhibit 5**.

The proliferation of synthetic products is expected to continue, with an increasing number of synthetic products entering the market and displacing the market share of traditional beef products. Indeed, as noted in one article, “alternative proteins, such as insects ... are on the verge of becoming mainstream and ‘stealing’ growth from traditional meat products.” Rebecca Howard, “Beef + Lamb explores ‘alternative protein’ options,” nzherald.co.nz (Nov. 27, 2017), part of **Collective Exhibit 5**.

2. Lab grown product

Lab grown product from animal cells, also known as “*in vitro*,” “bio meat,” “clean meat,” or “cultured meat,” is a second category of non-beef product that is in development. *See, e.g.*, Rachel Roberts, “China signs \$300m deal to buy lab-grown meat from Israel in move welcomed by vegans,” Independent.co.uk (Sept. 2017), part of **Collective Exhibit 5**. Though lab grown product currently relies on animal cells, a totally synthetic substitute is being developed, which will cater to vegans. *Id.* In USCA’s view, such artificially created products, regardless of whether derived from animal cells, should not be permissibly labeled as “beef,” which is widely understood to be a derivative of cattle harvested in the traditional manner. *See* Section B.i.1., *supra*.

Though lab grown product is not yet available in restaurants or at the retail level, its development has been backed by prominent investors like Bill Gates and Cargill Inc. and, consequently, the cost of the lab grown product is becoming more commercially feasible. *See* Ido Efrati, “Israeli Institutions Working to Bring Cultured Meat From Lab to Plate,” Haaretz.com (Apr. 30, 2017); Shruti Singh, “Bill Gates and Richard Branson Back Startup That Grows ‘Clean Meat,’” Bloomberg.com (Aug. 23, 2017), part of **Collective Exhibit 5**.

Prominent producers of lab grown product include Memphis Meats and Mosa Meats, which seeks to create an \$11 lab burger for commercial sale by 2020. *Id.*; *see also* “Where’s the beef?: The market for alternative-protein products,” Economist.com (Feb. 2, 2017), part of **Collective Exhibit 5**. Lab grown products are likely to become more prevalent in the market place and thus take market share from natural meat products harvested in the traditional manner.

USCA requests that any lab grown product (whether from an animal cell or from other sources) be excluded from the definition of “beef” and “meat.”

IV. CONCLUSION

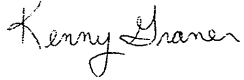
USCA has long advocated for additional beef labeling requirements to better inform consumers that beef is of U.S. origin. A closely related concern is what constitutes “beef” and “meat” more generally.

In recent years, there have been major investments in synthetic product and in products grown in laboratories using animal cells. Such products should *not* be permitted to be marketed as beef or as meat. This distinction should not be limited to just U.S. beef and meat, but rather applicable to all product regardless of the country of origin.

The “beef” and “meat” labels should inform consumers that the products are from animals harvested in the traditional manner, as opposed to derived from alternative proteins or artificially grown in laboratories. As such, the definitions of “beef” and “meat” should be limited to animals born, raised, and processed in the traditional manner, regardless of the country of origin. Synthetic products and products grown in labs from animal cells should thus not qualify to be labeled as “beef” or as “meat.”

USCA requests that the Secretary of Agriculture make the aforementioned changes to the Food Standards and Labeling Policy Book.

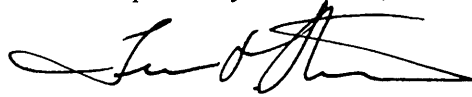
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Dated: February 9, 2018

LIST OF EXHIBITS

1. Definitions of “beef,” “meat,” and related terms

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- *Beef Definition*, OxfordDictionaries.com (last visited Jan. 29, 2018)
- *Beef Definition*, dictionary.cambridge.org (last visited Jan. 29, 2018)
- *Beef Definition*, Dictionary.com (last visited Jan. 29, 2018)
- *Beef Definition*, TheFreeDictionary.com (last visited Jan. 29, 2018)
- *Meat Definition*, Merriam-Webster.com (last visited Jan. 30, 2018)
- *Meat Definition*, OxfordDictionaries.com (last visited Jan. 30, 2018)

2. “Food Standards and Labeling Policy Book,” U.S. Department of Agriculture, Food Safety and Inspection Service, Office of Policy, Program and Employee Development (Aug. 2005) (excerpts)

3. FDA Case Precedent on Vegan Alternatives

- “Hampton Creek Foods Warning Letter,” FDA Department of Health and Human Services (Aug. 12, 2015)
- Stephanie Strom, “F.D.A. Allows Maker of Just Mayo to Keep Product’s Name,” NY Times (Dec. 17, 2015)

4. Explanation of the FTC’s “Truth in Advertising” standard

- “Truth in Advertising,” FTC.gov (last visited Jan. 29, 2018)
- FTC Policy Statement on Deception (Oct. 14, 1983)
- Press Release, “Mars Petcare Settles False Advertising Charges Related to Its Eukanuba Dog Food,” FTC.gov (Aug. 4, 2016)
- Press Release, “FTC Approves Final Consent Orders Settling Charges that Companies Deceptively Claimed Their Genetically Modified Nutritional Supplements Could Treat Diseases,” FTC.gov (May 12, 2014)

5. The development and labeling of “fake meat” in the market place

- Matt Simon, “The Impossible Burger: Inside the Strange Science of the Fake Meat that ‘Bleeds,’” Wired.com (Sept. 20, 2017)
- Jill Ettinger, “TGI Fridays to Run Meatless Monday Campaign After Vegan Burger Launch,” Organicauthority.com (Jan. 9, 2018)
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- Shruti Singh, “Bill Gates and Richard Branson Back Startup That Grows ‘Clean Meat,’” Bloomberg.com (Aug. 23, 2017)

- Adele Peters, “In Its New Factory, Impossible Foods Will Make 12 Million Pounds Of Plant-Based Burgers A Year,” [FastCompany.com](#) (Mar. 29, 2017)
- TGI Fridays Menu, [tgifridays.com](#) (last visited Jan. 30, 2018)
- Rebecca Howard, “Beef + Lamb explores ‘alternative protein’ options,” [nzherald.co.nz](#) (Nov. 27, 2017)
- “China signs \$300m deal to buy lab-grown meat from Israel in move welcomed by vegans,” [Independent.co.uk](#) (Sept. 2017)
- Ido Efrati, “Israeli Institutions Working to Bring Cultured Meat From Lab to Plate,” [Haaretz.com](#) (Apr. 30, 2017)
- “Where’s the beef?: The market for alternative-protein products,” [Economist.com](#) (Feb. 2, 2017)