



Consumer Federation of America

August 20, 2007

Country of Origin Labeling Program (MS-0254)
Agricultural Marketing Service
1400 Independence Avenue SW
Room 2607-S
Washington, DC 2025-0254

RE: **Docket No. AMS-LS-06-0081; LS-04-04**

To Whom It May Concern:

Consumer Federation of America (CFA) is pleased to submit the following comments on mandatory country of origin labeling of beef, lamb, pork, perishable agricultural commodities and peanuts (**Docket No. AMS-LS-06-0081; LS-04-04**). CFA is a non-profit association of more than 300 organizations with a combined membership of over 50 million Americans nationwide. CFA was established in 1968 to advance the consumer interest through research, education and advocacy.

CFA has long supported a mandatory country of origin labeling (COOL) program as a means of providing consumers with important information about the source of their food. CFA supported the inclusion of language requiring COOL in the 2002 Farm Bill, but has been disappointed with the continual delays of implementation since that time. Last month, the House passed the Farm, Nutrition and Bioenergy Act of 2007 (HR 2419), otherwise known as the Farm Bill. In this bill, the House included legislative language that modified the original 2002 COOL law to further clarify Congress' intent in establishing a mandatory country of origin labeling program. The language in the House Farm Bill, which was agreed to by a cross-section of COOL stakeholders, represents a significant step forward in making COOL a reality for consumers. We applaud the efforts of the House Agriculture Committee and those who negotiated an agreement on COOL, and look forward to implementation of this important program.

Consumers have repeatedly and overwhelmingly expressed their support for country of origin labeling. In 2002, the Packer magazine released the results of its national Fresh Trends survey and found that 86% of respondents favored COOL¹. In 2004, a nationwide poll done for the National Farmers Union showed that 82% of respondents supported

¹ Packer magazine, Fresh Trends survey, 2002.

COOL². A 2007 poll conducted for the consumer group Food & Water Watch found that 82% of respondents supported a mandatory COOL program³. Also in 2007, a Consumers Union poll found that 92% of respondents believed that imported foods should be labeled with their country of origin⁴. Most recently in August 2007 the international polling firm Zogby released survey results that demonstrated that not only did 85% of respondents say that knowing where their food comes from is important, but 88% of respondents said that they want all retail foods labeled with country of origin information. In addition, the Zogby survey reported that 95 % of respondents believe consumers have a *right to know* the country of origin of the foods they purchase⁵. COOL is a valued program by consumers and it is past time that the country of origin labeling program be implemented.

CFA encourages the Agency to ensure that the COOL program is in place by its current implementation date of September 30, 2008. Since the COOL law was passed in 2002, consumers have been refused this important information about the source of their food because of numerous delays instigated by certain members of Congress. Now that the current Congress has further clarified its intent to implement COOL, consumers will not tolerate further delays in this valuable program. We urge the Agency to work expeditiously in developing its final rule and not cause further delays in the program's implementation.

As USDA develops its final rule on COOL for beef, lamb, pork, perishable agricultural commodities, and peanuts, CFA urges the Department to abide by the language in HR. 2419 that further clarifies the intent of the 2002 law (see Addendum). Many of the stakeholders who would be impacted by COOL were involved in the negotiations of this language and the end result represents a reasonable compromise on which the invested stakeholders all agree. Several of the particular areas of interest raised by AMS in its June 20, 2007 Federal Register notice are specifically addressed through the House Farm Bill language. These include country of origin notification, markings, recordkeeping requirements and timeframes for products produced prior to the implementation date to clear the channels of commerce. CFA supports the language in HR 2419 and urges AMS to closely adhere to the language when developing its final rule on COOL for beef, lamb, pork, perishable agricultural commodities and peanuts.

One area that was not addressed in the House Farm Bill language is in regards to processed food items. In general, CFA believes that USDA should define a processed food item as broadly as possible. The definition of a processed food item in the interim final rule on COOL for fish and shellfish was too narrow and resulted in confusion for consumers. For example, it does not make sense in the eyes of consumers as to why some types of salmon fillets are covered under the rule and labeled with their country of origin, but other types of canned salmon are not covered and therefore not labeled. CFA

² National Farmers Union survey, 2004 at <http://www.nfu.org/wp-content/uploads/2006/05/Poll%20Results%20-%20COOL%20Jan2004.pdf>

³ Food & Water Watch survey 2007 at <http://www.foodandwaterwatch.org/press/releases/food-labeling-82-support-cool>

⁴ Consumers Union poll, 2007 at <http://www.greenerchoices.org/products.cfm?product=crfood&pcat=food>

⁵ Zogby International survey, August 9, 2007 at <http://www.zogby.com/news/ReadNews.dbm?ID=1345>.

does agree that the definition of “processed food item” as determined by the National Organic Program should not be used as the basis for the AMS final rule for COOL for the reasons outlined in the proposed rule. Instead, the Agency should ensure that all beef, pork, lamb, perishable agricultural products and peanuts be labeled unless the food product is *substantially altered* from its original state. AMS should include a new, broad definition of processing in its final rule as a means of capturing the intent of the law.

Thank you for this opportunity to comment. We anxiously await the implementation of the COOL program for consumers.

Sincerely,

Chris Waldrop
Director, Food Policy Institute

Addendum

Farm, Nutrition and Bioenergy Act of 2007 (HR 2419)

SEC. 11104. COUNTRY OF ORIGIN LABELING.

