Congressional Research Service

Report RS22955

Country-of-Origin Labeling for Foods

Geoffrey S. Becker, Specialist in Agricultural Policy

January 15, 2009

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Congressional Research Service
7-5700
www.crs.gov
RS22955

CRS Report for Congress
Prepared for Members and Committees of Congress

Summary

Many retail food stores are now required to inform consumers about the country of origin of fresh fruits and vegetables, seafood, peanuts, pecans, macadamia nuts, ginseng, and ground and muscle cuts of beef, pork, lamb, chicken, and goat. The rules are required by the 2002 farm bill (P.L. 107-171) as amended by the 2008 farm bill (P.L. 110-246). During late 2008 and early 2009, the U.S. Department of Agriculture (USDA) said it was attempting to educate retailers and suppliers about the new law's requirements; more rigorous enforcement is expected to be under way by April 2009. However, controversy over the law could continue during the 111th Congress. Some agricultural and food industry groups and foreign importers oppose COOL as costly and unnecessary, although others, including some cattle and consumer groups, maintain that Americans want and deserve to know the origin of their foods.

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Background

Since the 1930s, U.S. tariff law has required almost all imports to carry labels so that the "ultimate purchaser," usually the retail consumer, can determine their country of origin. However, certain products, including a number of agricultural commodities in their "natural" state such as meats, fruits and vegetables, were excluded. For almost as many decades, various farm and consumer groups have pressed Congress to end one or more of these exceptions, arguing that U.S. consumers have a right to know where all of their food comes from and that, given a choice, they would purchase the domestic version. This would strengthen demand and prices for U.S. farmers and ranchers, it was argued.

Opponents of ending these exceptions to country-of-origin labeling (COOL) contended that there was little or no real evidence that consumers want such information and that industry compliance costs would far outweigh any potential benefits to producers or consumers. Such opponents, including other farm and food marketing groups, argued that mandatory COOL for meats, produce, or other agricultural commodities was a form of protectionism that would undermine U.S. efforts to reduce foreign barriers to trade in the global economy. COOL supporters countered that it was unfair to exempt agricultural commodities from the labeling requirements that U.S. importers of almost all other products already must meet, and that major U.S. trading partners impose their own COOL requirements for imported meats, produce, and other foods.

With passage of the 2002 farm bill (P.L. 107-171, § 10816), retail-level COOL became mandatory for fresh fruits and vegetables, beef, pork, lamb, seafood, and peanuts, starting September 30, 2004. Continuing controversy over the new requirements within the food and agricultural industry itself led Congress to postpone full implementation. The FY2004 omnibus appropriations act (P.L. 108-199) postponed COOL—except for seafood—until September 30, 2006; the FY2006 agriculture appropriation (P.L. 109-97) further postponed it until September 30, 2008.[1]

During deliberations on a new omnibus farm bill in 2007 and 2008, those affected by COOL reached consensus on a series of amendments intended to ease what many of them viewed as some of the more onerous provisions of the 2002 COOL law. Modified were such provisions as the recordkeeping requirements, considerations for labeling U.S. and non-U.S. origin products, and penalties for noncompliance. These amendments were incorporated into the final farm bill (P.L. 110-246, § 11002). The enacted 2008 bill also maintained the September 30, 2008, implementation date and added goat meat, chicken, macadamia nuts, pecans, and ginseng as commodities covered by mandatory COOL.

[1] An interim final rule for seafood COOL was published on October 5, 2004, and took effect April 4, 2005 (69 *Federal Register* pp. 59708-59750).

Other Laws with Labeling Provisions

Tariff Act

Under §304 of the Tariff Act of 1930, as amended (19 U.S.C. 1304), every imported item must be conspicuously and indelibly marked in English to indicate to the "ultimate purchaser" its country of origin. The U.S. Customs Service generally defines the "ultimate purchaser" as the last U.S. person to receive the article in the form in which it was imported. So, articles arriving at the U.S. border in retail-ready packages—including food products, such as a can of Danish ham, or a bottle of Italian olive oil—must carry such a mark. However, if the article is destined for a U.S. processor where it will undergo "substantial transformation," the processor is considered the ultimate purchaser. Over the years, numerous technical rulings by Customs have determined what is, or is not, considered "substantial transformation," depending upon the item in question.

