

**Response to R-CALF USA’s Request for Correction of Information
Submitted Under USDA’s Information Quality Guidelines**

**Regarding the USDA’s Report to Congress entitled, “Economic Analysis of
Country of Origin Labeling (COOL)”**

Office of the Chief Economist (OCE)

July 2015

BACKGROUND

On May 14, 2015, Bill Bullard, CEO of R-CALF USA, wrote Secretary Thomas Vilsack, Inspector General Phyllis Fong, Acting Chief Economist Robert Johansson, and Agricultural Marketing Service (AMS) Associate Administrator/Chief Operating Officer Erin Morris requesting that the U.S. Department of Agriculture (USDA) withdraw and correct the April 2015 Report to Congress entitled, “Economic Analysis of Country of Origin Labeling (COOL).”

That report was prepared by the USDA Office of the Chief Economist (OCE) in response to subsection 12104(a) of the Agricultural Act of 2014:

SEC. 12104. COUNTRY OF ORIGIN LABELING.

(a) ECONOMIC ANALYSIS.—

(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Agriculture, acting through the Office of the Chief Economist, shall conduct an economic analysis of the final rule entitled “Mandatory Country of Origin Labeling of Beef, Pork, Lamb, Chicken, Goat Meat, Wild and Farm-raised Fish and Shellfish, Perishable Agricultural Commodities, Peanuts, Pecans, Ginseng and Macadamia Nuts” published by the Department of Agriculture on May 24, 2013 (78 Fed. Reg. 31367) that makes certain amendments to parts 60 and 65 of title 7, Code of Federal Regulations.

(2) CONTENTS.—The economic analysis described in subsection (a) shall include, with respect to the labeling of beef, pork, and chicken, an analysis of the impact on consumers, producers, and packers in the United States of—

(A) the implementation of subtitle D of the Agricultural Marketing Act of 1946 (7 U.S.C. 1638 et seq.); and

(B) the final rule referred to in subsection (a).”

The OCE prepared that report by comparing and contrasting three economic analyses: one by an independent consulting group, a USDA analysis conducted for the 2009 COOL rulemaking, and a USDA analysis conducted for the 2013 COOL rulemaking. Those three economic analyses

utilized different methodologies to estimate the economic impacts of country-of-origin labeling requirements on consumers, producers, processors, and retailers of beef, pork and chicken. Those analyses were broadly consistent in demonstrating the increased costs associated with those regulations and the lack of observable benefits to consumers. Those analyses were reviewed either through peer-review from other academic experts, or through notice and comment rulemaking.

All correspondence and materials pertaining to this request for an information quality correction can be found on the USDA OCE website at: http://www.usda.gov/oce/about_oce/data.htm.

DATA QUALITY ACT

The R-CALF request for the correction of information is made pursuant to Section 515 of Public Law 106-554 (Data Quality Act) and under the U.S. Office of Management and Budget's and USDA's implementing guidelines for the Data Quality Act. The following information quality criteria comprise the general quality standards that USDA agencies and offices follow in developing and reviewing information and disseminating it to the public.

Objectivity

- USDA agencies and offices will strive to ensure that the information they disseminate is substantively accurate, reliable, and unbiased and presented in an accurate, clear, complete, and unbiased manner.
- To the extent possible, consistent with confidentiality protections, USDA agencies and offices will identify the source of the information so that the public can assess whether the information is objective.

Utility

- USDA agencies and offices will assess the usefulness of the information they disseminate to its intended users, including the public.
- When transparency of information is relevant for assessing the information's usefulness from the public's perspective, USDA agencies and offices will ensure that transparency is addressed in their review of the information prior to its dissemination.
- USDA agencies and offices will ensure that disseminated information is accessible to all persons pursuant to the requirements of Section 508 of the Rehabilitation Act.

Integrity

- USDA agencies and offices will protect information they maintain from unauthorized access or revision to ensure that disseminated information is not compromised through corruption or falsification.
- USDA agencies and offices will secure their information resources by implementing the programs and policies required by the Government Information Security Reform Act.

