NATIONAL FARMERS UNION

September 26, 2008

Country of Origin Labeling Program
Room 2607-S
Agricultural Marketing Service (AMS)
USDA Stop 0254
1400 Independence Ave., S.W.
Washington, D.C. 20250-0254

Desk Officer for Agriculture
Office of Information and Regulatory Affairs
Office of Management and Budget (OMB)
New Executive Office Building
725 17th Street, N.W.
Room 725
Washington, D.C. 20503

Re: Docket No. AMS-LS-07-0081

Dear Sirs:

On behalf of the family farmers, ranchers and rural resident members of National Farmers Union (NFU), I am pleased to respond to the August 1, 2008 Federal Register notice and request for comment on the interim final rule (IFR) for mandatory country of origin labeling (COOL). NFU has been steadfast in its support for mandatory COOL, both as a marketing tool for U.S. agricultural producers as well as an opportunity for consumers to make informed decisions in the retail marketplace.

Historically, American producers and consumers have demonstrated strong demand for this program. When provided with a choice, NFU believes consumers will prefer to purchase domestic products. Without responsible implementation of COOL, however, consumers will be denied the opportunity to make an educated decision in the marketplace and are left unable to differentiate between American and imported food products.

The Food, Conservation and Energy Act of 2008 made a number of significant changes to the original COOL statute, including an expanded list of covered commodities, established categories of meat labeling, permitting state-regional labeling to suffice in lieu of COOL, prescribing types of records necessary to verify compliance, reduced civil penalties and more. The modifications made to the original COOL statute were achieved as part of an agreement among all parties impacted by the program. NFU encourages USDA to proceed with an implementation process that reflects the spirit and objectives of Congress, as well as the private sector negotiations, in order to ensure the program operates as intended.

LABELING OF MULTIPLE COUNTRIES OF ORIGIN -
The IFR does not meet the intent of Congress or the statutory language as outlined in Section 11002 (2)(B) of the 2008 Farm Bill in regard to labeling products of multiple countries of origin. Since issuance of the IFR, several large beef packers have announced their intent to circumvent the spirit and objective of COOL by labeling all beef products under the multiple countries category, thereby avoiding the exclusively U.S. born, raised and processed category.

Section 11002 (2)(B) establishes parameters for products permitted in the multiple countries category. Specifically, the boundaries are defined as products that are not exclusively born, raised and slaughtered in the United States; products that have had a minimum of one production step (born, raised or slaughtered) occur within the United States; and no animals imported direct for slaughter can be included within the category.

During the COOL negotiation process, proponents recognized a need for flexibility on behalf of processors in order to efficiently transition their processing facilities to accommodate segregation. This willingness to accommodate packer concerns should not be interpreted as an opportunity for labeling requirements to be weakened or encourage misguided practices in processing plants that result in the labeling of potentially all products under the multiple countries category.

An AMS guidance issued on September 11, 2008 stated, *"Q. Can a retailer, like a meat packer, declare the origin of meat products derived from livestock born, raised, and slaughtered in the United States (i.e., Product of USA) as a mixed origin label such as Product of the United States, Canada, and Mexico? A. Yes. Retailers are permitted to market U.S. produced meat products under a mixed origin label declaration."* This statement is in clear contradiction of the statutory language and intent approved by Congress. Livestock producers who raise exclusively United States animals deserve truthful labeling that differentiates their products from others in the meat case and provides consumers with the information they need to make an informed decision in the retail marketplace.

According to recent press accounts, USDA Secretary Schafer publicly acknowledged circumvention of the U.S. label was not the intent of the law and revealed a possible solution to the concern. I encourage the department to make an announcement prior to the effective date of COOL so as to ensure consumers that exclusively U.S. product will be labeled as such.

