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Implementing Mandatory Country of Origin Labeling

Dawn Thilmany McFadden

Country of origin labeling (COOL) has been a focus of food policy and industry discussions for over a decade, with similar legislation enacted by states who felt undue pressure from international competition (including Florida's 1980 law). COOL represents an interesting case of the changing role that government may play in establishing grades and standards in response to evolving consumer preferences for assurances about their food (Thilmany and Barrett, 1997). As is the case with most policy questions, understanding the challenges to COOL's implementation leads one to consider the political process behind the law (which flavors the spirit of how the law is being received) and resulting impacts to the domestic market and trade partners.

This theme issue on the implementation of Country of Origin Labeling addresses the role that the extended debate about COOL may have in terms of creating a somewhat divisive industry response, discussions about the pros and cons faced by consumers and supply chain enterprises, implications for industry performance and early indications of how the food industry and trade partners may respond.

In the first paper, Preston and Kim provide a succinct history of the legislation, overview the major elements of compliance, present details on the issues that received special attention and offer a brief discussion of the record-keeping requirements and enforcements plans. This narrative sets the stage for more specific discussions of how the various sectors have initially responded to the mandatory implementation.

In subsequent papers, Darrell Peel and Steve Meyer, explore the implementation in the beef and pork industries, respectively. Although there are many similarities in the challenges that these livestock sectors face, they diverge in their assessment of what issues present the greatest potential barriers. In his piece, Peel suggests that some of the greatest challenges will be in overseeing and enforcing this rule in an industry that remains fairly diffuse, especially at the cow–calf stage. Moreover, these new rules are not fully complementary to existing rules governing meat marketing. For pork, Meyer focuses more on the effects of consumer response, particularly in relation to competing meat sectors. He notes that the poultry industry is primarily domestic and integrated, so it will not face the same costs of transition and new tracking systems. And, since the response of consumers to multicountry labels (or potential increased demand for U.S. origin pork) is unknown, he suggests that the red meat industries are likely to lose some competitive position.

In his piece on the fruit and vegetable sector, John Van Sickle focuses more on the shifting estimates of compliance costs and broad range of estimates of the consumer demand response under new labeling systems. However, he notes that the true acceptance of this program will reveal itself after surveillance programs being in Spring 2009.

Each article does mention that the COOL process did see an evolution of requirements to mitigate at least some of the concerns about costs of compliance among food

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industry enterprises. However, the uncertainty surrounding these costs remains high.

Beyond the uncertainty about consumer interest in COOL and the cost impacts that are likely to occur, there is the perception that trade partners may present further challenges to this program. As one example, in late 2008, the Government of Canada requested a meeting, pursuant to the World Trade Organization (WTO) agreement, concerning the U.S. implementation of mandatory Country–of–Origin Labeling (COOL) regulations for meat products. Following the implementation of COOL rules on Sept. 30, Canada cited adverse impacts in terms of Canada's ability to market livestock in the United States. The combined impact of the lower prices for Canadian cattle with the increased cost of transporting them greater distances, plus processing on fewer days, is estimated to be about $90 per animal: thus, the new U.S. COOL law results in approximately a $400 million annual loss to the Canadian cattle industry.

In summary, this theme issue raises more questions than it may answer, but it does provide a fairly thorough context of the debates that are likely to continue through the early stages of COOL implementation. It is clear that each food sector may have a different focus in terms of what elements of COOL present threats to their competitiveness, but that research on each element of the economic and business strategy impacts (recordkeeping, surveillance, consumer response, consistency with other regulations) would be of significant value.

For More Information

Thilmany, D. and C. Barrett. Regulatory barriers in an integrating world food market. *Review of Agricultural Economics* 19 (Spring/Summer 1997): 91–107.

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USDA Requirements for Implementing Mandatory Country of Origin Labeling

Warren P. Preston and Soo Kim

JEL Classifications: Q10, Q13

A Brief Legislative History

Simply put, mandatory country of origin labeling (COOL) requires specified food retailers to inform their customers of the country of origin of covered commodities. The Federal requirements for mandatory COOL stem from the 2002 Farm Bill, which amended the Agricultural Marketing Act of 1946 to add COOL provisions. Among other requirements, the 2002 Farm Bill directed USDA to issue guidelines for voluntary COOL by Sept. 30, 2002. During the time that they were available, no retailers adopted the voluntary guidelines to provide COOL information to their customers. Regulations to implement mandatory COOL were to be promulgated by Sept. 30, 2004, and the requirements were to apply to the retail sale of a covered commodity by that date.

The law subsequently has undergone a number of changes since it was first enacted. First, the 2002 Supplemental Appropriations Act amended the COOL provisions by further defining the country of origin for wild fish. The Consolidated Appropriations Act, 2004 then delayed the applicability of mandatory COOL until Sept. 30, 2006 for covered commodities except for farm–raised fish and wild fish, for which the effective date of Sept. 30, 2004 remained unchanged. The Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2006 further delayed the applicability of mandatory COOL until Sept. 30, 2008 for those covered commodities. Finally, the 2008 Farm Bill contained a number of provisions that amended the COOL provisions of the Act.

Because of the changing requirements of the law, the rule–making process for promulgating implementing regulations has followed a similarly arduous process. There are rules in effect for the mandatory COOL program. An interim final rule for fish and shellfish was published in the *Federal Register* on Oct. 5, 2004. More recently, an interim final rule for the remaining covered commodities was published in the *Federal Register* on Aug.1, 2008, with an effective date of Sept. 30, 2008. These two interim final rules provide full regulatory authority for the mandatory COOL program, having served as a mechanism for soliciting public comments for consideration in promulgating a final rule and remain in effect until Mar. 15, 2009. The final rule superseding the two interim final rules and encompassing all covered commodities was published in the *Federal Register* on Jan. 15, 2009, and will become effective Mar. 16, 2009, 60 days following publication.

The remainder of this article highlights selected provisions of the COOL requirements as delineated in the final rule. This article draws liberally from the final rule itself and guidance documents released by USDA.

Retailer

The COOL legislation adopts the definition of "retailer" as having the meaning given that term in the Perishable Agricultural Commodities Act of 1939 (PACA). Under PACA, a retailer is any person engaged in the business of selling any perishable agricultural commodity (i.e., fresh and frozen fruits and vegetables) at retail. Retailers are required to be licensed when the invoice cost of all purchases of perishable agricultural commodities exceeds $230,000 during a calendar year. Therefore, retail establishments, such as butcher shops, which do not generally sell fruits and vegetables, do not meet the PACA definition of a retailer and therefore are not subject to this rule.

