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Some Improvements Appear in Final COOL Rule; Significant Work Still Ahead

BILLINGS, MONT. (Jan. 12, 2009) — Today, the public gets a glimpse into the U.S. Department of Agriculture's (USDA's) final 260-page rule on mandatory country-of-origin labeling (mCOOL) before official publication of the document in Thursday's Federal Register.

"We see both good and bad in this final rule," said R-CALF USA CEO Bill Bullard. "One good development is that USDA adopted our request for visual inspections, thus allowing a producer to look at an animal and determine if it has any foreign markings. If it does not, the producer can sign an affidavit declaring the animal is exclusively of USA origin.

"USDA also removed the authorization that gave packers legal access to producers' records and, instead, requires only that packers possess records, such as a producer affidavit, for purposes of verifying the origins of cattle, but USDA should have gone one step further to authorize packers to conduct the visual inspection of animals for foreign markings, thus eliminating the need for producer affidavits at all," he continued.

"Additionally, USDA has eliminated the provision that would have allowed USA products to be exported to a foreign country for additional processing and then re-imported into the United States while still maintaining the USA label," Bullard said. "Also, USDA took out the specific references to the National Animal Identification System (NAIS). The agency previously attempted to use NAIS as a 'safe harbor' provision for COOL, even though NAIS requires far more information than is required by the COOL law."

One of the most disappointing findings, according to Bullard, is that USDA has kept in place the loophole that allows U.S. packers to commingle one foreign animal in each day's production, thus allowing the packers to label the entire day's production as 'mixed-country product,' even if everything except one animal were exclusively of USA origin.

Other contentious points in the rule include:

- Continuing to allow bulk containers, such as a full-service meat counter, to have a 'mixed origin' label, even if some of the products are USA products and some are foreign. The entire meat counter could be labeled as product of USA, Mexico and Canada.
- USDA has further catered to the interests of foreign countries by watering down the labeling requirements for animals imported for immediate slaughter. The earlier COOL rule required meat from those animals to be labeled as product of the foreign country and then the U.S., in that order, but this final rule allows USDA to change the order, listing the U.S. first, if again, the packers also are slaughtering foreign animals that were not imported for immediate slaughter during that production day. It allows packers to emphasize U.S. origins and de-emphasize foreign origins of the animal.
- USDA has retained its exclusion of covered commodities when they are subject to minor processing like cooking, smoking, curing, breading or adding tomato sauce, for instance, thus significantly limiting the scope of commodities subject to labeling requirements.
- USDA continues to allow ground beef processors to include the name of a country on a ground beef label for as long as 60 days after the processor discontinued sourcing product from the foreign country. This could allow a processor to include the USA label on a ground beef product even if no USA products were sourced during a 60-day period.
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“We still have a lot of work to do to ensure that USA products are clearly and properly labeled for consumers who wish to purchase food from U.S. farmers and ranchers,” said Bullard. “For months now, the packers have been effectively desensitizing U.S. consumers by mislabeling USA beef as if it were a North American product (i.e., ‘Product of the U.S., Canada, and Mexico’).

“This is wrong and we will go right back to Congress if the packers do not immediately cease this deceptive practice,” he emphasized. “Consumers have the right to know where their food comes from, and USDA and the packers shouldn’t deny them that right.”

Note: To view/download the final COOL rule, visit: http://www.federalregister.gov/OFRUpload/OFRData/2009-00600_PI.pdf, or visit the “Country of Origin Labeling” link at www.r-calfusa.com.

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R-CALF USA (Ranchers-Cattlemen Action Legal Fund, United Stockgrowers of America) is a national, non-profit organization dedicated to ensuring the continued profitability and viability of the U.S. cattle industry. R-CALF USA represents thousands of U.S. cattle producers on trade and marketing issues. Members are located across 47 states and are primarily cow-calf operators, cattle backgrounders, and/or feedlot owners. R-CALF USA has dozens of affiliate organizations and various main-street businesses are associate members. For more information, visit www.r-calfusa.com or, call 406-252-2516.