The law has authorized exceptions to labeling requirements, including articles on a so-called "J List," named for §1304(a)(3)(J) of the statute, which empowered the Secretary of the Treasury to exempt classes of items that were "imported in substantial quantities during the five-year period immediately preceding January 1, 1937, and were not required during such period to be marked to indicate their origin." Among the items placed on the J List were specified agricultural products including "natural products, such as vegetables, fruits, nuts, berries, and live or dead animals, fish and birds; all the foregoing which are in their natural state or not advanced in any manner further than is necessary for their safe transportation." (See 19 C.F.R. 134.33.) Although J List items themselves have been exempt from the labeling requirements, § 304 of the 1930 Act has required that their "immediate container"(essentially, the box they came in) have country-of-origin labels. For example, when Mexican tomatoes or Chilean grapes are sold loosely from a store bin, country labeling has not been required by the Tariff Act.

Meat and Poultry Products Inspection Acts

USDA's Food Safety and Inspection Service (FSIS) is required to ensure the safety and proper labeling of most meat and poultry products, including imports, under the Federal Meat Inspection Act, as amended (21 U.S.C. 601 et seq.), and the Poultry Products Inspection Act, as amended (21 U.S.C. 451 et seq.). Regulations issued under these laws have required that country of origin appear in English on immediate containers of all meat and poultry products entering the United States (9 C.F.R. 327.14 and 9 C.F.R. 381.205). Only plants in countries certified by USDA to have inspection systems equivalent to those of the United States are eligible to export products to the United States.

All individual, retail-ready packages of imported meat products (for example, canned hams or packages of salami) have had to carry such labeling. Imported bulk products, such as carcasses, carcass parts, or large containers of meat or poultry destined for U.S. plants for further processing, also have had to bear country-of-origin marks. However, once these non-retail items have entered the country, the federal meat inspection law has deemed them to be domestic products. When they are further processed in a domestic, FSIS-inspected meat or poultry establishment—which has been considered the ultimate purchaser for purposes of country-of-origin labeling—FSIS no longer requires such labeling on either the new product or its container. FSIS has considered even minimal processing, such as cutting a larger piece of meat into smaller pieces or grinding it for hamburger, enough of a transformation so that country markings are no longer necessary.

Meat and poultry product imports must comply not only with the meat and poultry inspection laws and rules but also with Tariff Act labeling regulations. Because Customs generally requires that imports undergo more extensive changes (i.e., "substantial transformation") than required by USDA to avoid the need for labeling, a potential for conflict has existed between the two requirements.

Federal Food, Drug, and Cosmetic Act (FFDCA)

Foods other than meat and poultry are regulated by the U.S. Department of Health and Human Services' Food and Drug Administration (FDA), primarily under the FFDCA (21 U.S.C. 301et seq.). This act does not expressly require COOL for foods. Section 403(e) of the FFDCA does regard a *packaged* food to be misbranded if it lacks a label containing the name and place of business of the manufacturer, packer, or distributor (among other ways a food can be misbranded). However, this name and place of business is not an indicator of the origin of the product itself.

