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Report to Congressional Requesters

August 2003

COUNTRY-OF-ORIGIN LABELING

Opportunities for USDA and Industry to Implement Challenging Aspects of the New Law

GAO

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GAO-03-780

August 2003

COUNTRY-OF-ORIGIN LABELING

Opportunities for USDA and Industry to Implement Challenging Aspects of the New Law

GAO Accountability•Integrity•Reliability

Highlights

Highlights of GAO-03-780, a report to Congressional Requesters

Why GAO Did This Study

A provision in the 2002 Farm Bill requires grocery stores to identify certain commodities—beef, pork and lamb, fish and shellfish, fruits and vegetables, and peanuts—by country of origin. This provision also requires that an initial voluntary program be followed by a mandatory program by September 30, 2004. GAO was asked to identify existing programs that might be useful to USDA in crafting the new program, to update a 1998 USDA survey of major U.S. trading partners' country-of-origin labeling practices, and to assess the reasonableness of the assumptions and methodology USDA used for estimating first year record-keeping costs.

What GAO Recommends

GAO is recommending that USDA collaborate with industry to identify alternatives for accomplishing such requirements as developing and maintaining records documenting country of origin of covered products, develop an accurate estimate for record-keeping costs, consult with the Bureau of Customs and Border Protection to develop an approach for informing the meat industry of its labeling responsibilities for imported meat under Tariff Act rules, and consider requesting Congress to make butcher shops and fish markets subject to the law through a technical amendment in order to provide a level playing field for the retail sale of meat, fish, and shellfish.

www.gao.gov/cgi-bin/getrpt?GAO-03-780.

To view the full product, including the scope and methodology, click on the link above. For more information, contact Erin Lansburgh at 202-512-3017 or Lansburghj@gao.gov.

What GAO Found

Several existing programs may be useful to USDA as models in implementing the new country-of-origin labeling law, including USDA's school meals programs and the Department of Defense's Subsistence Prime Vendor Program, which rely on contract certifications and compliance visits to verify origin. Florida's experience with its labeling program may be useful in providing marking options and for using a state's existing enforcement infrastructure to help administer the new law. Within industry, the fee-for-service meat grading programs and origin-identity programs, such as Vidalia® onions, use affidavits from growers/producers to verify origin. However, as models, these programs have limitations because none was designed to address features of the new law that will present implementation challenges to USDA and industry, including how the law defines "domestic" meat and fish. The meat industry's practice of not routinely maintaining origin identity for imported meat presents a further challenge.

Most of the USDA attachés for 57 U.S. trading partners that we surveyed reported that their host countries require country-of-origin labeling for one or more of the commodities covered by the new law. Most countries with programs conduct routine inspections and impose fines for labeling violations. Additionally, practices also varied among the nation's larger trading partners—Canada, Mexico, and Japan. Their own practices notwithstanding, some trading partners view new U.S. identity requirements as possible trade barriers. Survey results stratified by food product and by country are included in a special publication entitled *Country-of-Origin Labeling for Certain Foods—Survey Results* (GAO-03-781SP), which is available on the Internet at http://www.gao.gov/cgi-bin/getrpt?gao-03-781SP.

The assumptions underlying USDA's $1.9 billion estimate for the first-year paperwork burden on industry under the voluntary program are questionable and not well supported. They pertain to such things as the extent to which businesses were already keeping records and the cost per hour of developing and maintaining a record-keeping system. USDA has since compiled and published examples of routine records that businesses may already maintain that may be useful to verify compliance. Lastly, FDA proposes a record-keeping mechanism for nearly all food businesses to protect the food supply from intentional tampering, which may be useful for keeping origin records.

Timeline for Implementing the Country-of-Origin Labeling Law

May 13, 2002	2002 Farm Bill with Country-of-Origin Labeling Law
October 11, 2002	Voluntary Country-of-Origin Labeling Guidelines
November 21, 2002	Estimate of Paperwork Burden for Voluntary Program
Fall 2003	Proposed Final Rule to Implement Labeling Law to be issued
September 30, 2004	Final Rule to Implement Country-of-Origin Labeling required
September 30, 2004	Country-of-Origin Labeling Law takes effect in grocery stores

Source: GAO.

