



National Pork Producers Council

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Country of Origin Labeling Program
Agricultural Marketing Service
U.S. Department of Agriculture
STOP 0249
Room 2092-S
1400 Independence Avenue, S.W.
Washington, DC 20250-0249

RE: Notice of Request for Comments; 68 Fed. Reg. 61944, Docket Number LS-04-04, October 30, 2003, on Mandatory Country of Origin Labeling of Beef, Lamb, Pork, Fish, Perishable Agricultural Commodities, and Peanuts under the Authority of the Agricultural Marketing Act of 1946.

Dear Country of Origin Labeling Program Officer:

The National Pork Producers Council (NPPC) submits these comments on behalf of its members in response to the proposed rule published in the Federal Register on October 30, 2003. NPPC is a federation of 44 state pork producer organizations and represents the federal interests of about 85,000 U.S. pork producers. The U.S. pork industry represents a major value-added activity in the agricultural economy and a major contributor to the overall U.S. economy. NPPC appreciates USDA's direct response to seven frequently heard questions regarding MCOOL.

Much has changed in the U.S. and world meat industries since the proposed rule was issued on October 30, 2003. The most important change with regard to Mandatory Country of Origin Labeling (MCOOL) is that the United States Congress has agreed to a two-year delay in the implementation of MCOOL for beef and pork. Given this delay, NPPC would urge the Department to delay further development of the MCOOL rule as the U.S. pork and beef industries are committed to developing a workable voluntary Country-of-Origin (VCOOL) program which would include a mandatory national animal identification system, something prohibited in the MCOOL law. Should this program be become law, a final rule developed to implement the delayed MCOOL will likely be obsolete. Additional expenditures of USDA's scarce resources on issuing a final rule which will not become effective until September 30, 2006 is not warranted at this time.

Five of these questions have direct bearing on the pork industry. The USDA responses are in agreement with NPPC's interpretation of the enabling legislation. While NPPC does not like any of these answers because we believe they impose unnecessary and non-beneficial costs on our producers, we believe USDA is required by the statute to adopt these positions. Specifically, we agree that:

- MCOOL applies to all covered commodities, not just products produced or processed in another country.
- Self-certification, by itself, is insufficient to meet the terms of the statute regarding record-keeping and proof of origin. Any certification documents or affidavits must be backed by auditable records for MCOOL to result in a label with integrity, which we believe was the intent of Congress.
- Very few pork products currently carry a country-of-origin label; so implementation of MCOOL will be a large burden on our industry, especially when compared to one of our main competitors, chicken, which will incur no burden whatsoever.
- The requirements of MCOOL and USDA's Commodity Procurement Program are vastly different. The latter cannot be used to accomplish the former.
- Hogs, while not specifically listed in the statute as a covered commodity, are in fact covered because the only place that origin data can originate is from the producer who owns a sow at the time her offspring are born. No succeeding owner of that animal or products produced from it can generate such information. Therefore, hog producers must be required to provide it to downstream owners.

One effect of USDA's approach to the food ingredient/processed food issue is that the cost burden of the MCOOL program in the pork industry will fall on a small subset of all pork products in the U.S. Ham, bacon and sausage will be exempted under the "processed food" rule. All pork sold through foodservice and small retail establishments (which amounts to more than half of all pork by some estimates) is exempt as well. It is quite possible that only about one-quarter of U.S. pork will be subject to COOL labeling. If consumers in fact value COOL enough to pay extra for it (which neither NPPC nor USDA, according to the economic analysis included in this proposed rule, believe to be true), the premiums on this small proportion of product must be large enough to pay the cost of the entire MCOOL burden at all levels of the pork chain.

USDA points out that, under MCOOL, additional labeling for imported meat products will be minimal. The U.S. pork industry is in a unique position of having its main source of imported supply, Canada, able to export either live animals or pork. With the burden of record-keeping that will fall on imports of live animals, whether they be feeder pigs or slaughter hogs, Canada may well find it advantageous to slaughter more hogs and export pork, which will incur comparatively few additional labeling costs in U.S. retail outlets and no additional labeling costs in foodservice use or sales through small retail outlets. This shift away from feeder pig imports toward pork imports will reduce profit opportunities for many pork producers and reduce the demand for U.S. feedgrains and oilseed products. Again, NPPC does not like this competitive situation but agrees that the rules are in accordance with the statute.