PROCESSED FOOD ITEMS -

The statute provides an exemption for labeling processed food items. The definition of processed as outlined in the IFR, is a willful misinterpretation of Congressional intent and NFU encourages the definition be narrowed in order to provide consumers with country of origin information on as many food items as feasible. The IFR states, *"This rules expands the definition of processed food items such that a greater number of products are now exempt from COOL. The fewer the number of products that must be labeled, the lower implementation and maintenance costs of many affected entities."*

Combining two covered commodities in one package does not alter, enhance or represent a further step in processing, therefore should receive a label. Additionally, the steps of cooking, curing, frying, boiling, baking or smoking do not substantially alter the covered commodity from its original state and should receive a label. Consumers are expecting to see country of origin information on the food items purchased at a retail outlet, the IFR definition of processed food items will inexcusably exempt more products than Congress intended.

DEFINING COUNTRY OF ORIGIN FOR GROUND MEAT PRODUCTS -
The IFR assumes a meat processors' inventory tracking is not sophisticated enough to track materials within its system for less than 60 days. This regulatory loophole creates the opportunity for mislabeling of ground meat products which jeopardizes the integrity of COOL. The statute permits the notice of country of origin for ground meat to include a list of all countries of origin or a list of all reasonably possible countries of origin for those products. To allow processors to claim a ground product is of U.S. origin despite the fact that U.S. origin meat had not been through a processing facility in 59 days is clearly not the intent of Congress or those who negotiated the compromise. A reasonable amount of flexibility is expected for processors, 60 days is not reasonable. NFU strongly urges the department to reduce the amount of time allowed for a processor to claim a country within its inventory for ground product labeling.

RECORDKEEPING REQUIREMENTS -
NFU was pleased to co-host the August 26, 2008 industry stakeholder meeting in Kansas City along with the Livestock Marketing Association and National Meat Association. At that unprecedented meeting, more than 70 representatives of more than 30 livestock industry sector organizations came together to develop an affidavit and process to move livestock origin information through the chain of custody. NFU was pleased to see public comments from AMS Under Secretary Bruce Knight stating the industry agreed upon affidavit and process of moving the information through the custody chain meets the needs of transferring information while continuing to protect the integrity of the program. The affidavit process should be included in the final rule.

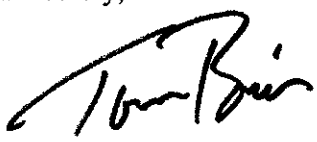
NFU remains very concerned, as outlined in our February 24, 2004 comments on the proposed rule, with the provision allowing livestock packers and processors legal access to producer records. This allowance poses a significant conflict of interest and is wholly unnecessary. The new farm bill language states only the Secretary may conduct an audit for verification purposes, and that producer affidavits are sufficient in making a country of origin claim, therefore, packers or processors should not be given legal access to producer records and that provision removed from the final rule.

ISSUANCE OF FINAL RULE -
NFU appreciates the IFR outline of a six month period following the effective date of the regulation when AMS will conduct an industry education and outreach program concerning the provisions and requirements of the rule. As stated in the IFR, the purpose of this outreach is to ensure the rule is effectively and rationally implemented, while at the same time aiding the industry in achieving compliance with the requirements. This period will allow all parties to make necessary adjustments within their operations to ensure the objectives and requirements of COOL are met. NFU urges the department to withhold publishing a final rule until after the conclusion of this six month period in order to maximize the lessons learned under the IFR.

CONCLUSION –
It is disappointing the department continues to deny any benefits or consumer desire for COOL. The IFR states, *"there is still little tangible evidence found to support that consumers' stated preferences for COOL information will lead to increased demand for commodities bearing a U.S.-origin label."* Since the COOL debate began, the number of consumers and organizations supporting the mandatory program has only expanded. Numerous surveys and polls indicate that consumers overwhelmingly support COOL and are willing to pay a premium for U.S.-origin labeled products; a June 2007 Consumer Reports poll found 92 percent of consumers think food should be labeled with country of origin information. Despite the department's unwillingness to recognize this support, consumers are anxiously waiting for COOL information to begin appearing on food items in their grocery stores and U.S. producers are anxious to begin differentiating their products from imported food items.

Thank you for consideration of these comments.

Sincerely,



Tom Buis, President
National Farmers Union