Farm Bill COOL Requirements

The COOL provisions of the 2002 and 2008 farm bills do not change the requirements of the Tariff Act or the food safety inspection statutes; rather, they amend the Agricultural Marketing Act (AMA) of 1946 (7 U.S.C. 1621 note). USDA's Agricultural Marketing Service (AMS) administers most AMA-authorized programs, including COOL.[2] AMS published a final rule to implement COOL for all covered commodities on January 15, 2009, to take effect March 16, 2009.[3] This final rule replaces both the April 4, 2005, interim final rule for seafood (see footnote 1), and the August 1, 2008, interim final rule for all other covered commodities.[4]

On December 22, 2008, USDA notified congressional appropriators of its intention to transfer in FY2009 $3.18 million from the $49 million Specialty Crops Block Grant Program (authorized the by 2008 farm bill) for implementation of COOL. The transferred funds are to be used for a retailer survey, the hiring of 10 temporary employees for program administration, training for state employees who will conduct field reviews and audits during the second half of the fiscal year, and outreach and education activities. AMS stated that it has cooperative agreements with 42 states to assist with retail surveillance reviews, which are to begin by April 2009, and that it would begin audits of retail suppliers in July 2009.[5]

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[2] AMS maintains an extensive website on COOL, with links to implementing regulations, cost-benefit analysis, and other materials at http://www.ams.usda.gov/cool/.

[3] 74 *Federal Register*, 2658-2707.

[4] 73 *Federal Register*, pp. 45106-45151. AMS had indicated in August 2008 that it would not aggressively enforce the interim rule for six months (a period that, under the final rule as well, was to continue through March 2009) to give those affected more time to understand and fully comply with it.

[5] USDA, AMS, January 12, 2009, fact sheet on the mandatory COOL final rule, accessed January 15, 2009 on the AMS website.

Among the major COOL provisions:

- Covered commodities are ground and muscle cuts of beef, lamb, and pork, farm-raised and wild fish and shellfish, peanuts, "perishable agricultural commodities" as defined by the Perishable Agricultural Commodities Act (PACA, i.e., fresh and fresh frozen fruits and vegetables), goat meat, chicken, pecans, macadamia nuts, and ginseng.
- These items are exempt if they are an ingredient in a processed food.
- Only PACA-regulated retailers (those purchasing at least $230,000 a year in fresh fruits and vegetables) are covered, and must inform consumers of origin "by means of 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."
- Exempt are "food service establishments" such as restaurants, cafeterias, bars, and similar facilities that prepare and sell foods to the public.

Defining Origin

In designating country of origin, difficulties arise when products—particularly meats—are produced in multiple countries. For example, beef might have been from an animal that was born and fed in Canada, but slaughtered and processed in the United States. Likewise, products from several different countries often are mixed, such as for ground beef. For covered red meats and chicken, the COOL law:

- *permits* the U.S. origin label to be used only on items from animals that were exclusively born, raised, and slaughtered in the United States, with an exception for those animals present here before July 15, 2008;
- *permits* meats or chicken with multiple countries of origin to be labeled as being from all of the countries in which the animals may have been born, raised, or slaughtered;
- *requires* meat or chicken from animals imported for immediate U.S. slaughter to be labeled as from both the country the animal came from and the United States;
- *requires* products from animals not born, raised, or slaughtered in the United States to be labeled with their correct country(ies) of origin; and
- *requires*, for ground meat and chicken products, that the label list all countries of origin, or all "reasonably possible" countries of origin.

Many retailers and meat processors reportedly had planned to use the "catch-all" label (second bullet, above) on as much meat as possible—even products that would qualify for the U.S.-only label, because it is both permitted and the easiest requirement to meet. COOL supporters raised concerns that the label would be overused, undermining the whole intent of COOL (i.e., to distinguish between U.S. and non-U.S. meats).[6] In an effort to balance the concerns of both sides, USDA attempted to clarify its August 2008 interim rule to state that meats derived from both U.S.