- USDA agencies and offices will maintain the integrity of confidential information and comply with the statutory requirements to protect the information it gathers and disseminates. These include: The Privacy Act of 1974, as amended; The Paperwork Reduction Act of 1995; The Computer Security Act of 1987; The Freedom of Information Act; and OMB Circulars A-123, A-127, and A-130.

The USDA Information Quality Guidelines' correction mechanisms are not intended to imply any rights of individuals to request amendment of their own records beyond those permitted by the Privacy Act of 1974 or other organization specific laws.

TIMING

The USDA guidelines for responding to a request for an information quality correction indicate that the responsible agency will make a final determination and respond in writing to the requestor, normally within 60 calendar days of receipt. In the case of this request received on May 14, 2015, 60 calendar days is July 13, 2015.

The OCE guidelines for responding to a request for an information quality correction indicate that a determination and response should normally be possible in 20 business days, or by June 12, 2015, with respect to this request.

The R-CALF USA request and supporting materials were extensive. OCE determined that a thorough review of the materials and response to this request would take longer than the 20 business days indicated by the OCE guidelines. As such, a letter was sent to Mr. Bullard of R-CALF USA on June 4, 2015, indicating that OCE would consider the request, make a determination, and respond within the 60 calendar days indicated by the USDA guidance.

FINDINGS

OCE has reviewed in detail the reasons and supporting material that R-CALF USA submitted in support of its request for an information quality correction. A detailed response to each of the reasons outlined in R-CALF USA's request follows.

I. THE COOL REPORT IS INFLUENTIAL INFORMATION AND SHOULD BE SUBJECTED TO AN ADDED LEVEL OF SCRUTINY UNDER USDA'S INFORMATION QUALITY GUIDELINES

Response: OCE concurs with this statement.

II. THE COOL REPORT FAILS TO MEET EVEN THE MOST LENIENT INTERPRETATION OF OBJECTIVITY UNDER THE USDA'S INFORMATION QUALITY GUIDELINES

Response: As detailed below, OCE disagrees with the claim that the COOL report does not meet the requirement that disseminated information be "substantially accurate,

reliable, and unbiased and presented in an accurate, clear, complete, and unbiased manner.”

A. The COOL Report Ignores Congress’ Explicit Directive for an Analysis of the Impacts of COOL on a Finite List of Industry Participants.

Response: OCE disagrees with R-CALF USA’s contention that Congress’ directive precludes the analysis of COOL impacts on industry participants not explicitly listed in the 2014 Farm Bill provision. R-CALF USA contends that the language of the directive limits the COOL report to analysis of impacts on consumers, producers, and packers exclusively. As noted by R-CALF USA, the Farm Bill directive states that “The economic analysis described in subsection (a) shall include, with respect to the labeling of beef, pork, and chicken, an analysis of the impact on consumers, producers, and packers in the United States...” R-CALF USA contends that “Congress did not direct, instruct, or otherwise authorize the USDA to analyze the impact of COOL on retailers.”

While OCE concurs that the Farm Bill provision does not directly refer to “retailers,” the COOL law imposes a direct duty on retailers to provide their customers with COOL information, as R-CALF USA notes. Thus, even the most rudimentary economic analysis of the impact of COOL on “consumers, producers, and packers” would be inaccurate, unreliable, and likely biased absent inclusion of the key role played by retailers in linking producers and packers to consumers. Otherwise, any credible economic analysis would be incomplete and would not stand up to USDA’s guidelines that “the information they disseminate is substantively accurate, reliable, and unbiased and presented in an accurate, clear, complete, and unbiased manner.” Contrary to the request’s assertion, excluding impacts on retailers would skew the analysis Congress sought.

The request further contends that the COOL report does not allow Congress and the public “to assess producer surpluses ascribed to producers and packers from those surpluses ascribed to retailers.” However, there are disaggregated results that do allow Congress to view the economic effects of COOL on different sectors. For example, the Results section in Appendix A discusses the disaggregated results, which are reported for Years 1 and 10 in Tables 4 and 6. Furthermore, the disaggregated results are reported in Appendix A, and the full accounting of the disaggregated results are presented in Exhibits 5.2 and 6.2 of Appendix A. In addition, the regulatory impact analyses included as Appendices A and B show estimated economic effects of COOL disaggregated by commodity and by segments within the supply chain.