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Food service establishments, such as restaurants, cafeterias, lunch rooms, food stands, saloons, taverns, bars, lounges, or other similar facilities engaged in the business of selling food to the public, are exempt from COOL requirements. Similar food service facilities include salad bars, delicatessens, meal preparation stations in which the retailer sets out ingredients for different meals and consumers assemble the ingredients into meals to take home, and other food enterprises located within retail establishments that provide ready–to–eat foods.

Covered Commodities

From the time of the initial legislation, covered commodities under mandatory COOL have been defined to include muscle cuts of beef (including veal), lamb, and pork; ground beef, ground lamb, and ground pork; farm–raised and wild fish and shellfish; perishable agricultural commodities; and peanuts. The 2008 Farm Bill added muscle cuts of chicken and goat; ground chicken and ground goat; and ginseng, pecans, and macadamia nuts to the list of covered commodities.

By law, the mandatory COOL requirements do not apply when a covered commodity is an "ingredient in a processed food item." However, the law does not define these terms, and they consequently must be defined by regulation. The regulations define a "processed food item" as a retail item derived from a covered commodity that has undergone specific processing resulting in a change in the character of the covered commodity, or that has been combined with at least one other covered commodity or other substantive food component (e.g., chocolate, breading, tomato sauce). The addition of a component (such as water, salt, or sugar) that enhances or represents a further step in the preparation of the product for consumption, would not in itself result in a processed food item.

Specific processing that results in a change in the character of the covered commodity includes cooking (e.g., frying, broiling, grilling, boiling, steaming, baking, roasting), curing (e.g., salt curing, sugar curing, drying), smoking (cold or hot), and restructuring (e.g., emulsifying and extruding). Examples of items excluded from mandatory COOL include teriyaki flavored pork loin, meatloaf, roasted peanuts, breaded chicken tenders, fruit medley, mixed vegetables, and a salad mix that contains lettuce and carrots and/or salad dressing.

Bearing a "United States Country of Origin" Declaration

Since its inception in 2002, the COOL legislation has defined specific requirements for United States country of origin. In the case of perishable agricultural commodities, peanuts, pecans, ginseng, and macadamia nuts, the covered commodity must be produced (harvested) in the United States. Farm-raised fish and shellfish must be hatched, raised, harvested, and processed in the United States; and wild fish and shellfish must be harvested in the waters of the United States or by a U.S. flagged vessel and processed in the United States or aboard a U.S. flagged vessel.

In the case of beef, lamb, pork, chicken, and goat the law states that these commodities may bear a U.S. origin declaration only if they are derived exclusively from animals born, raised, and slaughtered in the United States (including animals born and raised in Alaska and Hawaii and transported for a period of time not more than 60 days through Canada to the United States and slaughtered in the United States). The 2008 Farm Bill added the provision that meat derived from animals present in the United States on or before July 15, 2008, and once present in the United States have remained continuously in the United States are also eligible to bear a United States origin declaration.

The 2008 Farm Bill amendments permit designation of the state, region, or locality where such commodity was produced (these designations are also acceptable for commodities that have been imported). For example, state brands such as "New Jersey Fresh" and "California Grown" would adequately convey origin information as long as the criteria for such state marketing programs mirror the regulatory definition of U.S. origin (e.g., grown in the United States). Examples of regional and locality labeling include "Imperial Valley," "Tuscany," or "Orange County"; and all would be acceptable labeling for covered nuts, perishable agricultural commodities, and ginseng in the context of COOL compliance. On the other hand, more obscure regional labels that do not specify a discernable country of origin would not suffice; examples of more obscure designations include "Great Lakes," "Eastern," "Rocky Mountains," and "Island Fresh."

Country of Origin for Imported Products

An imported covered commodity for which origin has already been established as defined by this law (e.g., born, raised, slaughtered or grown) and for which no production steps have occurred in the United States shall retain its origin as declared to U.S. Customs and Border Protection at the time the product enters the United States, through retail sale. Covered commodities imported in consumer–ready packages are currently required to bear a country of origin declaration on each individual package under the Tariff Act of 1930 (Tariff Act), and the COOL regulations do not change these requirements.

One of the greatest sources of controversy regarding mandatory COOL concerns the definition of the country of origin for meats. While the COOL

provisions of the 2002 Farm Bill specified requirements for U.S. country of origin of meats—namely born, raised, and slaughtered in the United States—there was no clear direction on how to label meats not meeting the U.S. origin requirements. Of particular concern was how to label meats from animals imported from another country and then raised and slaughtered in the United States, as well as animals imported directly into the United States for slaughter. Also of concern was how to label meats potentially derived from livestock from more than one origin, such as ground beef.

The 2008 Farm Bill included additional provisions for labeling of meat, which have commonly been referred to as Categories A, B, C, and D (see Figure 1).

Regarding ground meat, the declaration of country of origin must include a list of all countries of origin contained therein or a list of all reasonably possible countries of origin contained therein. When a raw material from a specific origin is not in a processor's inventory for more than 60 days, the country shall no longer be included as a possible country of origin.

Figure 1.

Muscle cuts of meat derived from animals born, raised, and slaughtered in the United States that are commingled during a production day with those from animals raised and slaughtered in the United States and not derived from animals imported for immediate slaughter, origin may be designated as "Product of the U.S., Country X, and (as applicable) Country Y." Similarly, muscle cuts of meat derived from animals that are born in Country X or Country Y, raised and slaughtered in the United States, that are commingled during a production day with muscle cut covered commodities that are derived from animals that are imported into the United States for immediate slaughter may be designated as "Product of the United States, Country X, and (as applicable) Country Y." In either case, the countries of origin may be listed in any order.

Labeling Commingled Covered Commodities

To provide the industry with flexibility, the regulations do not contain specific requirements regarding the exact placement or size of the country of origin declaration. However, such declarations must be legible and placed in a conspicuous location, allowing consumers to read and understand the country(ies) of origin.

The law states that retailers may use a label, stamp, mark, placard, or other clear and visible sign on the covered commodity or on the package, display, holding unit, or bin containing the commodity at the final point of sale to consumers. In general, abbreviations are not acceptable unless approved for use under U.S. Customs and Border Protection rules, regulations, and policies.

