



United States Department of Agriculture

Office of the Secretary
Washington, D.C. 20250

APR 17 2009

Dr. R. M. Thornsberry
President, R-CALF USA Board of Directors
R-CALF United Stockgrowers of America
Post Office Box 30715
Billings, Montana 59107

Dear Dr. Thornsberry:

Thank you for your letter of January 20, 2009, to Secretary Thomas J. Vilsack concerning minimal risk regions rulemaking, country-of-origin labeling (COOL), and the National Animal Identification System (NAIS). We regret the delay in responding.

Secretary Vilsack was pleased to meet with you and with other stakeholder representatives on April 15, 2009, to learn more about your concerns. We appreciate your continued interest in these issues and assure you that safeguarding the Nation's agriculture against significant animal diseases, including bovine spongiform encephalopathy, remains a top priority for the Department of Agriculture (USDA). As you know, in compliance with the July 2008 order of the U.S. District Court for the District of South Dakota, USDA's Animal and Plant Health Inspection Service (APHIS) published a notice and request for further comments (APHIS 2008-0093) on our January 2005 docket concerning the importation of beef from bovines 30 months of age or older when slaughtered. We appreciate the detailed comments and attachments you previously submitted. APHIS officials are now in the process of evaluating the comments we received, including yours. Following the evaluation of the comments, we will develop a followup document in which we address the issues raised in the comments and issue a final decision regarding this matter.

With regard to your comments about NAIS, the Secretary believes it is critically important to the health of the Nation's agricultural animals for the United States to have an effective system of animal identification in place. NAIS is one of the elements that will allow USDA to carry out its animal health mission by enabling us to respond effectively to animal health emergencies. Identification systems also ensure that countries can manage zoonotic diseases that do not recognize international borders and consequently pose risks to livestock and public health around the globe. And there may be other, yet no less significant, benefits. As more and more countries around the world employ identification systems, NAIS can play a role in supporting the competitiveness of our livestock sector in international markets and consumer confidence in the safety of our food supply.

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USDA's priorities for NAIS include implementing the program in a way that is sensitive to the unique qualities of different species groups, protecting producers' private information, and providing producers with clear information about the program. We expect animal tracking database services to continue to be made available by both State-run and privately owned and operated providers. We will continue to evaluate what minimal data, if any, is necessary to be maintained at the Federal level.

Participation in NAIS is not a contractual obligation, nor does the issuance of a premises identification number (PIN) restrict or affect property ownership or rights in any way. The use of the PIN merely aligns a unique code to a location where livestock or poultry are held. This information is essential to safeguarding animal health because it helps first responders determine the size and scope of a disease event. Issuance of a PIN as part of a disease program does not require producer participation in NAIS. As you are aware, APHIS officials published the proposed rule, "Official Animal Identification Numbering Systems," (Docket No. APHIS-2007-0096) in the *Federal Register* on January 13, 2009, in an effort to proceed with establishing the standardized PIN. We have logged in your letter as a formal comment to the proposed rule. Please be assured that we value your input and the input of all our stakeholders, as we feel that our decisionmaking process benefits from a variety of perspectives. USDA is committed to following a transparent rulemaking process that considers the views of all stakeholders in this issue.

Regarding your request that USDA's Agricultural Marketing Service modify its final rule for mandatory COOL labeling, we are enclosing a copy of an open letter to the industry that Secretary Vilsack signed on February 20, 2009. In the letter, the Secretary mentions his own concerns about certain provisions of the COOL final rule as promulgated under the previous Administration, and calls upon industry to voluntarily adopt specific practices to address many of the concerns you raised in your letter.

Thank you again for your continued interest in these issues.

Sincerely,



Cindy J. Smith
Acting Deputy Under Secretary
Marketing and Regulatory Programs

Enclosure



Enclosure

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February 20, 2009

Dear Industry Representative:

This letter pertains to the implementation of the mandatory Country of Origin Labeling (COOL) Final Rule (74 FR 2658). Regulations implementing the Country of Origin Labeling legislation contained in the 2008 Farm Bill are important to providing consumers with additional information about the source of food products and to helping producers differentiate their products.

Though it is important for the COOL Final Rule to go into effect in a timely manner and for the rule to proceed with the March 16, 2009, implementation date, there are certain components of the Final Rule promulgated by the previous Administration that raise legitimate concerns.

In particular, I am concerned about the regulation's treatment of product from multiple countries, exemptions provided to processed food, and time allowances provided to manufacturers for labeling ground meat products.

In light of these concerns, I am suggesting, after the effective date of the final rule, that the industry voluntarily adopt the following practices to ensure that consumers are adequately informed about the source of food products:

Labeling of product from multiple countries of origin

In order to provide consumers with sufficient information about the origin of products, processors should voluntarily include information about what production step occurred in each country when multiple countries appear on the label. For example, animals born and raised in Country X and slaughtered in Country Y might be labeled as 'Born and Raised in Country X and Slaughtered in Country Y'. Animals born in Country X but Raised and Slaughtered in Country Y might be labeled as 'Born in Country X and Raised and Slaughtered in Country Y'.

Processed Foods

The definition of processed foods contained in the Final Rule may be too broadly drafted. Even if products are subject to curing, smoking, broiling, grilling, or steaming, voluntary labeling would be appropriate.

Inventory Allowance

The language in the Final Rule allows a label for ground meat product to bear the name of a country, even if product from that country was not present in a processor's inventory, for up to 60 days. This provision allows for labels to be used in a way that does not clearly indicate the

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product's country of origin. Reducing the time allowance to ten days would limit the amount of product with these labels and would enhance the credibility of the label.

The Department of Agriculture will be closely reviewing industry compliance with the regulation and its performance in relation to these suggestions for voluntary action. Depending on this performance, I will carefully consider whether modifications to the rule will be necessary to achieve the intent of Congress.

Thank you for your thoughtful consideration.

Sincerely,

A handwritten signature in dark ink, appearing to read "Thomas J. Vilsack", with a long horizontal flourish extending to the right.

Thomas J. Vilsack
Secretary