Lastly, OCE notes that while there is no explicit mention of the retail sector in the Farm Bill provisions, neither is there language prohibiting USDA from including retailers in its analysis. While the directive is prescriptive in requiring analysis of impacts of COOL on

consumers, producers, and packers in the United States, it is not prohibitive in regard to analysis of impacts on retailers. Had Congress intended for retailers to be explicitly excluded from the analysis, its directive could have been drafted with the appropriate prohibitive language.

B. The COOL Report Ignores Congress' Mandate to Analyze the Economic Impact on Specific Industry Participants With Respect to the Labeling of Meats.

Response: This aspect of the request appears to misinterpret the assessment of demand impacts presented in Appendix A. The request states: "To support its contention that there is no evidence that consumer demand for beef or pork has increased because of COOL, the COOL Report compares and contrasts labeled commodities to exempt commodities." This statement is footnoted with a reference to Appendix A at vii. This page is part of the Executive Summary section of Appendix A and discusses demand increases for COOL-covered beef and pork that would be needed to offset the costs of compliance for these industries:

Assuming no associated reductions in demand for exempt beef and pork products (that is, that consumers would not increase demand for origin-labeled beef and pork by reducing demand for unlabeled exempt product), at least 6.8% and 5.6% increases in the demand for MCOOL covered beef and pork products, respectively, would be needed for the beef and pork industries to be as well off as prior to the 2009 rule. If consumer demand for origin-labeled beef and pork were to increase by substituting away from exempt product, the demand increases needed to offset costs would be larger.

OCE does not agree that is akin to comparing apples to oranges, as the request contends. Rather, the point of the discussion is to note that the demand analysis depends on the assumption that there is no consumer substitution between exempt and covered beef and pork.

C. The COOL Report Was Authored by Blatantly Biased Researchers.

The request is critical of the authors of the independent analysis commissioned by OCE: "At least two of the authors of the COOL Report, Glynn T. Tonsor, PhD, and Ted C. Schroeder, PhD, are widely known, longtime critics of the U.S. mandatory COOL law and their work has been repeatedly cited by COOL detractors as justification for repealing COOL." The request cites instances where the researchers' prior published work has been used as evidence by COOL opponents. However, the request itself notes that the researchers' views were based on findings of their research and the attendant estimates of costs and benefits of mandatory COOL.

OCE does not agree that the independent economic analysis contained in Appendix A is biased. OCE's objective in commissioning an independent analysis was to contract with qualified researchers with proven experience in analyzing livestock marketing and policy issues. The researchers that conducted the analysis for Appendix A have proven experience in analyzing livestock marketing and policy issues. Among other indicators of experience, the three researchers have published more than 190 refereed journal articles combined, including numerous articles specifically relating to livestock and meat marketing and policy issues. Refereed journal articles are peer-reviewed by several other experts prior to publication to ensure the quality of the information submitted for publication and thus serve as a strong indicator of research experience and capability. The fact that the researchers previously conducted policy-relevant research in their field of expertise is not surprising, nor is the fact that the researchers sought to disseminate their findings to the broadest possible audience.

D. The COOL Report Relies Exclusively on Cost Data Provided by a Blatantly Biased Private Firm that has Long Catered to COOL and Competition Reform Detractors.

The request contends that the COOL report relies exclusively on cost estimates developed by a private firm, Informa Economics, Inc., which was formerly known as Sparks Companies, Inc.

OCE does not agree that the COOL report relies exclusively on cost data from Informa Economics, Inc. As shown in Tables 1 and 2, the COOL report presents incremental costs estimates taken from USDA's 2009 regulatory impact analysis and the contracted study conducted by Tonsor, Schroeder, and Parcell. The economic accounting cost estimates from USDA's 2009 regulatory impact analysis are discussed on pages 2687-2689 of the Federal Register notice included in the COOL report as Appendix B. The derivation of those costs estimates are further discussed in USDA's preliminary regulatory impact analysis (68 FR 61952) and its interim regulatory impact analysis (73 FR 45126). As such, the derivation of those cost estimates was subject to notice-and-comment rulemaking.