Labeling Commingled Covered Commodities

In the regulations, a commingled covered commodity is defined as a single type of covered commodity (e.g., frozen peas), presented for retail sale in a consumer package, that has been prepared from raw material sources having different origins. Further, a commingled covered commodity does not include ground meat products, for which labeling requirements are defined separately. If the retail product contains two different types of covered commodities (e.g., peas and carrots), it is considered a processed food item and is not subject to mandatory COOL.

In the case of perishable agricultural commodities, fish and shellfish, peanuts, pecans, ginseng, and macadamia nuts, for imported covered commodities that have not subsequently been substantially transformed in the United States that are commingled with imported and/or United States origin commodities, the declaration shall indicate the countries of origin for all covered commodities in accordance with U.S. Customs and Border Protection marking regulations. For example, a bag of frozen peas that were sourced from France and India is currently required under U.S. Customs and Border Protection regulations to be marked with that origin information on the package.

Markings

To provide the industry with flexibility, the regulations do not contain specific requirements regarding the exact placement or size of the country of origin declaration. However, such declarations must be legible and placed in a conspicuous location, allowing consumers to read and understand the country(ies) of origin.

The law states that retailers may use a label, stamp, mark, placard, or other clear and visible sign on the covered commodity or on the package, display, holding unit, or bin containing the commodity at the final point of sale to consumers. In general, abbreviations for state, regional, or locality label designations are acceptable as long as they use official United States Postal Service abbreviations or those approved for use under U.S. Customs and Border Protection rules, regulations, and policies.

Recordkeeping Requirements and Responsibilities

The law states that the Secretary may conduct an audit of any person that prepares, stores, handles, or distributes a covered commodity for retail sale to verify compliance. As such, records maintained in the normal course of business that verify origin declarations are necessary in order to provide retailers with credible information on which to base origin declarations.

Any person engaged in the business of supplying a covered commodity to a retailer, whether directly or indirectly (i.e., growers, distributors, handlers, packers, and processors, etc.), must make available informa-

tion to the subsequent purchaser about the country(ies) of origin of the covered commodity. This information may be provided either on the product itself, on the master shipping container, or in a document that accompanies the product through retail sale provided it identifies the product and its country(ies) of origin.

Any person engaged in the business of supplying a covered commodity to a retailer, whether directly or indirectly, must maintain records to establish and identify the immediate previous source (if applicable) and immediate subsequent recipient of a covered commodity for a period of one year from the date of the transaction.

In addition, the supplier of a covered commodity that is responsible for initiating a country of origin declaration, which in the case of beef, lamb, pork, chicken, and goat is the slaughter facility, must possess or have legal access to records that are necessary to substantiate that claim. In the case of beef, lamb, chicken, goat, and pork, a producer affidavit shall be considered acceptable evidence on which the slaughter facility may rely to initiate the origin claim, provided it is made by someone having first–hand knowledge of the origin of the animal(s) and identifies the animal(s) unique to the transaction.

Retailers also have record–keeping responsibilities. Records and other documentary evidence relied upon at the point of sale by the retailer to establish a covered commodity's country(ies) of origin must be maintained for as long as the product is on hand. Upon request, these records must be provided to any duly authorized representatives of USDA within five business days of the request and may be maintained in any location. For prelabeled products (i.e., labeled by the manufacturer/first handler) the label itself is sufficient evidence on which the retailer may rely to establish the product's origin. In addition to indicating country of origin information, prelabeled products must contain sufficient supplier information to allow USDA to trace back the product to the supplier initiating the claim. Records that identify the covered commodity, the supplier, and for products that are not prelabeled, the country of origin information must be maintained for a period of one year from the date the origin declaration is made at retail.

Safe Harbor for Participants of National Animal Identification System

Slaughter facilities that slaughter animals that are part of a National Animal Identification System (NAIS) compliant system or other recognized official identification system (e.g., Canadian official system, Mexican official system) may also rely on the presence of an official ear tag and/ or the presence of any accompanying animal markings (i.e., "Can", "M"), as applicable, on which to base their origin claims. This would also include such animals officially identified as a group lot.

Visual Inspection

In the case of cattle, producer affidavits may be based on a visual inspection of the animal to verify its origin. If no markings are found that would indicate that the animal is of foreign origin (i.e., "CAN" or "M"), the animal may be considered to be of U.S. origin.

Enforcement

The law encourages USDA to enter into partnerships with states to the extent practicable to assist in the administration of this program. As such, USDA has entered into partnerships with states that have enforcement infrastructure to conduct retail compliance reviews.

Routine compliance reviews may be conducted at retail establishments and associated administrative offices, and at supplier establishments subject to the COOL regulations. USDA will coordinate the scheduling and determine the procedures for compliance reviews. Only USDA will be able to initiate enforcement actions against a person found to be in violation of the law. USDA may also conduct investigations of complaints made by any person alleging violations of these regulations when it determines that reasonable grounds for such investigation exist.

The law contains enforcement provisions for both retailers and suppliers that include civil penalties of up to $1,000 for each violation. For retailers and persons engaged in the business of supplying a covered commodity to a retailer (suppliers), the law states that if USDA determines that a retailer or supplier is in violation of the Act, USDA must notify the retailer or supplier of the determination and provide the retailer or supplier with a 30–day period during which the retailer or supplier may take necessary steps to comply. If upon completion of the 30–day period the Secretary determines the retailer or supplier has (1) not made a good faith effort to comply and (2) continues to willfully violate the Act, after providing notice and an opportunity for a hearing, the retailer or supplier may be fined not more than $1,000 for each violation.

For More Information

Comprehensive information on USDA's COOL program, including rules, policies, guidance documents, and other information is available online: http://www.ams.usda.gov/COOL

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Implementation of Country of Origin Labeling (COOL) in the Beef Industry

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Implementation of mandatory country of origin labeling (COOL) began on Sept. 30, 2008 after years of discussion, controversy, modification and delay. Even yet, the recently published final rules made additional changes and the recent WTO challenge by U.S. trade partners means that uncertainty remains and additional modifications in COOL are likely in the future.

The central notion of COOL, to provide consumers with information about the source of beef products, seems simple enough and not likely to generate much inherent opposition. However, the issues involved in development of the COOL law and the implementation in the beef industry have proven to be the source of significant contention. Much of the support for the inclusion of COOL in the 2002 Farm Bill came from elements of the beef industry but the provisions were immediately resisted vigorously by other industry sectors and have continued to be a lightning rod for policy disputes that have often pitted producer against producer (Kay, 2003, 2003). The controversy over COOL within the beef industry can be broadly grouped into three areas of contention: 1) the specific language and implications for implementation of the COOL law; 2) the motivation for the law; and 3) the question of costs and benefits to the industry.