Of particular concern to pork producers is the ultimate requirement for record-keeping. The voluntary guidelines published in 2002 provided very little information on this subject. Here again, we believe that USDA's rule-making flexibility is quite limited by the statute. We urge USDA, however, to require the minimum documentation necessary to meet the statute's objective for labeling products but to require enough documentation

to make the labels credible in the eyes of consumers. The idea of providing an affidavit with each transaction has different impacts depending upon which state the transaction occurs. In Iowa, for instance, a producer can provide an affidavit simply by providing a form that states that a particular statement is true and that the signer affirms its truth under penalty of perjury. No notarization is necessary. NPPC does not know how difficult this process may be in other states. However, some provision for such a legally-binding, signed statement under MCOOL rules would be very helpful to time-strapped pork producers. Of course, producers would then be accountable for such statements when an audit is conducted.

We are quite concerned about the level of enforcement that may occur under this proposed rule. Depending upon existing state agencies for enforcement makes sense in that people are already in place and familiar with the retail trade in each state. However, MCOOL will add another level of enforcement responsibility on these state employees and we do not find any provision, or even a statement, regarding additional resources that may be needed. If MCOOL is worthy of making the law of the land then it is worthy of being enforced. Otherwise, the sizable expenses that will be incurred will truly be wasted.

NPPC commends USDA for the economic analysis of the MCOOL law and this proposed rule. We believe it is as accurate and complete as it can be given that the impact of such a broad-ranging program is very difficult to determine.

USDA provides a thorough overview of the market failures that would warrant a mandatory country-of-origin labeling program. NPPC agrees with USDA's finding that there is a lack of evidence that consumers actually desire country-of-origin information. NPPC strongly agrees with USDA's further finding that the fact that no companies are now providing country-of-origin labels is evidence in itself that there is no demand (in an economic sense) for the information. The only reason that suppliers would not provide the information is if the cost of doing so exceeded the benefit of doing so. Consequently, NPPC also agrees that there is:

“ . . . little evidence to support the notion that consumer' stated preferences for country of origin labeling will lead to increased demands for covered commodities bearing the U.S.-origin label.” (USDA, 7 CFR Part 60, pp. 61955).

USDA's discussion and treatment of the research of Umberger, et.al. were fair and in accordance with the authors' own descriptions of the work. Pointing out the Van Sickle, et. al. had mis-used the results of Umberger, et.al. in estimating large potential benefits of MCOOL for the U.S. beef industry was also appropriate.

Contrasting the lack of interest in COOL, even with the supposed help of voluntary guidelines, to the widespread use of organic labeling accurately underscores the lack of consumer demand for COOL. Organic products earn premium prices that are sufficient to pay for the added expense of growing and processing organic products, documenting their authenticity and segregating them throughout the marketplace. If such demand already exists for COOL, then NPPC also asks “Why isn't anybody providing COOL products?”

USDA's approach to estimating the cost of MCOOL for the pork industry was reasonable. Applying costs to all pigs is appropriate because virtually no producers know, at the time

of a pig's birth, which marketing channel it or products derived from it will enter. Thus every pig and every producer in the U.S. will be required to meet record-keeping regulations or requirements of downstream firms. NPPC does believe that the lower-range estimates of costs to the pork industry are, in fact, too low and that true first-year costs of COOL will, be much closer to the upper range figures of \$150 million for producers, \$368 million for intermediaries and \$155 million for retailers.

USDA is to be commended for its effort to estimate the overall impact of COOL on prices, production, exports and imports of covered commodities. We believe there are two items of particular note in this section.

First, for both the low and high incremental cost scenarios shown in Table 9 on page 61971, the percentage change in hog and pork production is greater, in absolute value, than the percentage change in the price of hogs and pork. Since production falls and prices increase, this finding means that total revenue for both pork and hogs will fall under MCOOL. Less revenue and higher costs can only mean lower profits for pork producers and processors and sellers of pork. This is true of every covered commodity shown in Table 9.

Second, the predicted changes in the prices and output of broilers and chicken, the only non-covered commodities, are all positive. Broiler and chicken prices will increase while broiler and chicken output increases as well. While revenue for all covered commodities falls, the revenue of pork's major competitor in the human food protein marketplace will rise. The damage to pork's long-run competitive position is obvious.

NPPC realizes that USDA cannot change the law but these forecasted economic impacts and the potential for change in the competitive position of pork underscore the need for USDA to propose rules that entail the smallest possible cost to pork producers.

We appreciate the opportunity to present comments on behalf of America's pork producers. If you have any additional questions, please contact Ms. Audrey Adamson, Director, Government Relations at (202) 347-3600.

Sincerely,



Jon Caspers
President
National Pork Producers Council

