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April 14, 2003

VIA FACSIMILE TO: (202) 720-3499
AND FIRST CLASS MAIL

Country of Origin Labeling Program
Agricultural Marketing Service, USDA
Stop 0249, Room 2092-S,
1400 Independence Avenue, SW
Washington, D.C. 20250-0249

Re: Establishment of Guidelines for the Interim Voluntary Country of Origin Labeling ("COOL") of Beef, Lamb, Pork, Fish, Perishable Agricultural Commodities, and Peanuts Under the Authority of the Agricultural Marketing Act of 1946

Dear Sirs:

1) Harmonization with current FDA and U.S. Customs Service Regulations

We strongly recommend that USDA COOL guidelines and future regulations be harmonized to conform with current U.S. FDA and U.S. Customs Service regulations. The guidelines state the "Country of Origin Notification to consumers does not supersede any existing labeling requirements and any such country of origin notification must not obscure other labeling information required by existing regulatory requirements."

Issue: The current guidelines are unclear that a fruit product, cut and packed in Canada, from U.S. grown fruit, can be labeled "Product of U.S.," as opposed to "Packaged in Canada With U.S. Fruit." Also, in the opposite situation, where fruit is grown in Mexico, but cut and packaged in the U.S., current Customs Country of Origin Marking provisions would require a simple, "Product of Mexico" statement. It is unclear that this is the case under the COOL guidelines.

Recommendation: We strongly recommend that USDA COOL guidelines and future regulations be harmonized to conform with current U.S. FDA and U.S. Customs Service regulations.

Issue: The current guidelines state: "In the case of mixed or blended products where the individual constituents can be separately identified, the guidelines would require the container to be labeled to individually identify the country of origin of each constituent. An example of this would be a mixed or blended product such as spring mix, where individual constituents can be separately identified in a bagged salad. For a bagged salad that contains lettuce, spinach, and peppers from three different countries, the package label would list the applicable country of origin separately for each constituent ingredient."

Recommendation: We strongly recommend that USDA COOL guidelines and future regulations be harmonized to conform with current U.S. Customs Service regulations. Identification of individual commodities by country of origin would be extremely onerous for the fresh-cut industry to practically implement. Fresh-cut package ingredient declarations are often on pre-printed on poly bags or roll stock. Due to sourcing of various individual constituents from numerous countries, this COOL stipulation would require that food manufacturers have on hand pre-printed poly bags or roll stock with an almost infinite number of combinations of ingredient declarations designating the country of origin of each individual constituent. Congress was certainly trying to provide better information to consumers and simply including the countries of origin for a mixed product on the label without specifying individual commodities meets that need. U.S. Customs Service regulations adequately covers this requirement.

Recommendation: The guidelines and future regulations should allow for self-adhesive labeling or any other form of permanent marking that would simply declare the country of origin of the product contained within the package and not require designation of the country of origin of individual constituents.

2) Redundant Labeling and Recordkeeping Requirements

The current USDA COOL guidelines state explicitly that state and regional labeling programs are not sufficient. This will require redundant label changes for the fresh-cut industry, since most U.S. consumers would know that unless otherwise explicitly stated that reference to a state is an indication that the product is of U.S. origin. It is strongly recommended that labeling requirements be harmonized with U.S. FDA and U.S. Customs Service requirements.

Issue: The current guidelines state that, "Covered commodities meeting the guidelines for a "United States Country of Origin" may be labeled by any commonly understood designations such as:

- Country of Origin-United States;
- Product of the United States;
- Produced in the United States; or
- Product of USA.

Recommendation: FDA manufacturer labeling requirements (i.e. street address, city and state) should be sufficient to meet the required USDA COOL requirements for "Produce of USA" labeling. The USDA should fully recognize country of origin requirements covered under other statutes such as PACA, that allow country of origin designation on a package invoice, bill of lading, carton or any other type of labeling. This should be sufficient notification to any retailer of the country of origin of the commodity contained in a package. The USDA especially needs to recognize these PACA provisions in replacement of a new system of recordkeeping that is duplicative and unnecessary. PACA already requires two years worth of recordkeeping.

If you have any questions or you would like to discuss this matter further, please feel free to contact me.

Sincerely,

SALAD TIME, LLC

Ken S

KEN SILVEIRA
President

KS:mdc