The Devil is in the Details

The original COOL provisions of the 2002 Farm Bill emerged very late in the final negotiations of the farm bill with specific language that had not been considered or deliberated by many of the various interests affected by the law. The law was written with the intent to ensure certain outcomes, e.g. processed products were excluded but ground meat could not be exempted; and also to exclude certain outcomes, e.g. that USDA would not require an animal identification system in order to implement the law. Opponents immediately noted that the language would make implementation more difficult and more costly than necessary (Kay, 2004).

Opponents also charged that the language of the bill seemed to have been deliberately crafted to minimize political opposition by including provisions such as an exemption for food service and the exclusion of the poultry industry. The compelling argument that consumers have a right to know where their food comes from is compromised by the exclusion of almost half of total beef consumption from the law. The disassembly of beef carcasses into many different products destined for a wide variety of final markets means that virtually all cattle and meat must be tracked under COOL. Rarely is it known or likely that all the products from an entire animal will end up as processed products or in food service markets and therefore not subject to COOL requirements. This means that the industry must incur the costs of COOL on total production in order to generate the label information for about half of beef consumption. Table 1 shows the 2007 levels of cattle slaughter, beef production, and cattle and beef trade and the various labels that are being used to meet COOL requirements.

The exclusion of poultry was ostensibly based on the fact that little poultry is imported. Concerns were raised that the trade picture could change over time and also that any additional costs on red meat production and marketing not shared by the poultry industry was an inherent disadvantage for red meat industries. Ultimately poultry was included in COOL in the 2008 Farm Bill modifications to the law.

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Table 1. Beef and Cattle Supplies, Trade and COOL Labels

	2007 Supply	COOL Labels
All Cattle and Calves, Jan 1, 2008	96.67 Million Head	
Calf Crop	37.36 Million Head	Prod. of USA
Steer and Heifer Slaughter (FI)**	27.49 Million Head	Prod. of USA; or Prod. of USA and Canada; or Prod. of USA and Mexico*
Cow and Bull Slaughter (FI)**	6.23 Million Head	Prod. of USA; or Prod. USA and Canada*; or Prod. of USA and Mexico*
Cattle Imports, Total	2.49 Million Head	
Canada	1.40 Million Head –0.85 Slaughter –0.55 Feeders	Prod. of USA and Canada*
Mexico	1.09 Million Head	Prod. of USA and Mexico
Beef Production (FI)**	26.07 Billion Pounds	Prod. of USA; or Prod. of USA and Canada; or Prod. of USA and Mexico*
Beef Imports	3.05 Billion Pounds	Prod. Of Country X
Beef Exports	1.82 Billion Pounds	

*Meat from mixed origin animals and commingled product is labeled with the appropriate countries, which may be listed in any order. Only if an entire day's production consists of animals imported for slaughter does the foreign country have to be listed first, e.g. Product of Canada and USA. Also, only in the rare circumstance that a packer processed Mexican and Canadian cattle in the same day would the Product of USA, Canada, and Mexico label be appropriate.

** Federally Inspected.

COOL and Trade

Opponents of COOL have suggested that the underlying motivation of some of the strongest supporters was not an overriding concern for consumer information. Although COOL was not promoted openly as a trade issue, COOL has been widely viewed as an attempt to construct a trade barrier against imported cattle and beef. Many COOL supporters suggested that the law could be easily invoked by requiring only that imported animals and products be identified and tracked (R–CALF, 2003). This approach was immediately rejected as an overt violation of U.S. trade principles and one that would not stand up to trade challenges. Subsequently, supporters of the resulting comprehensive labeling law suggested that it would only be necessary to track imported product and that all other product could be "presumed" to be U.S. in origin thus avoiding additional costs for the U.S. industry. This view was, in large part, the reason that the COOL law prohibited the use of a mandatory animal identification system to implement COOL.

COOL and Food Safety

Consumers often confuse COOL with food safety and at times COOL supporters have deliberately perpetuated this confusion (See Government Accountability Project, 2007; and Ernst, 2007 for different views of COOL and food safety). COOL is a marketing program as highlighted by the fact that COOL is administered by the Agricultural Marketing Service (AMS) of USDA rather than the Food Safety Inspection Service (FSIS) and the Animal and Plant Health Inspection Service (APHIS). The general principle of food safety is that product safety should not be the subject of marketing and label information. Food (or indeed any product) that is not fundamentally safe for consumption or use is not permitted in the market and labeling a product known to be dangerous does not make it acceptable. Certainly there are plenty of challenges to the U.S. food safety system and food imports can and should be the subject of continual efforts to maintain a high level of food safety. COOL does not affect any food safety standards nor change any potential sources of food in the marketplace. Suggesting that COOL is a food safety measure detracts from legitimate concerns about food safety and efforts to insure that imported food products do not pose a risk for consumers.

The Challenges of Implementing COOL in the Beef Industry

The rather straightforward concept of COOL is by no means simple to implement in the beef industry. COOL is a retail law that applies to meat. Cattle are not considered a covered commodity under the COOL law. Nevertheless, cattle producers are indirect suppliers of a covered commodity and are obligated to provide origin information to downstream industry sectors in order to verify the origin of meat. Cattle often change hands several times and are commingled and sorted numerous times before reaching the packing plant. Assembly of cattle from widely dispersed small cow–calf producers into larger lots occurs at the stocker and feedlot levels before being commingled into large enough groups to comprise a shift or operational day at a packing plant. Unlike hogs or poultry that are usually maintained in closed production groups until processing, cattle are much more likely to move through several production groups which increases the difficulty of tracking domestic and imported

cattle through the system.

Supporters and opponents of COOL in the beef industry can be found in all sectors of the beef industry and in all regions. COOL has sometimes been characterized as producers versus the meat industry (Kay, 2007). Certainly the meat industry has generally opposed the law, fearing the costs involved. However, among producers there have been strong supporters and equally strong opponents to COOL and to a large extent these can be distinguished regionally (NCBA, 2008). In general, the strongest support for COOL has come from producers in the northern part of the United States while opposition has been the strongest in the southern half of the country.

In many ways, the COOL debate has highlighted fundamental differences in cattle production in the two parts of the country. COOL was perceived to be easy and low cost to implement in the northern regions where larger cattle operations, selling larger groups of generally heavier cattle directly to feedlots represents a relatively streamlined production system. In southern regions, cattle are often bought and sold several times and move through a complex and diverse set of stocker and feedlot production systems with much assembly, sorting and commingling. The prospect of tracking animals in order to verify origin in this region was viewed as likely a much more burdensome and costly effort.

