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Country of Origin Labeling for Fruits and Vegetables

John J. VanSickle

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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

$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.

For More Information

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John VanSickle (sickle@ufl.edu) is a Professor in the Food & Resource Economics Department, IFAS , University of Florida and Director of the International Agricultural Trade and Policy Center.