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[6] *Cattle Buyers Weekly*, August 4, 2008; and *Food Chemical News*, September 15, 2008.

and non-U.S. origin animals may carry a mixed origin claim (e.g., "Product of U.S., Canada, and Mexico"), but that the mixed origin label cannot be used if only U.S. origin meat was produced on a production day.[7]

The final (January 2009) rule attempts to further clarify the "multiple countries of origin" language. For example, muscle cut products of exclusively U.S. origin along with those from foreign-born animals, if commingled on a single production day, can continue to qualify for a combined U.S. and non-U.S. label. "It was never the intent of the Agency [AMS] for the majority of product eligible to bear a U.S. origin declaration to bear a multiple origin destination. The Agency made additional modifications for clarity," AMS stated in material accompanying the rule.[8] Nonetheless, some producer groups reportedly continue to view this portion of the rule as a "loophole that would allow meat packers to use a multiple countries, or NAFTA [North American Free Trade Agreement], label, rather than labeling U.S. products as products of the United States. This is misleading to consumers," stated National Farmers Union (NFU) President Tom Buis.[9]

For perishable agricultural commodities, ginseng, peanuts, pecans, and macadamia nuts, retailers may only claim U.S. origin if they were exclusively produced in the United States. However, a U.S. state, region, or locality designation is a sufficient U.S. identifier (e.g., Idaho potatoes). For farm-raised fish and shellfish, a U.S.-labeled product must be derived exclusively from fish or shellfish hatched, raised, harvested, and processed in the United States; wild fish and shellfish must be derived exclusively from those either harvested in U.S. waters or by a U.S. flagged vessel, and processed in the United States or on a U.S. vessel. Also, labels must differentiate between wild and farm-raised seafood.

Coverage

Consumers may not find country labels on much more of the food they buy, due to COOL's statutory and regulatory exemptions. First, as noted, all restaurants and other food service providers are exempt, as are all retail grocery stores that buy less than $230,000 a year in fresh fruits and vegetables. Second, "processed food items" derived from the covered commodities are exempt, and USDA, in its final rule, has defined this term broadly (at 7 C.F.R. 65.220). Essentially, any time a covered commodity is subjected to a change that alters its basic character, it is considered to be processed. Although adding salt, water, or sugar do not, under USDA's definition, change the basic character, virtually any sort of cooking, curing, or mixing apparently does. For example, roasting a peanut or pecan, mixing peas with carrots, or breading a piece of meat or chicken, all count as processing. As a result, only about 30% of the U.S. beef supply, 11% of all pork, 39% of chicken, and 40% of all fruit and vegetable supplies may be covered by COOL requirements at the retail level.[10] Whole peanuts are almost always purchased in roasted form, which will not have to be labeled. Some critics are arguing that AMS overstepped its authority, and congressional intent, by excepting such minimally processed commodities.

[7] "Country of Origin Labeling (COOL) Frequently Asked Questions," September 26, 2008. Virtually all foreign live meat animals now come from either Canada or Mexico.

[8] USDA, AMS, January 12, 2009 fact sheet on the mandatory COOL final rule.

[9] "NFU Statement: USDA Issues Final Rule for COOL, January 12, 2009, accessed January 15, 2009, at http://nfu.org/news/2009/01/12/nfu-statement-usda-issues-final-rule-for-cool.html.

[10] Percentages calculated by CRS based upon USDA estimates of retail-level COOL coverage in pounds, divided by total annual supply (USDA data on domestic production plus imports).

AMS has countered that in fact many imported items still must carry COOL under provisions of the Tariff Act of 1930. "For example, while a bag of frozen peas and carrots is considered a processed food item under the COOL final rule, if the peas and carrots are of foreign origin, the Tariff Act requires that the country of origin be marked on the bag," AMS argued, citing similar regulatory situations for roasted nuts and for a variety of seafood items.[11]

Record-Keeping, Verification, and Penalties

The law prohibits USDA from using a mandatory animal identification (ID) system, but the original 2002 version stated that the Secretary "may require that any person that prepares, stores, handles, or distributes a covered commodity for retail sale maintain a verifiable record-keeping audit trail that will permit the Secretary to verify compliance." Verification immediately became one of the most contentious issues, particularly for livestock producers, in part because of the potential complications and costs to affected industries of tracking animals and their products from birth through retail sale. Producers of the plant-based commodities, as well as food retailers and others, also expressed concern about the cost and difficulty of maintaining records for commodities that are highly fungible and often widely sourced. The 2008 law eased these requirements somewhat by stating that USDA "may conduct an audit of any person that prepares, stores, handles, or distributes a covered commodity" in order to verify compliance. Such persons must provide verification, but USDA may not ask for any additional records beyond those maintained "in the course of the normal conduct of business."