It is evident that USDA–AMS was caught in the middle of a very difficult task in trying to develop rules that meet the intent of the COOL law and maintain consistency with other laws. For example, the law provided for exemptions for processed food products. Developing the COOL definition of processing presented several challenges particularly with respect to Customs and Border Protection (CBP) treatment of imported products. In general, CBP requires all imported products to be labeled as imported to the final consumer or until they are "substantially transformed", in other words processed into new products. Meat from imported cattle cannot be considered processed when slaughtered and fabricated nor can imported meat used in the production of ground beef be considered processed under COOL despite the fact that it is substantially transformed under CBP rules. These and other similar considerations forced USDA to walk a fine line in developing definitions and terminology for the implementation of COOL that would not create conflicts and inconsistencies with other rules.

The original proposed final rule that AMS published prior to the first mandatory implementation date was the subject of much controversy. The rule called for a rigorous set of auditable records at all industry levels. Critics charged that USDA was deliberately making COOL more burdensome than necessary. However, a review of the rule shows that the approach was generally similar to the approach that AMS uses in providing third party verification of a host of voluntary marketing programs. Food labeling under the COOL law must be consistent with food labeling provisions of the Food and Drug Administration (FDA). The general "truth in labeling" provisions of FDA rules are what preclude the use of a presumption of U.S. origin for beef. All label claims must be truthful and verifiable. The need to comply with FDA rules was often overlooked by critics of USDA rulemaking efforts. Nevertheless, in a last minute change and apparent abandonment of this principle, the final rule for COOL implementation allows anyone who visually appraises cattle and finds no "CAN" or "M" brands, official Canadian or Mexican tags, or other indication of foreign origin to issue an affidavit of U.S. origin for the cattle.

Through the intervening political debates, delays and modifications in COOL, culminating in Congress' modifications to COOL in the 2008 Farm Bill, AMS has significantly reduced the records requirements in COOL, particularly for cattle producers. In the summer of 2008, a coalition of industry groups developed language for producer affidavits that are being used as the primary documentation for cattle to verify origin claims for COOL. These affidavits and AMS rules that allow cattle to be commingled in groups rather than requiring records linking specific source and destination groups have significantly reduced the potential burden of COOL on cattle producers. In fact, the last minute provision allowing visual appraisal to establish origin claims essentially removes all recordkeeping requirements for producers. Although the COOL law prevents USDA from implementing an animal ID system for COOL, the current National Animal Identification System (NAIS), which began in 2004 to enhance animal disease detection and control, provides COOL verification and animals with an official "840" tag require no additional documentation for COOL (USDA–APHIS). However, meat packers, distributors and retailers still must segregate label and track meat from different origins.

Will COOL Benefit the Beef Industry?

The underlying theme of all the issues raised above is the fundamental debate about the net benefit of COOL to the beef industry. COOL supporters believe that U.S. consumer's preferences for U.S. beef will provide enough premium to more than offset the added costs, which they perceive to be relatively low. Although there is no doubt that some consumers have strong preferences for U.S. beef, COOL opponents question whether there is enough premium on enough products on that portion of beef that moves through retail markets as fresh or frozen beef to pay for the added

costs on all beef, even if those costs are relatively small. Moreover, even a small increase in beef cost may have negative impacts on demand for other beef products that are particularly price sensitive and intensely competitive. COOL critics have noted that there has been nothing to prevent voluntary origin labeling in the past other than an apparent recognition that the costs exceeded the expected benefits. Several studies have examined the potential benefits (See Dunn and Gray, 2008 for a summary). Numerous studies have produced widely varying estimates of costs under different assumptions and a constantly changing set of proposed rules. Recent estimates of the cost of COOL implementation are smaller than earlier estimates but still vary widely (Kay, 2008).

The idea of COOL is simple and carries a lot of emotional appeal to both producers and consumers. Few would argue that, in general, providing more information to consumers is a good idea. However, information is costly and the optimal level of information must reflect the costs of providing the information relative to the benefits. The U.S. beef industry is enormously complex and the costs of providing this information are not trivial. The long path toward COOL implementation has highlighted many of these challenges and the inherent danger of a top–down mandate on an industry. The extent of both the costs and benefits of COOL are not yet known and only time will tell what will be the ultimate impact of COOL on the beef industry.

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Implementation of Mandatory Country of Origin Labeling (MCOOL) in the Pork Industry

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JEL Classification Codes: Q13, Q17, Q18

Mandatory country of origin labeling (MCOOL) of pork and other meat products has now enjoyed a long and controversial life in spite of its only being legally in force since Sept. 30, 2008. The road from the idea's origin to today's reality has taken many twists and turns and the publication of an interim final rule in July, the program's official launch in September and, finally, the January 12 release and January 15 publication of a final rule in no way guarantee an absence of twists and turns in the future. There are still many more acts to this long–running drama.

The purpose of this paper is to discuss the key drivers of MCOOL as it relates to the U.S. pork industry and to investigate the key challenges to implementing MCOOL for pork products.

How Did We Get Here?

The impetus for MCOOL came from northern plains beef producers as far back as the mid–1990s. The stated idea was that U.S. consumers deserve full information about the foods that they purchase and eat—an idea that is difficult to argue with. The underlying concerns, however, were growing imports of beef, pork, cattle and hogs from Canada and their perceived negative impact on U.S. markets.

Pork producers were generally not leaders in the push for MCOOL. There were (and still are) groups that supported it as a consumer information measure that, not coincidentally, would also slow the flow of pigs and pork from Canada. Northern hog producers who actually saw Canadian–tagged trucks on nearby roads or unloading at packing plants were among the strongest proponents of MCOOL for pork. So were more traditional, diversified hog producers in the Cornbelt. Producers from the southern Cornbelt and Southeast states and producers who had followed the high–tech "integrator" model of production were more likely to oppose MCOOL largely because they opposed trade restrictions.

The notable exception among these southern, high–tech producer opponents was Smithfield Foods, the nation's largest pork producer since 1999 (Freese, 1999). Smithfield has followed an aggressive vertical integration strategy that makes them a clear beneficiary of high hog prices. The company's management made no secret of the fact that they felt MCOOL would slow the flow of Canadian pigs and drive up U.S. hog prices. Consequently, they have been strong supporters of MCOOL.

