

**STATEMENT OF DR. CHARLES “CHUCK” LAMBERT
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U.S. DEPARTMENT OF AGRICULTURE
BEFORE THE
HOUSE COMMITTEE ON AGRICULTURE**

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Mr. Chairman and Members of the Committee, thank you for the opportunity to appear before you today to discuss the Farm Bill’s mandatory country of origin labeling provision and, more specifically, what USDA is doing to implement this Farm Bill mandate. I am Chuck Lambert, Deputy Under Secretary for Marketing and Regulatory Programs at the U.S. Department of Agriculture.

Section 10816 of the 2002 Farm Bill requires the Secretary of Agriculture to implement a mandatory country of origin labeling program at the final point of retail sale for beef, lamb, pork, fish, shellfish, perishable agricultural commodities, and peanuts after a two-year voluntary program. Congress provided clarification for dealing with wild fish in the Fiscal Year 2002 Supplemental Appropriations Act, signed into law on August 2, 2002.

Mr. Chairman, as you may know, the Office of Management and Budget’s Statement of Administration Policy on S.1731, the *Agriculture, Conservation, and Rural Enhancement Act of 2001*, found the provision requiring mandatory country of origin labeling highly objectionable. The Administration’s position and the reasons for that position have not changed. We feel these new requirements will not have a positive effect overall and that the unintended consequences on producers and the distribution chain could be significant. At the same time, let me be clear that we do not oppose consumers having adequate information to make informed purchasing decisions. We do have concerns, however, about the approach that this law takes.

Notwithstanding the Administration's view and the narrow parameters Congress adopted for this very prescriptive piece of legislation, USDA is fully committed and working diligently to implement this provision of the Farm Bill.

Implementation of this program began on October 11, 2002, when USDA published its "Guidelines for the Voluntary Country of Origin Labeling of Beef, Lamb, Pork, Fish, Perishable Agricultural Commodities, and Peanuts" in the *Federal Register*. The voluntary guidelines, effective upon publication, may be used by retailers who wish to notify their customers of the country of origin of covered commodities offered for retail sale prior to the implementation of mandatory labeling on September 30, 2004.

Significant efforts have been made in the development of the voluntary guidelines and in our initiation of the rulemaking process for mandatory labeling to consult with interested parties, including the public, industry groups, consumer groups, trade associations, foreign governments, and Congress. USDA met with over 40 different groups and associations in formulating the voluntary guidelines; we have received well over 1500 comments since their release. In preparation for rulemaking on mandatory country of origin labeling, Secretary Veneman announced on March 5, 2003, that USDA would hold a series of listening and education sessions in 12 States across the country to gain more public input and provide interested parties more information about the new country of origin labeling law. Today, the last of those listening sessions is being held in Lancaster, Pennsylvania. Over the past few months, USDA also has provided numerous additional presentations and briefings. More than 1000 written and oral comments have been received thus far on the mandatory program. Throughout the listening sessions, other presentations, and comments received, proponents and opponents of country of origin labeling alike expressed concerns regarding the complexities and costs associated with implementing this legislation.

The law requires retailers to label, at the final point of sale, beef, lamb, and pork – both muscle cuts and ground – fish, shellfish, perishable agricultural commodities, and peanuts as to their country of origin and further label fish as either wild or farm-raised. The law defines retailer according to the Perishable Agricultural Commodities Act as a business that sells fresh or frozen fruit and vegetables with an annual invoice value of more than \$230,000. Approximately 4,200 PACA retail licensees

operating some 31,000 retail outlets fit within this definition. By using this definition, Congress has exempted butcher shops, fish markets, and small retailers, in addition to the restaurants and other food service establishments the bill specifically exempts from the labeling requirements.

The Farm Bill defines the criteria for a covered commodity to be labeled as “U.S. Country of Origin.” To receive this label, beef, lamb, and pork must be derived exclusively from animals born, raised, and slaughtered in the United States. There is an exception for beef from cattle born and raised in Alaska or Hawaii and transported through Canada for not longer than 60 days before slaughter in the United States. Wild fish and shellfish must be derived exclusively from fish or shellfish harvested in U.S. waters or aboard a U.S. flagged vessel and processed in the United States or aboard a U.S. flagged vessel. Farm-raised fish and shellfish must be derived exclusively from fish or shellfish hatched, raised, harvested, and processed in the United States. Fresh and frozen fruit and vegetables, as well as peanuts, must be exclusively produced in the United States.

