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August 20, 2007

Country of Origin Labeling Program  
Room 2607-S  
Agricultural Marketing Service (AMS)  
United States Department of Agriculture  
1400 Independence Avenue, SW  
Washington, DC 20250-0254

RE: Docket No. AMS-LS-06-0081; LS-04-04  
Proposed Rule: Mandatory Country of Origin Labeling of Beef, Lamb, Pork,  
Perishable Agricultural Commodities, and Peanuts

Texas Cattle Feeders Association (TCFA) appreciates this opportunity to provide additional comments with regard to the proposed rule on mandatory country of origin labeling (COOL) for beef and other products (Federal Register Notice – June 20, 2007). Taking into account current law, prior changes made for fish and shellfish, and recent actions on COOL by the U.S. House of Representatives' Committee on Agriculture, TCFA offers the following thoughts:

First and foremost, TCFA is extremely concerned that country of origin labeling has become synonymous with food safety. COOL has absolutely nothing to do with food safety. It is simply a marketing tool. The beef supply in the United States is safe. Our industry has worked with veterinarians, food scientists, food safety experts, animal scientists, and the Federal Government to develop animal production practices that can be utilized on cattle operations to ensure that only healthy animals make it into the food supply chain and intervention steps throughout the rest of the food chain to ensure food safety. The cattle industry invests a significant amount of its own money into beef safety and other scientific research in the continuous effort to improve upon the safety of what is already the safest food supply in the world. TCFA's Beef Safety and Quality Assurance (BSQA) program utilizes the combined knowledge of the cattle industry and experts to train producers on how to care for and handle their cattle.

As we move up the chain, our industry has also worked to improve the processing of cattle into beef products. With the advent of Hazard Analysis Critical Control Points (HACCP) and other food safeguards, we have seen a dramatic reduction in the number of food borne illness incidents from beef. As a result of this work, the beef industry met the goals of the Secretary of Health and Human Services' (HHS) "Healthy People 2010" initiative in 2004 – six years earlier than required. In addition, we have worked with retailers to ensure that they know how to safely handle and package beef products, and we have worked to educate consumers on safe beef handling, preparation, and cooking practices.

Due to the many procedures, practices, firewalls, and USDA inspections, all beef sold in the U.S. is safe, whether produced domestically or imported. The addition of a country of origin label does absolutely nothing to ensure beef safety, and it is misleading to say otherwise. The oversight of our nation's food safety is a legitimate role for the Federal Government, but COOL is nothing more than a marketing tool, and as such, should be controlled by the industry.

TCFA member feedyards in Texas, Oklahoma, and New Mexico—an area that produces approximately 30% of the nation's fed cattle—and cattle feeder members across the country produce high quality beef that is demanded around the world. TCFA has long understood and appreciated the value that labeling brings to differentiating and branding our beef products. Marketing is about differentiating your product, building demand for that product, and selling it for a premium over the competition. We believe that market-driven, consumer-focused labeling can accomplish those goals and provide more benefit to both cattle producers and consumers than a mandatory, government-controlled program.

Currently, the Agricultural Marketing Service (AMS) and the Food Safety Inspection Service (FSIS) have several process verified programs (PVPs) and certified labeling programs that are utilized by beef producers to differentiate and brand their products. These programs include readily recognizable brands such as *Certified Angus Beef* and *Nolan Ryan's Guaranteed Tender Beef*. These programs are voluntary, demand products meet well-defined standards, and utilize distinctive program labels that can be found at the retail meat counter, on pre-packaged beef, and on restaurant menus. These programs are models of how consumer-focused, market-driven, producer-led programs have increased product demand and return on investment for the participating producers. These successful programs should be the models for all labeling. However, the current law prohibits the use of PVPs and other certified labeling programs to satisfy COOL.

### **Food Items Exempted from the Law:**

Many proponents of COOL talk about giving the consumer a choice, but the current law exempts food service, processed items, and poultry. Over fifty percent of the consumer dollar spent on beef occurs through food service, meaning this law would give the consumer a choice half the time. If consumers demand branded product in the grocery store, it is to be expected that they will do the same in restaurants.

The processed food exemption is also problematic and disingenuous. Whether it is marinated, pre-cooked, stuffed, cured, or is the result of any other “processing,” the base product is still domestic and/or imported beef. We do not understand the rationale or justification to carve out an exception for a ribeye steak that, by itself, would be labeled with its country of origin, but if given a “Cajun marinade” becomes a different product not subject to labeling. The underlying product is still the beef ribeye steak. Therefore, we are unable to make any recommendations on how to more clearly define processed food items. The language differentiating processed food items is unclear to the industry and will be of greater confusion to the consumer.

Cattlemen are also deeply disappointed that COOL has not been imposed on agriculture in a uniform manner. We believe the exemption for poultry puts beef producers at a competitive disadvantage.

### **Country of Origin Notification:**

TCFA supports modifying the determination, definition, and notification of the country of origin of beef products. The cattle and beef industry is complex and not as easy to define as other segments of agriculture. For example: vegetables are planted in the ground from seed. The plants then germinate, sprout, grow, and produce a vegetable in the same field where they were planted. Furthermore, they are harvested from the same field in which they were planted, and in many instances are prepared and shipped from that same field to the retail establishment. This is not the case for our industry. In one case, a calf is born on a U.S. ranch where it stays for up to a year before being shipped off to another location or state to graze on grass. That animal is then shipped once again to another location or state to be fed and prepared for processing. When it comes time for processing, that animal is once again moved to another location or state to be substantially transformed from live animal into beef products.