The drive for MCOOL picked up substantial momentum after the hog price crisis of 1998 and 1999. Rapid growth of the U.S. breeding herd in 1996 and 1997 and a concurrent contraction of U.S. packing capacity caused extremely high capacity utilization in the fall of 1998 and hog prices hit all–time lows. While imported Canadian market hogs and U.S. market hogs produced from Canadian–born feeder and weaner pigs did not cause the debacle, they added to its severity. Disease–based restrictions on the movement of U.S. market hogs to Canadian plants which were running below capacity levels added to U.S. producers' frustrations.

Finally, the long growth trend of the Canadian pork industry and Canada's increased output at a time when U.S. producers were making major cutbacks drove some support for MCOOL. Canada's swine breeding herd grew from 1.198 million head on July 1, 1996 to 1.634 million head on Jan. 1, 2005, a gain of 36% (Statistics Canada, various issues). During that same period, the U.S. breeding herd declined from 6.7 to 6.0 million head or 11% (USDA, NAS, Hogs and Pigs, various issues) Canada's breeding herd grew on a year–over–year basis in every quarter from July 1996 though April 2005—nine years

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of constant growth that spanned the two largest financial loss periods on record (1998–99 and 2003–04) for U.S. pork producers.

Through all of this, though, pork producers as a whole did not support MCOOL. Some state organizations did support it but delegates to annual meetings of the National Pork Producers Council, the pork industry's public policy advocacy organization, voted against supporting MCOOL every time the issue was raised. The stated concern was always that MCOOL was trade distorting and that an industry more and more dependent on exports must be consistently supportive of free and open trade.

The 2002 Farm Bill was the vehicle that finally carried MCOOL into law. But even here, MCOOL took a unique path. A key issue pursued by upper–Midwest senators during the 2002 Farm Bill debate was a ban on packer ownership of livestock. The ban was popular with many of the same producers and senators that supported MCOOL but was not part of the House farm bill and was then defeated during Senate debate. Supporters tried to insert it into the conference committee version of the bill. Those efforts failed but packer ban proponents settled for MCOOL and the rest, as they say, is history.

MCOOL's implementation was delayed in 2003 and 2005 but the shift of Congress from Republican to Democrat control in 2006 spelled the end to both delay and the remote chance that MCOOL would ever be repealed.

MCOOL Requirements and the Pork Industry

MCOOL is far less onerous for the pork industry than for the beef industry for several reasons. First, Canada is the only source of imported pigs and market hogs. No hogs are presently imported from Mexico due to animal disease restrictions. Second, all–in all–out production systems keep pigs in defined, closed groups from early in life until slaughter in order to prevent the introduction of disease. There is little or no comingling of animals as there is in the beef industry. This means that the origin of an individual animal is the same as the origin of its group. The exceptions are "tail–end" animals that do not perform as well as the remainder of their group and breeding stock which may be comingled. These animals will be tagged or tattooed and handled as individuals for purposes of origin but they represent a very small minority of animals.

The final reason that MCOOL is less onerous for pork is that it will apply to a much smaller proportion of total output. Through Aug. 2008, year–to–date pork exports accounted for 21.5% of U.S. pork production, leaving 78.5% for domestic consumption (USDA, ERS, Livestock and Meat Trade, various data and USDA, NAS, Livestock Slaughter, various issues). The National Pork Board estimates in 2006 that 38% of pork reached consumers through foodservice operations where a label will not be required (Green, 2008). Assuming that proportion is still accurate, it leaves 62% of 78.5% or 48.7% of product that would be eligible for MCOOL. Roughly 65% of the pork carcass is cured, smoked, marinated or spiced to a degree that it is considered a processed product exempt from MCOOL (Green, 2008). That leaves 35% of 48.7% or a total of only 17.5% of all pork products that will actually have to carry an MCOOL label.

The small proportion, of course, is a two–edged sword. It means that only a small volume of product must carry a label but, since animals will not be identified as "labeled" or "unlabeled" in advance, also means that that small proportion of product will impose tracking and record–keeping costs on all animals.

The requirements of USDA's January 2009 Final Rule for MCOOL are far less onerous than was originally feared when the bill passed in 2002. Significant changes in the amounts and types of records that must be kept by both packers and producers have reduced potential costs. In addition,

Table 1. MCOOL labels, production phase requirements, and the number of barrows and gilts eligible for each label, 2007 and projected for 2008

					Barrows & Gilts, Million Head	
	MCOOL Label	Born	Raised	Slaughtered	2007	2008
A	Product of the United States	United States	United States	United States	94.347	103.033
B	Product of the United States and Canada	Canada	United States	United States	6.721	6.789
C	Product of Canada and the Unites States	Canada	Canada	United States	3.284	1.957
D	Product of Canada	Canada	Canada	Canada	N/A	N/A

Sources: USDA-Agricultural Marketing Service, Mandatory Country of Origin Labeling Final Rule, ***Federal Register***, Jan. 15, p. 2657 - 2707. Slaughter data from USDA-NAS, ***Livestock Slaughter.*** Import data from USDA-ERS, ***Livestock and Meat Trade Data.*** 2008 year-end projections by Paragon Economics, Inc.

simplified labeling requirements and a substantial degree of flexibility in labeling product from U.S.– born and -raised livestock as well as livestock imported for immediate slaughter will likely reduce segregation and packaging duplication costs, again mitigating the impact of MCOOL.

Table 1 shows the four labels that will be used for pork products. The first three apply to pigs slaughtered within the U.S. and the table includes the numbers of animals to which they would have applied to in 2007. In addition, animal numbers for 2008 are projected based on slaughter and imports through October.

Only product from pigs born and raised in the United States. can be labeled "Product of the United States" but that product is not required to be so labeled. Under the MCOOL final rule, pigs that are born and raised in the United States can be used to fill out slaughter shifts or days when pigs born in Canada and raised in the United States are slaughtered with all product carrying a multi-country label and the countries listed in any order. Referring to Table 1, this means that product from label A pigs can carry label B if they are used to fill out a slaughter run. Congress and USDA have informed packers that this is not meant to allow them to use only label B for all pigs. There are no hard and fast rules to this effect, however.

Similarly, only product from pigs imported for immediate slaughter can carry the label "Product of Canada and the United States" (label C) but it must carry that label only if it is segregated from other product. If it is comingled with product from pigs born in Canada but raised and slaughtered in the United States, it may carry the multi-country label, B, again with the countries listed in any order. If label C pigs and label A pigs are comingled in a day's processing, the product must carry label C according to USDA sources. This final labeling requirement cannot be found in the published final rule, however.