Further, the authors of Appendix A (see page 47) relied on the Informa cost estimates for understandable reasons:

We rely on the cost impacts from Informa (2010) for two main reasons: 1) the Informa estimates are the most complete and extensive set of cost estimates available; and 2) the Informa estimates are the only source we are aware of that provide cost estimates separately by market level which is needed to operationalize our EDMs.

The request offers no evidence that other sources of similarly complete and extensive sets of cost estimates were available but disregarded by the researchers. Furthermore, page 6

of the COOL Report identified the limitations to the static cost shifts assumed in both USDA's regulatory impact analysis and the EDM analysis:

The cost estimates are derived from economic cost accounting approaches that depend on industry estimates of costs at a given point in time. In the case of USDA's regulatory impact analysis, cost estimates necessarily were based on information available prior to implementation of the COOL final rule. In the case of the EDM analysis, the source for the cost estimates (Informa Economics, Inc.) was based on information available shortly following implementation of the 2009 COOL final rule.

Importantly, costs during initial implementation of a regulation are expected to be higher than ongoing costs following a period of adjustment by industry participants. For instance, initial costs may involve purchase of new equipment, reprogramming of computer software, development and implementation of new processes and procedures, and so on. Over time, such costs are expected to diminish.

III. THE COOL REPORT FAILS TO MEET EVEN THE MOST LENIENT INTERPRETATION OF THE TERM INTEGRITY UNDER INFORMATION QUALITY GUIDELINES

A. The COOL Report Conveniently Omits Major Studies that Are Widely Known Throughout the Livestock Industry and That Contradict the Researchers' Findings.

The request identifies a number of willingness-to-pay studies with findings that consumers are willing to pay premiums for U.S.-labeled meats. The request then faults the COOL report for not citing those studies.

OCE disagrees that the report omits consideration of studies that contradict findings. For example, Appendix A (Chapter 2) provides a detailed discussion of food labeling conceptual considerations, and Section 3.5 discusses previous academic estimates of benefits. As noted on page 33 of Appendix A: "...a full literature review was beyond the scope of the project, although notable recent summaries are cited for reference by interested readers..."

Appendix A noted that much of the available consumer preference research has reported results of willingness-to-pay studies, but that few studies have examined actual purchase behavior. Similarly, Appendix B noted there are limitations with consumer surveys and willingness-to-pay contingent valuation studies that limit their appropriateness in making determinations about consumer benefits of COOL (Appendix B, page 2683). In assessing the impact of COOL on consumer demand, greater deference should be placed on studies

of actual purchase behavior. As noted in Appendix A, research using grocery store scanner data did not find evidence that COOL changed demand for beef or pork, similar to findings from research on demand for shrimp.

B. The COOL Report Inexplicitly Misrepresents Important Findings Concerning COOL.

The request claims that the report mischaracterizes findings of a recent food demand survey that included willingness-to-pay results for COOL.

OCE does not agree. The relevant discussion on page 34 of Appendix A is as follows:

Point estimates of WTP were highest on Born, Raised, and Slaughtered in the U.S. consistent with past stated preference research. What is most important is assessing if WTP values across labels are statistically different. Results show consumers do not statistically distinguish between beef from animals born in Canada (then raised and processed in the U.S.) and beef from cattle born and raised in Canada (then processed in the U.S.). Respondents did not place different values on labeled Ribeyes complying with the 2013 MCOOL rule than Ribeyes labels that comply with the 2009 rule as Product of Canada and the U.S.

The request takes issue with the final sentence above, noting “While the survey’s authors stated that the \$0.45 difference was not statistically different, they did not attempt to mislead reader, as did the authors of the COOL Report, by denying that respondents had, in fact, assigned a higher value to the domestic product.”

OCE finds that the sentence “Respondents did not place different values...” is technically correct given that the difference was not statistically significant.

The request notes that Appendix A omitted findings from the Food Demand Survey that consumers valued ribeyes labeled as either born or born and raised in Canada and slaughtered in the U.S. by \$0.89 and \$1.05 less than ribeyes labeled “Born, Raised, and Slaughtered in the U.S.” As noted in the request, those differences are statistically significant (at the 95 percent level of confidence).

OCE finds that omission does not undermine the overall conclusion that studies of *actual* consumer purchases have not found measurable differences in consumer demand attributable to COOL.