In other instances, live cattle are imported from Canada and Mexico and then feed and processed in the U.S. Over seventy-five percent of their final value is added through the consumption of domestic

grasses and feed from U.S. ranches, farms, and feedyards. It is discriminatory to say that beef from cattle raised in this fashion is not a product of the U.S. This continues to be one of the biggest concerns TCFA has with the current law and subsequent proposals.

The U.S. House of Representatives included language in HR 2419, the Farm, Nutrition, and Bioenergy Act of 2007 (2007 Farm Bill) on COOL that, while not ideal, is an improvement over the current law. The language provides for four different origin determinations that can be applied to beef products. The determinations are as follows:

1. U.S. Country of Origin – this is beef from cattle that are born, raised, and processed in the United States. It also includes beef from cattle that are born and raised in Hawaii or Alaska and are then transported across Canada to be processed in the United States.
2. Multiple Countries of Origin – beef from cattle that are not exclusively born, raised, and processed in the United States. This is the category for cattle that are imported to be raised and processed in the U.S. While we still believe that this should be considered U.S. product, a way to soften the impact on producers who operate this way is to develop a label that deems this beef a product of the U.S. with the clarifier that it is from imported cattle.
3. Imported for Immediate Slaughter – beef from cattle that are imported from Canada or Mexico and go directly to a plant to be processed.
4. Foreign Country of Origin – beef products imported into the United States.

In addition, the House passed language provides for an improved label for ground beef. TCFA has always been concerned about how ground beef would be handled under mandatory COOL. Unlike current law, the House passed language would allow packers to label ground beef with the countries that “may” have product in that batch. This approach will make compliance easier and less costly, while still giving consumers the information they need to make a choice.

When looking at how to make origin determinations, we need only look at regulations that are currently in place. Current USDA Animal Plant Health Inspection Service regulations require live cattle imported from Canada to be branded with the letters “CAN” and live cattle imported from Mexico to be branded with the letter “M.” The brands can be used to segregate these animals and ensure that they get the proper label when sold at retail. Likewise, the 1930 Tariff Act requires all beef imported into the United States to be labeled with its country of origin. The labels can be used to segregate product and make sure the country of origin stays with the product throughout the beef chain.

Some proponents of mandatory COOL argue that live cattle should be removed from the “J-list” labeling exemption in the 1930 Tariff Act. This is a moot point given that these cattle are required to be branded with their country of origin. Those that continue to support this argument are in actuality wanting to impose a non-tariff trade barrier on our trading partners.

### **Markings:**

TCFA believes that the beef industry should be given flexibility in determining how products are labeled with their countries of origin. USDA should work with industry to develop and implement minimum standards, but packers and retailers should have the ability to go beyond those standards if they so choose. Along those lines, branded beef products that are enrolled in PVPs and other certified labeling programs that meet the minimum requirements should be adequate to satisfy COOL.

### **Recordkeeping Requirements:**

TCFA has long been concerned about the recordkeeping burden on cattle producers and what the added costs associated with it would do to a producer’s ability to remain profitable. No new

recordkeeping requirements should be put in place in order to comply with COOL. The use of normal business records should be enough to establish origin and to verify that origin in the case of an audit. Although the recordkeeping requirement is for retailers and suppliers, rather than the livestock producers themselves, we have already seen an effort to pass the responsibility and liability down the chain. Letters from the Food Marketing Institute, the American Meat Institute, and many individual retailers and packers have been sent to cattle producers instructing them to start keeping detailed records of their cattle.

For example, last week in the American Association of Meat Processors' *AAMPLIFIER* newsletter, there was an article about getting ready for COOL that said "You as meat processors have no choice but to push the burden downstream to the livestock producer." While recordkeeping is important to ensure the integrity of any consumer program, cattle producers need to be protected from undue burdens placed on them by retailers and packers who are looking to pass on their liability.

As stated in the House passed COOL language in the 2007 Farm Bill, producer affidavits and records kept in the normal course of business, such as animal health papers, sales receipts, herd records, etc, should be sufficient to establish country of origin and should be given the proper consideration by retailers and suppliers. A program intended to market high quality U.S. beef should not be a burden to cattle producers.

#### **Timeframes for Products Produced Prior to the Implementation Date To Clear the Channels of Commerce:**

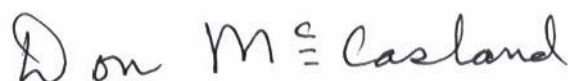
A "grandfather" clause is going to be very important to help clear the channels of animals that were in the country before the final rule regarding mandatory country of origin labeling is completed. This is important in protecting the beef industry from being held responsible for complying with a program when they did not know what the exact rules were going to be. The House passed COOL language in the 2007 Farm Bill picked January 1, 2008, as the date to start determining country of origin, in anticipation of complying with mandatory COOL starting on September 30, 2008. This is a fair timeframe and one that we can support.

TCFA members work everyday to supply the U.S.—and the world—with our safe, nutritious, delicious, and affordable beef. We support the promotion of our high quality beef and support consumers having the best information about our products. However, we cannot and do not support misleading federal mandates or inefficient and ineffective regulatory burdens that provide little to no benefit. We strongly urge USDA to adopt practical and workable rules that give consumers usable information without overly burdening producers.

In closing, TCFA looks forward to working with USDA and Congress to ensure that the mandatory country of origin labeling program that is put into place on September 30, 2008, allows for the differentiation of U.S. beef, gives the consumer a choice, and provides a return to America's cattle producers.

In the interim, we will continue to support the efforts by Congress to make mandatory COOL more workable. While not ideal, the proposal put forth by the House of Representatives in the 2007 Farm Bill is better than current law.

Sincerely,

A handwritten signature in cursive script that reads "Don McCasland". The signature is written in dark ink and is positioned above the printed name and title.

Don McCasland  
Chairman