It is obvious that the vast majority of product will be eligible to be labeled Product of the U.S. This large supply confounds one frequent argument supporting MCOOL: That U.S. consumers prefer U.S. product and will pay more for it. The former may be true and the latter may have also been correct when the origin of most retail products was not known but with such a vast supply of U.S.–labeled product now available, how will it ever command a premium?

The flexibility of using Canadian born and raised pigs in label B or in using U.S.– born and raised pigs to fill out a label C slaughter day is a major change from the interim final rule issued in July 2008 and may be a huge factor in the continued import of Canadian market hogs. Without this flexibility, product from pigs imported for immediate slaughter carried a unique label, C, and pigs imported for immediate slaughter were the only possible source of that product. Under those circustances, the number of pigs imported for immediate slaughter would almost certainly continue to fall. That number was down 40% through October and only a few U.S. pork plants were planning to continue slaughtering Canadian–grown market hogs. Other packers may rethink this situation now that product from imported slaughter hogs is not forced into a unique label.

A major question at this point is whether the number of feeder or weaner pigs imported from Canada will decline and, if they do, how large will the decline be. Anecdotal evidence suggests that U.S. pig feeders are trying to find sources of U.S.–born pigs and that Canadian pig producers are finding it difficult to sell pigs. No significant price differentials have yet been observed, however.

At least a portion of this interest in U.S.–born pigs is driven by the uncertainty of packers' ultimate stances on buying Canadian–origin market hogs. In addition, most feeders believe that when USDA actually begins enforcing MCOOL regulations next March, having U.S.–born market hogs will at least make life simpler than having Canadian–born market hogs.

The ultimate answer to this question will come from U.S. consumers. Will they prefer "Product of the U.S." over "Product of the U.S. and Canada" and, if so, how large will the price discount have to be on the latter to leave consumers indifferent? Several retailers have stated that they will carry only "Product of the U.S." Others plan to carry both labels. None of them know the ultimate outcome of heretofore unknown consumer preferences. Feeders' preference for "safe" U.S.–born pigs in the presence of such uncertainty is understandable.

How Will MCOOL Impact The U.S. Pork Industry?

MCOOL will be more difficult and more costly to implement in the beef industry than in the pork industry. It will be more difficult and costly to implement in the pork industry than in the chicken industry which was included in MCOOL at its own request by the 2008 Farm Bill.

Why would an industry ask to be included? Because it fears competition from cooked chicken products from Brazil and China and the cost of complying with MCOOL is minimal. Every bird is hatched, fed and slaughtered in the United States and every bird is owned by the same company from hatching to packaging. The only cost of MCOOL for the broiler industry is the ink on the label. Though not completely vertically integrated, the turkey industry faces much the same cost situation.

As being implemented, it appears that MCOOL will benefit the broiler and turkey industries by imposing higher costs on pork and beef. While

reduced, record–keeping requirements are far from zero and segregation costs will be substantial in both beef and pork plants. The new, more flexible labeling rules mitigated a portion of these costs as well.

Even with lower implementation costs, MCOOL will have its desired effect of reducing imports of hogs and pigs from Canada, at least in the short run while uncertainty exists regarding government enforcement and consumer perceptions. Canadian pig production will fall but Canadian pork production will likely rise as Canadian packers slaughter a higher proportion of domestically born and raised pigs. The additional pork output will not be consumed in Canada, though. It will either compete with U.S. product in the United States. or in export markets common to both countries. U.S. exports will be smaller than they would have been in the absence of MCOOL. Any price increase due to fewer pigs and hogs in the United States will at least be partially offset by lower carcass values due to lower exports. Whether U.S. pig production increases depends on the ultimate reaction of consumers, primarily to the multicountry labels. U.S. consumers have a very positive view of things Canadian, though, so the negative impact may be small and will almost certainly be smaller than consumers' reactions to the presence of other countries such as Mexico, Brazil and Uruguay on beef labels. If consumer reaction is not negative, Canada will continue to supply weaner and feeder pigs to U.S. feeders depending primarily on the exchange rate between the two countries' currencies.

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Country of Origin Labeling for Fruits and Vegetables

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Country–of–origin labeling (COOL) provisions for fresh fruits and vegetables were included in the Farm Security and Rural Investment Act of 2002 (hereafter referred to as the 2002 Farm Bill) and would have required retailers to inform consumers of the country of origin for covered products in Oct. 2003. That law included fruits and vegetables as well as beef, pork and lamb, fish, and peanuts. Covered commodities were to be exclusively produced and processed in the United States to be deemed of U.S. origin. The USDA issued voluntary guidelines for COOL on October 11, 2002 as a step in the progression toward the mandatory program prescribed by the 2002 Farm Bill. After a great deal of debate over the costs and benefits of mandatory COOL, the FY 2004 Consolidated Appropriations Act delayed implementation of COOL until Sept. 30, 2006 for all covered commodities except wild and farm–raised fish and shellfish. It was delayed again in 2006 for another two years with passage of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act of 2006.

The fruit and vegetable industry is an important component of the U.S. agricultural industry with cash farm receipts estimated at $40.5 billion in 2008 for vegetables, fruits and nuts. This represents 22.5% of all U.S. cash farm receipts for crops. Fruits and vegetables are grown throughout the United States with the largest acreages found in California and Florida. More than half the volume of all fresh fruits and vegetables reaches the consumers via supermarkets and other retail establishments. Although per capita consumption of fruits and vegetables has increased significantly over the last two decades, the average American still does not eat the 5—10 servings per day recommended by the Centers for Disease Control and Prevention. It is expected that consumption of fruits and vegetables will continue to grow.

Because of the seasonality of domestic produce supplies, and a seeming preference for fresh produce among many households, imports are an important source of supply for many fruits and vegetables. Mexico, Canada, China and Costa Rica are the leading sources of imported fruits and vegetables. The major vegetable imports are fresh tomatoes, melons, onions and sweet peppers. Imports of fresh vegetables totaled more than $6.3 billion in 2005. The major fruit imports are bananas, grapes, pineapples, berries and fresh citrus. Imports of fresh fruits totaled more than $7.8 billion in 2005. Because of the important role of imports, which do not directly compete with domestic supplies during some seasons, there are some unique aspects to COOL for this industry. Specifically, concerns about produce trade initiated some of the first state–based country of origin programs in the United States, and current debates on the U.S. program focus on some of the same economic issues.