Subtitle D of the Agricultural Marketing Act of 1946 (7 U.S.C. 1638 et seq.) is amended—

(1) in section 281(2)(A)—

(A) in clause (v) by striking “and”;

(B) in clause (vi), by striking “peanuts.” and inserting “peanuts; and”;

(C) by adding at the end the following new clause:

(vii) meat produced from goats.”;

(2) in section 282—

(A) in subsection (a), by striking paragraphs (2) and (3) and inserting the following:

‘(2) DESIGNATION OF COUNTRY OF ORIGIN FOR BEEF, LAMB, PORK, AND GOAT.—

‘(A) UNITED STATES COUNTRY OF ORIGIN.—A retailer of a covered commodity that is beef, lamb, pork, or goat may designate the covered commodity as exclusively having a United States country of origin only if the covered commodity is derived from an animal that was—

(i) exclusively born, raised, and slaughtered in the United States; or

(ii) born and raised in Alaska or Hawaii and transported for a period of not more than 60 days through Canada to the United States and slaughtered in the United States.

(iii) present in the United States on or before January 1, 2008

(B) MULTIPLE COUNTRIES OF ORIGIN.—A retailer of a covered commodity that is beef, lamb, pork, or goat that is derived from an animal that is—

(i) not exclusively born, raised, and slaughtered in the United States,

(ii) born, raised, or slaughtered in the United States, and

(iii) not imported into the United States for immediate slaughter, may designate the country of origin of such covered commodity as all of the countries in which the animal may have been born, raised, or slaughtered.

(C) IMPORTED FOR IMMEDIATE SLAUGHTER.—A retailer of a covered commodity that is beef, lamb, pork, or goat that is derived from an animal that is imported into the United States for immediate slaughter must designate the origin of such covered commodity as—

(i) the country from which the animal was imported; and

(ii) the United States.

(D) FOREIGN COUNTRY OF ORIGIN.—A retailer of a covered commodity that is beef, lamb, pork, or goat that is derived from an animal that is not born, raised, or slaughtered in the United States must designate a country other than the United States as the country of origin of such commodity.

(E) GROUND BEEF, PORK, AND LAMB.—The notice of country of origin for ground beef, 8 ground pork, or ground lamb shall include—

(i) a list of all countries of origin of such ground beef, ground pork, or ground lamb; or

(ii) a list of all reasonably possible countries of origin of such ground beef, ground pork, or ground lamb.

(3) DESIGNATION OF COUNTRY OF ORIGIN FOR FISH.—

(A) IN GENERAL.—A retailer of a covered commodity that is farm-raised fish or wild fish may designate the covered commodity as having a United States country of origin only if the covered commodity—

(i) in the case of farm-raised fish, is hatched, raised, harvested, and processed in the United States; and

(ii) in the case of wild fish, is-

(I) harvested in the United States, a territory of the United States, or a State, or by a vessel that is documented under chapter 121 of title 46, United States Code, or registered in the United States; and

(II) processed in the United States, a territory of the United States, or a State, including the waters there of.

(B) DESIGNATION OF WILD FISH AND FARM-RAISED FISH.—The notice of country of origin for wild fish and farm-raised fish shall distinguish between wild fish and farm-raised fish.

(4) DESIGNATION OF PERISHABLE AGRICULTURAL COMMODITIES AND PEANUTS.—

(A) IN GENERAL. - A retailer of a covered commodity that is a perishable agricultural commodity or peanut may designate the covered commodity as having a United States country of origin only if the covered commodity is exclusively produced in the United States.

(B) STATE, REGION, LOCALITY OF THE UNITED STATES. – With respect to a covered commodity that is a perishable agricultural commodity produced exclusively in the United States, designation by a retailer of the State, region, or locality of the United States where such commodity was produced shall be sufficient to identify the United States as the country of origin;” and

(B) by striking subsection (d) and inserting the following:

(d) AUDIT VERIFICATION SYSTEM.—

(1) IN GENERAL.—The Secretary may conduct an audit of any person that prepares, stores, handles, or distributes a covered commodity for retail sale to verify compliance with this subtitle (including the regulations promulgated under section 284(b)).

(2) RECORD REQUIREMENTS.—

(A) IN GENERAL.—A person subject to an audit under paragraph (1) shall provide the Secretary with verification of the country of origin of covered commodities. Records maintained in the course of the normal conduct of the business of such person, including animal health papers, import or customs documents, or producer affidavits, may serve as such verification.

(B) PROHIBITION ON REQUIREMENT OF ADDITIONAL RECORDS.—The Secretary may not require a person that prepares, stores, handles, or distributes a covered commodity to maintain a record of the country of origin of a covered commodity other than those maintained in the course of the normal conduct of the business of such person.”;

(3) in section 283—

(A) by striking subsections (a) and (c);

(B) by redesignating subsection (b) subsection (a); (C) in subsection (a) (as so redesignated), by striking “retailer” and inserting “retailer or person engaged in the business of supplying a covered commodity to a retailer”; and (D) by adding at the end the following new subsection:

(b) FINES.—If, on completion of the 30-day period described in subsection (a)(2), the Secretary determines that the retailer or person engaged in the business of supplying a covered commodity to a retailer has—

(1) not made a good faith effort to comply with section 282, and

(2) continues to willfully violate section 282 with respect to the violation about which the retailer or person received notification under subsection

(a)(1), after providing notice and an opportunity for a hearing before the Secretary with respect to the violation, the Secretary may fine the retailer or person in an amount of not more than \$1,000 for each violation.”;