In its final rule, AMS stated that covered persons generally would have to keep records for one year that can identify both the immediate previous source and the immediate subsequent recipient of a covered commodity; certain exceptions are provided for pre-labeled products. A slaughter facility can accept a producer affidavit as sufficient evidence for animal origin claims.

Also, potential fines for willful noncompliance are set for retailers and other persons at no more than $1,000 per violation. The 2002 law had set the fine at no more than $10,000 (and for retailers only), but the amount was lowered by the 2008 farm bill.

Economic and Trade Issues

Costs and Benefits

COOL supporters argue that a number of studies show that consumers want such labeling and would pay extra for it. Analysis accompanying USDA's interim and final rules concluded that, while benefits are difficult to quantify, it appears they will be small and accrue mainly to consumers who desire such information. A Colorado State University economist suggested that consumers might be willing to pay a premium for "COOL meat" from the United States, but only if they perceive U.S. meat to be safer and of higher quality than foreign meat.[12] USDA earlier had estimated that purchases of (demand for) covered commodities would have to increase by

[11] USDA, AMS, "Frequently Asked Questions," January 12, 2009, accessed January 15, 2009 on the AMS website.

[12] Wendy J. Umberger, "Will Consumers Pay a Premium for Country-of-Origin Labeled Meat?" *Choices*, 4th quarter 2004, published online at http://www.choicesmagazine.org.

between 1% and 5% for benefits to cover COOL costs, but added that such increases were not anticipated. Data from several economic modeling studies of COOL impacts appear to fall within this range.[13] Another research paper found that demand for domestic apples would need to increase by a range of 3% to 7% and for domestic tomatoes by 8% to 22% for COOL to increase total economic welfare in these markets.[14]

Critics of mandatory COOL have argued that large compliance costs will more than offset any consumer benefits. USDA's analysis of its final rule estimates first-year implementation costs to be approximately $2.6 billion for those affected. Of the total, each commodity producer would bear an average estimated cost of $370, intermediary firms (such as wholesalers or processors) $48,219 each, and retailers $254,685 each. The USDA analysis also includes estimates of record-keeping costs and of food sector economic losses due to the rule.

North American Livestock Trade

With implementation now underway, foreign suppliers, notably in Canada and Mexico, have questioned the trade legality of mandatory COOL. They claimed that publication in August 2008 of the interim rule had already altered normal trade patterns and caused large financial losses. The initial focus of these concerns was on livestock (i.e., cattle and hogs, and their products).

The animal products industries were becoming increasingly integrated across all three North American countries in recent years, particularly after the onset in 1994 of the North American Free Trade Agreement (NAFTA) and, before that, the Canada-U.S. Free Trade Agreement in 1988. These agreements, along with the global Uruguay Round Agreements under the World Trade Organization (WTO), by helping to reduce tariff and nontariff barriers to trade, have enabled animals or their products to move across borders more freely, based on market demands. For example, in the pork industry, the Canadians tended toward breeding and farrowing small pigs, which in turn were shipped to the United States, where access to large supplies of grain made it more economical to feed them to slaughter weight.[15]

A number of animal health and other incidents have disrupted this market integration from time to time. Perhaps the most significant recent event was the discovery of bovine spongiform encephalopathy (BSE) in 2003, first in Canada and later in the United States, which halted most southern cross-border movement of cattle and beef. This trade was still recovering in 2007 and 2008. The predominance of BSE (mad cow) cases coming out of Canada rather than the United States may have contributed to wider support for the mandatory COOL law, some analysts believe, although government officials assert that both countries now have strong, scientifically defensible safeguards in place to ensure that BSE is controlled and that its infectious agent does not enter the human food supply.[16]

[13] Gary W. Brewster et al., "Who Will Bear the Costs of Country-of-Origin Labeling?" and Daniel D. Hanselka et al., "Demand Shifts in Beef Associated with Country-of-Origin Labeling to Minimize Losses in Social Welfare," both in *Choices*.