C. The COOL Report Directly Contradicts Previous Investigative Findings by the USDA.

The request cites selected findings from an investigation by the Packers and Stockyards Program of USDA's Grain Inspection, Packers and Stockyards Administration (GIPSA) of differences in prices paid for imported cattle following the implementation of COOL.

OCE does not agree that the findings from the GIPSA investigation contradict the COOL report. The GIPSA report found that U.S. packers had difficulty selling beef from cattle of Canadian or Mexican origin. However, the explanations had no direct implications for concluding that "USDA's recent, real-world investigation found that consumers are willing to pay more for beef produced entirely in the United States." As noted in the investigative report, there several reasons why packers and retailers may prefer to handle cattle and beef exclusively of U.S. origin. For instance, retailers' costs of compliance are reduced by handling products entirely of the same origin. Because beef of U.S. origin accounts for the majority of the beef available in the United States, retailers logically would opt for U.S.-origin beef if seeking to stock beef without the need to provide customers with COOL information for a variety of origins. That cost-reducing choice does not imply that consumers are willing-to-pay more for beef exclusively of U.S. origin, but rather that stockers may be willing to pay less for beef of non-US origin.

IV. THE COOL REPORT LACKS ANY SEMBLANCE OF UTILITY

A. The COOL Report Overstates the Costs of COOL.

The request quotes a paragraph from the COOL report itself that acknowledges that costs of COOL compliance may be overstated due to limitations in the design of the economic models, lack of explicit modeling of expected diminished costs over time, and related factors. The Conclusions section of the COOL report also acknowledges the fact that results of the analyses could vary depending on a variety of economic factors (page 15):

Third, as with all economic research, there are limitations to any single study. In the case of the EDM analysis, the models depend on external estimates of COOL implementation costs and supply and demand relationships. Although the analysis drew from the best available sources of data, any errors in measurement could result in inaccurate results. Small percentage changes in the assumed regulatory costs or in the elasticities of supply, demand, and quantity transmission could lead to substantially different results... To model the economic impacts of a regulation such as COOL, simplifying assumptions must be made. One of the assumptions made in the EDM analysis was that the same assumed cost increases would persist over the duration of the 10-year periods examined in the

study. However, implementation costs at each level of the production and marketing chain are likely to diminish over time as producers, processors, and retailers adjust to the requirements and find more efficient ways to reduce the ongoing costs of implementation.

The request states that “the costs of COOL are just as likely to be zero as they are to be the amounts stated in the COOL Report.”

OCE does not agree that the requestor’s arguments imply that the COOL report has no utility. First, the request offers no evidence that costs of COOL are zero or any other amount. Second, OCE believes that the COOL Report properly identifies the limitations of the information consistent with USDA’s Information Quality Guidelines pertaining to the objectivity of scientific research information (<http://www.ocio.usda.gov/policy-directives-records-forms/guidelines-quality-information/scientific-research>):

- Provide an explanation that accompanies all research information detailing how it was obtained, what it is, the conditions to which it applies, and the limitations or reservations that should be applied in using the information.

B. The COOL Report Fails to Incorporate Industry Adoption of Known, Cost-Saving Technologies.

The request identifies the data limitations noted in the COOL Report itself that COOL implementation costs are likely to diminish over time, although the EDM analysis in Appendix A assumes the same cost increases persist over the 10-year period. As stated above, OCE compared and contrasted several different methods for determining how COOL regulatory costs might affect the beef and pork supply chains. Appendix B and C both analyze COOL assuming costs diminish over time.

The request then quotes from page 33 of the April 2003 Sparks study: “It is important to note that large processors already have some type of scanning or tracking technology in place, thus implementation of COOL will not be excessively costly.” OCE does not feel that that quotation is applicable to the report since that quotation is drawn from the section of the Sparks study relating to the fish/seafood supply chain and is not applicable to the beef or pork supply chains.