Costs of Implementation: Recordkeeping and Compliance

Many of the early concerns surrounding COOL for fruits and vegetables were related to record keeping requirements to verify compliance for those who prepared, stored, handled or distributed a covered commodity for retail sale. Language in the Food, Conservation and Energy Act of 2008 (2008 Farm Bill) restricted the Secretary from requiring records other than those maintained in the normal course of business. It also limited the fine the Secretary could impose on retailers for failure to comply to $1,000 for each violation, a significant reduction from the $10,000 penalty for each violation as allowed in the original legislation passed with the 2002 Farm Bill. The original USDA estimate (USDA Agricultural Marketing Service, 2008) for the cost of recordkeeping in 2003 was $124 million in the first year for development and operation and

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$458 million in subsequent years for maintenance and operation. The recordkeeping burden estimated for the interim final rule following the current legislation was $624 million in the first year and $499 million per year in subsequent years. USDA attributed the increased costs in the current rule to increases in the costs of labor and the added burden with the addition of the new covered commodities; chicken, macadamia nuts, pecans, and ginseng. Other direct costs related to managing the product flow at the producer, intermediary, and retailer levels brought the first year implementation costs to $2.51 billion. Of these costs, individual producers were expected to face increased costs of $376 per year, intermediaries were expected to face increased costs of $53,948 per year and retailers were expected to face increased costs of $235,551 per year. USDA estimated economy–wide costs of $211.9 million from increased food costs and reduced production in the tenth year after implementation of COOL.

The benefits of COOL will need to be significant to offset these increased costs if the cost of implementation is indeed that high. USDA (2008) references available studies which indicate that the potential benefits of COOL will likely be small. They concluded that there is 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. If correct, COOL is not likely to be of great benefit to consumers or producers, creating a burden on both and resulting in higher prices to consumers and lower returns to producers.

COOL Implementation: Managing Costs in the Initial Stages

What we are learning is that after implementation of the new regulations on September 30, 2008, handlers and retailers are finding ways to reduce the burden on their operations. One of the better decisions by USDA in implementing this new rule was for USDA Agricultural Marketing Service to conduct an industry education and outreach program concerning the provisions and requirements of this rule. This outreach and education program aids the industry in achieving compliance with the requirements of the rule and in assisting the industry to achieve this compliance in a cost efficient manner.

The early concerns about mandatory COOL in the fruit and vegetable industry dealt with recordkeeping and declarations on country of origin. The final rule made recordkeeping a less onerous burden for retailers who simply needed to keep some form of record indicating the covered commodity, the source of the covered commodity and the declaration of country of origin. These records must be kept for as long as the product is available in the store for products that are prelabeled such that the original producer can be identified. Records must be kept for a period of one year after declaration is made for products that are not prelabeled with information identifying the original producer. The retail stores also must be able to produce those records within five days of any audit that might be performed at their store. Records that suffice for retailers to verify origin are invoices or bills of lading on which the supplier declares the country of origin for the product. The greater burden of record retention was left to the originator of the declaration of origin. Producers who originate the country of origin label on a product must keep records for two years showing the evidence that assures the product is of the origin declared with their shipment of the product. When intermediaries mix products that result in product of more than one origin, they are required to keep records for one year showing the origin of the products in those shipments, the immediate previous source and the subsequent recipient.

Legislation in the 2008 Farm Bill was written to keep its potential costs within reason. The legislation restricted the Secretary from requiring records of country of origin other than those maintained in the *normal* course of business. As such, most businesses have found ways to comply with the rule with little burden added to their operations. The result is that the recordkeeping burden is likely to be less than anticipated by USDA. Instead of questions about recordkeeping requirements, many of the early questions have surrounded which commodities were covered commodities in the legislation.

Processed fruits and vegetables that change the form of the raw product do not have to be labeled. Cutting, trimming, chopping and slicing do not change the basic form of the product and those products are subject to COOL, but drying or cooking products change the form of the product and exempt that product from COOL. As an example, fresh mushrooms are subject to COOL, dried mushrooms are not. This rule excluded products that were more costly and burdensome for retailers and suppliers to provide country of origin information. As such, the current law also reduced the burden for recordkeeping requirements by limiting the covered commodities included in the legislation.

Evaluating the Impacts

It is likely to take some time to quantify the benefits of COOL. Some analysts (Krissoff et al., 2004) have questioned the value of labeling given the infrequency with which voluntary country–of–origin labeling was observed. They conclude that lack of use of voluntary labeling programs suggests that food suppliers see little or no advantage in labeling domestic products as domestic. There have been some studies that have indicated consumers are willing to pay for country of origin labeling, and many have focused on fruits and vegetables.

Several consumer preference surveys have shown that consumers desire COOL, with stated preferences as high as 84% for respondents who would like markets to provide information about country of origin of fresh produce (Puduri, Govindasamy, and Onyango, 2006). Other studies (Mabisco, Sterns, House, and Wysocki,2007) have indicated that consumers were willing to pay a premium for product labeled as "U.S.A. Grown". Whether these benefits will be experienced by the fresh produce industry is arguable. If they are experienced, the question remains as to whether the benefits will be large enough to offset the added costs of labeling. One study (Plastina and Giannakas, 2007) indicates that consumer demand for apples would need to expand 2.6% to 7.0% to pay for the added cost of COOL, while tomatoes would have to increase 8.2% to 22.4%. These estimates are dependent on the higher costs of implementing the labeling program. As mentioned previously, initial feedback from retailers suggests they have found ways to minimize the burden to their operations, and producers have expressed the same views. In contrast, the supply chain intermediaries who handle products from several origins and ship mixed products to retailers likely face the greatest burden. These parties must document the "packout" of all their products and maintain records for one year to certify the origin on any product that is audited.

COOL Implementation: Next Steps

Country of origin labeling has been pursued by many within the produce industry for many years. The State of Florida has had a labeling law since 1979, and declares the burden has not been that great for the state or for producers and retailers. USDA has established official partnerships between USDA and State Departments of Agriculture to assist with COOL retail surveillance responsibilities (USDA, 2008). The surveillance program for fruits and vegetables will begin in April, 2009. Violators will have 30 days to come into compliance with the regulations. Willful violators will be assessed the $1,000 penalty for each violation. The transition to the current law has gone almost unnoticed with shippers and retailers, so it appears that the adjustments required have occurred without great duress. That may change when the retail surveillance program begins in April, 2008. The larger concern will be to keep the retail surveillance program funded. USDA estimates they will need about $9.6 million to carry out this responsibility (USDA, 2008). The successful implementation of this program will depend on how well appropriators fund the surveillance program.

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