[14] Alejandro Plastina and Konstantinos Giannakis, "Market and Welfare Effects of Mandatory Country-of-Origin Labeling in the U.S. Specialty Crops Sector," Selected Paper, American Agricultural Economics Association Annual Meeting, Portland, Oregon, 2007.

[15] See for example, USDA, Economic Research Service (ERS), *Market Integration of the North American Animal Products Complex* (LDP-M-131-01), May 2005.

[16] See CRS Report RS21709, *Mad Cow Disease and U.S. Beef Trade*, by Charles E. Hanrahan and Geoffrey S. Becker.

WTO Developments

On December 1, 2008, Canada had filed a request for formal WTO consultations on COOL with the United States. Normally, if such consultations are unable to resolve an issue, the next step likely would be referral to a WTO dispute settlement panel. Mexico also had requested WTO consultations on COOL on December 17, 2008. Both the Canadian and Mexican filings asserted that COOL is inconsistent with several WTO-related trade commitments, including those providing that imports must be treated no less favorably than products of domestic origin; that laws on marks of origin should not damage imports, reduce their value, or unreasonably increase their cost; and that laws, rules, and procedures on country of origin should not "themselves" create or disrupt international trade, among other things.[17]

Canada reportedly suspended its WTO challenge following publication of the COOL final rules, until it can determine whether the rules will in fact allow for more flexibility and ease the financial impacts on Canadian producers. However, the Canadians appeared to leave the door open for further action.[18]

The requests for consultations were not specific to livestock and their products, and presumably other covered commodities could be affected if a challenge were to be pursued. However, the Canadian beef and pork industries, led by the Canadian Cattlemen's Association (CCA) and the Canadian Pork Council, had actively pushed their government to initiate a WTO challenge. CCA had argued that COOL cost its producers $92 million in losses over the two months following the interim rule, and could cost $500 million (Canadian dollars) per year. CCA had estimated that slaughter steers and heifers were losing $90 per head, because U.S. meat establishments do not want to assume the increased costs of complying with new labeling requirements by segregating, holding, and then slaughtering Canadian cattle separately from U.S. cattle. The losses included lower prices for all Canadian cattle due to decreased U.S. demand, as well as the cost of shipping those that are sold further distances, to a fewer number of U.S. plants willing to take them. Canadian pork producers expressed similar concerns.[19]

Livestock Imports

Almost all U.S. live cattle imports come from Canada and Mexico; almost all hog imports come from Canada. Total cattle imports from the two countries had been increasing annually since 2003, reaching 2.495 million in 2007. They declined to an estimated 2.128 million in 2008, as a modest annual increase in Canadian cattle was more than offset by a reduction in the number

[17] United States—Certain Country of Origin Labeling Requirements, Request for Consultations by Canada, December 4, 2008, and Request for Consultations by Mexico, December 22, 2008, accessed January 5, 2009, at WTO Documents Online at http://docsonline.wto.org/gen_home.asp?language=1&_=1#.

[18] Various trade press reports, including "The COOL rule is out, but others say more changes required," *Agri-Pulse*, January 14, 2009; and "New COOL soothes Canadian livestock producers, for now," *Meatingplace.com*, January 13, 2009.