The request then provides a quotation from page 13 of the Sparks study that is in the cattle/beef section of the report: “Bottom line, the technology exists to provide supply chain compliance with the labeling law. Processes and procedures can be developed and put into place to provide full verification of the labeling claims that will be put on the product.” However, the request does not provide the full context of the quotation with regard to the remainder of the paragraph: “The question is not one of whether the US food industry can meet the requirements of COOL. It is a question of how long might this

take and how much it is going to cost to get the job done. Of even greater interest is **who will bear that cost?** [emphasis in the original]” Taken in context of the entire paragraph, the quotation indicates that there will be costs of implementation, which are estimated in the full report.

The request includes a third quotation from page 20 of the Sparks study in the section discussing COOL-related costs for cow/calf ranchers and backgrounders: “At the time of slaughter, [origin] information can be transferred to a bar code on the boxed beef so that country of origin will follow beef products right to the retail meat case.” This sentence is followed by these sentences in the same paragraph: “At the time of slaughter, this information can be transferred to a bar code on the boxed beef so that country of origin will follow beef products right to the retail meat case. The cost associated with starting the passport trail through several sales transactions up to delivery of the animal to the feedlot for finishing is estimated to cost **\$4.88 per head**. [emphasis in the original]”

Contrary to the characterization by the requestor, OCE notes that while the Sparks report acknowledged that the technology existed at the time of the study to transfer origin information, the study also identified costs that would be incurred beginning at the cow-calf level. One of the “Key Unknowns” identified in the Sparks study was “Will producers accept mandatory animal ID? Will they have a choice?” Notably, producers have not accepted mandatory animal ID, and it has not been required as of yet, more than a decade after the Sparks study.

C. The COOL Report Relies on a Nonsensical Assumption that Deceptively Assigns Costs to Beef.

The request raises concern regarding the fact that the EDM approach did not impose COOL implementation costs for poultry, as stated in the COOL Report and in the independent analysis conducted for Appendix A. While the EDM analysis omits COOL implementation costs for poultry, implementation cost for chicken were included in the USDA’s 2009 Regulatory Impact Analysis (Appendix B) and were estimated to be \$0.005 per pound at the intermediary level and \$0.0025 per pound at the retailer level. By comparison, costs at the intermediary level for both beef and pork were estimated to be \$0.015 per pound, or three times greater than costs for chicken. At the retailer level, costs for beef were estimated to be \$0.07 per pound, or 28 times greater than costs for chicken, while costs for pork were estimated to be \$0.04 per pound, or 16 times greater than costs for chicken. The substantially lower costs for chicken reflect the fact that chicken production is highly integrated and that the vast majority of chicken sold at retail arrives in case-ready packaging, thus minimizing the need for additional tracking and labeling activities by retailers. OCE determines that given these large cost differences, the assumption of zero costs for poultry would have little impact on the results of the EDM analysis.

The request states that “assigning a zero cost of implementing COOL for poultry means all of the costs assigned to the retailers for labeling beef, pork and poultry are assigned only to beef and pork, which would greatly overstate the actual costs ascribed to beef and pork products.” This statement is based on the false premise that the EDM approach estimates total costs for retailers and then apportions the costs to each commodity. To the extent that the assumption of zero costs for poultry understates the small implementation costs for this segment, estimates of total losses of producer and consumer surplus are understated rather than overstated in the EDM.

Finally, the request raises concern that the independent analysis in Appendix A does not clarify why cost for implementing COOL for chickens is excluded, but “purport to have analyzed the impact of COOL on chickens as Congress directed.”

OCE determines that the overall findings of the Appendix A analysis would be little affected by inclusion of small costs for chicken. Furthermore, OCE notes that those costs are included in the Appendix B methodology, which is then compared to Appendix A.

V. CONCLUSION

The final section of the request reiterates the alleged deficiencies enumerated in the previous sections, which are addressed section-by-section above. The request also “recommends that the COOL Report be corrected by the issuance of an official notice that the COOL Report is being withdrawn pending the initiation of a new analysis that meets the Data Quality Act’s standards for accuracy, reliability, objectivity, integrity and utility.”

OCE notes that the USDA’s Information Quality Guidelines for review of a request for correction state that “USDA agencies are not required to change, or in any way alter, the content or status of information simply because a request for correction has been made.” (See <http://www.ocio.usda.gov/policy-directives-records-forms/guidelines-quality-information/correction-information>.) Thus, the COOL Report has not been withdrawn during this review for the correction of information.