The Act says “covered commodities” must be labeled unless they are an “ingredient in a processed food item.” USDA believes there are some covered commodities that, while they undergo slight processing, still retain the original identity of the commodity. Examples include solution-enhanced and seasoned pork loins, frozen peas and carrots, frozen ground beef patties, and bagged salads. A “processed food item,” as we defined it in the Voluntary Guidelines, would be a materially changed covered commodity or an item that has a combination of ingredients that include the covered commodity but the identity of the food item is different from that of the covered commodity. Examples of such items would include ready-to-cook Beef Wellington, ground beef in a meal mix, fish in sushi, apple slices in a pie, or peanuts in a candy bar. Other processed food items include cooked, cured or smoked meats and fish, and fruit juice.

The Farm Bill requires that all covered commodities be labeled at retail as to their country of origin and, as already noted, provides a very specific definition for “U.S. Country of Origin.” For imported, mixed, or blended products, less statutory guidance is provided. Imported products, of course, are already subject to existing labeling laws and regulations. For some products, however, such as imported sides of beef, original country of origin labels currently do not have to be maintained through to the retail level once those products enter a U.S. plant for further processing.

Products with an origin that includes production or processing steps that occur in the United States and in another country create a labeling challenge. For example, fruit produced in another country and processed in the United States or meat from animals born in another country and raised and slaughtered in the United States clearly do not meet the statutory definition of U.S. origin.

Blended products provide a related challenge. These are products with covered commodity components that can be distinguished, such as salad mix, or indistinguishable product components, such as ground beef that are of different origins but combined together for retail sale.

We recognize that a number of State and regional labeling programs already exist. While Farm Bill country of origin labeling requirements do not preclude the use of these labels, they do not meet the criteria of an actual country of origin label designation. First, the law says country of origin, not a State or region of origin. Second, the labeling requirements for the existing certification programs, such as Iowa Pork, do not meet the labeling requirements of the Federal law. And third, if this sort of substitution were to be accepted for domestic product, similar treatment would likely be required for imported product, allowing State, Provincial, or other regional labels U.S. consumers might not equate to particular countries.

Consumer notification as to the country of origin of covered commodities can occur in a variety of ways. Many fruit and vegetables already have country of origin labels directly on the product. Some beef, lamb, and pork have labels on their package, too. The Farm Bill language provides scope for these labels, as well as signs on a display or bin, or other forms of notification.

The law requires any person in the business of supplying a covered commodity to a retailer to provide to the retailer information indicating the country of origin of the covered commodity. It further provides the authority to require persons in the distribution chain to maintain a verifiable recordkeeping audit trail to verify compliance. However, the law does not specify what records are acceptable to verify country of origin claims and it prohibits the Secretary from establishing a mandatory identification system to verify the county of origin of a covered commodity. Thus,

retailers and their suppliers must determine which records will be retained to verify the country of origin of covered commodities.

With the 12 listening sessions that USDA has been holding around the country, the process of developing a mandatory country of origin labeling program has begun. We expect to publish a proposed rule this fall with ample opportunity for public comment. A final rule will be published as soon thereafter as possible.

Due to the significant nature of the mandatory country of origin regulation, a comprehensive economic impact analysis will be prepared as part of the rulemaking to evaluate the costs and benefits associated with implementing this rule. The costs of product segregation, inventory management, and all other costs throughout the supply chain will be considered. This analysis will be important because with food handlers and retailers tending to operate on margins, we are concerned that America's farmers and ranchers will bear the ultimate costs.

As you know, USDA has experience in supporting industry's use of various marketing claims. We have quite a number of programs under which industry is already making credible, verifiable claims in the marketplace. These programs have several points in common. They are voluntary and market-driven reflecting focused marketing opportunities where consumers are willing to pay for the information provided. They do not cover all products to all consumers. They operate under standardized program protocols and records requirements. And, being market-driven, the incentives for compliance stem from increased sales, not the threat of punitive fines.

Mr. Chairman, the Congress has tasked USDA with the responsibility of implementing a country of origin labeling program for a wide range of food products. As I have already noted, we take this mandate seriously and will do our utmost to implement a program that meets the requirements of the law and minimizes the burdens on all concerned. I will be happy to answer any questions from you or the other Committee Members. Thank you.