[19] Sources: various trade publication reports, including "MCOOL Has Cost Canadian Producers C$92M," *Cattle Buyers Weekly*, December 8, 2008; "COOL regulations create heartburn for Canadians," *Agri-Pulse*, December 3, 2008; and *Washington Trade Daily*, December 2, 2008. Changes, if any, in these groups' figures to reflect the final rule had not been reported as of January 15, 2009.

imported from Mexico. Hog imports also declined, from just over 10 million head in 2007 to just over 9 million in 2008.[20]

A closer look at the USDA data indicates that imports of Canadian feeder cattle for the July 14 through December 27, 2008, period, at nearly 188,000 head, were 38% lower than the during the same period in 2007. Imports of Canadian slaughter cattle (steers and heifers), at nearly 263,000 head, were 35% lower. Imports of Mexican feeder cattle from July 14 through December 20, 2008, were more than 323,000 head, 39% lower than prior-year levels for the period.[21] CattleFax, an industry-funded data and analysis service based in Colorado, concluded that 2008 declines in imports of both feeder cattle (those destined for feedlots) and fed (slaughter-ready) cattle were due to mandatory COOL regulations, and that imports "face a big wild card in 2009" for the same reason.

Meyer and Steiner wrote that reductions in imports from both Mexico and Canada "came at a time when a significant devaluation in the value of the Peso and Canadian dollar normally would have been conducive of increased imports from these two countries. Under normal circumstances, one would expect cattle imports to actually increase rather than be cut by almost 40%."[22] USDA's Economic Research Service (ERS), in its December 2008 livestock market analysis, appears to suggest that the currency exchange situation may be somewhat more involved. The decline in Canadian cattle imports:

> coincided with the rapid depreciation of the Canadian dollar, making Canadian cattle relatively cheaper in U.S. dollar terms, but also making Canadian beef more competitive on the export market. Feeder cattle have been remaining in Canada.... Imports of slaughter steers and heifers from Canada also declined dramatically in September, driven by the same exchange rate conditions affecting feeder cattle. Additionally, the past increase in Canadian exports of feeder cattle would reduce the current supply of fed cattle in Canada to be marketed or exported, lowering the number of Canadian cattle sent to the United States for slaughter.[23]

Selected Legislation

A number of lawmakers appear to agree with some industry groups' criticisms of mandatory COOL and conceivably could offer legislation to limit its scope and impacts. Other lawmakers remain strongly supportive of the new law and likely would oppose any significant changes. Observers point out that the 2008 farm bill was intended to balance the concerns of both sides. However, unfolding trade and market developments, including the potential for a WTO challenge and changes in import patterns, could alter the dynamics of any COOL debate in the 111th Congress.

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[20] Source: USDA, Agricultural Marketing Service, various Market News reports; also USDA, ERS, Livestock and Meat Trade Data series.

[21] Source: Meyer, Steve, and Len Steiner, "Market Comments," *CME Daily Livestock Report*, Commodity Mercantile Exchange, January 7, 2009.

[22] Meyer and Steiner, *CME Daily Livestock Report*.

[23] USDA, ERS. *Livestock, Dairy, and Poultry Outlook*, LDP-M-174, December 18, 2008. ERS analysts point out that prior to 2008, the United States was easing the BSE-related restrictions on Canadian cattle imports; in November 2007, cattle over 30 months of age were again permitted to enter from Canada.

During the 2008 debate over the safety of imported foods generally, some suggested that COOL be extended to additional products—a proposal that was in an FDA reform bill (the Food and Drug Globalization Act of 2008) drafted by Representative Dingell, then chairman of the House Ways and Means Committee. As noted, the FFDCA does not contain express COOL requirements for foods (or drugs). The Dingell bill, which was not introduced formally but was widely circulated, would have added new language to provide that a "processed food" will be considered misbranded if "(1) the labeling of the food fails to identify the country in which the final processing of the food occurs; and (2) the website for the manufacturer of the food fails to identify the country (or countries) of origin for each ingredient in the food." Similar requirements would have applied to nonprocessed foods as well. A separate Senate bill (S. 3653) introduced late in the 110th Congress would have extended mandatory COOL to fluid milk, cheeses, yogurt, ice cream, butter, and any other dairy product.

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