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Abbreviations

AMS	Agricultural Marketing Service
FDA	Food and Drug Administration
GAO	General Accounting Office
USDA	U.S. Department of Agriculture

United States General Accounting Office
Washington, D.C. 20548

August 5, 2003

The Honorable Tom Daschle
United States Senate

The Honorable Tim Johnson
United States Senate

A requirement that retail grocers identify certain agricultural products by country of origin was included in legislation passed in 2002.[1] According to a key sponsor of the legislation, a primary purpose of the law is to inform consumers of the origin of their food and permit them a choice of purchasing domestic or imported products. Beginning September 30, 2004, when the new law takes effect, grocery stores will have to clearly mark the products covered by the law—beef, pork, lamb, fruits and vegetables, fish, shellfish, and peanuts—with their country of origin. Stores will also have to indicate whether fish and shellfish (both domestic and imported) were farm raised or caught in open waters, such as rivers or oceans. The new law requires that both domestic and imported items be identified, and it sets specific criteria that must be met for a covered food to be labeled as a U.S. product. For example, for meat to carry a "product of the United States" marking, it must be from an animal exclusively born, raised, and slaughtered in the United States.

The U.S. Department of Agriculture's (USDA) Agricultural Marketing Service (AMS) is responsible for implementing the new country-of-origin food labeling law. To confirm compliance with the law, AMS may require anyone who prepares, stores, handles, or distributes a covered food to maintain a verifiable record keeping audit trail. However, the law prohibits AMS from introducing a mandatory identification system (such as animal ear tags) to verify country of origin. AMS may use written certifications from businesses to verify origin identity; it may also use existing programs as models for that purpose. To help it administer the program, AMS may enter into partnerships with states that have existing enforcement infrastructures. Retailers who intentionally violate the law face fines of up to $10,000 per violation.

[1]Title X, Subtitle I, Sec. 10816 of the Farm Security and Rural Investment Act of 2002, Pub. L. No. 107-171, 116 Stat. 533 (2002), generally referred to as the 2002 Farm Bill. This act amended the Agricultural Marketing Act of 1946, 7 U.S.C. 1621 (2000).

The law directs AMS to issue guidelines for a voluntary country-of-origin labeling program, which retailers may use until the mandatory program goes into effect.Those guidelines, which AMS issued in October 2002, define the scope of the foods to be covered (for example, salted peanuts are covered but peanut butter is not).[2] They also require retailers to maintain records for a period of 2 years on the country of origin of covered foods they sell.[3] Because the voluntary guidelines included this record keeping provision, AMS was required, under the Paperwork Reduction Act, to estimate the cost to industry of that new record keeping responsibility.[4] In November 2002, AMS issued its estimate that the cost to industry to develop record keeping systems for the voluntary program and maintain those records the first year would be about $1.9 billion.[5] AMS based its estimate on assumptions regarding the number of hours that would be needed for each industry sector—producers, growers, fishermen, processors, importers, distributors, and retailers—to design a record keeping system and maintain the records, and on the hourly rates required for each industry segment to carry out those activities.[6]

In terms of a precedent for country-of-origin labeling, the Tariff Act of 1930, as amended, already requires most imported items to be marked with their country of origin through to the ultimate purchaser.[7] However, identification of country of origin is only required by the Tariff Act when imported items are wrapped; such labeling is not required when imported

[2]See Department of Agriculture, "Establishment of Guidelines for the Interim Voluntary Country of Origin Labeling of Beef, Lamb, Pork, Fish, Perishable Agricultural Commodities, and Peanuts Under the Authority of the Agricultural Marketing Act of 1946," 67 *Fed. Reg.* 63367 (2002).

[3]While the guidelines themselves are voluntary, they state, "for those retailers and other market participants who choose to adopt [the] … guidelines, all of the requirements … must be followed." 67 Fed. Reg. at 63368 (2002).

[4]When a new regulation imposes a significant additional paperwork burden on industry, agencies are required, under section 2 of the Paperwork Reduction Act, 44 U.S.C. 3506 (2000), to publish and obtain comments on an estimate of the cost of that burden.

[5]Department of Agriculture, "Notice of Request for Emergency Approval of a New Information Collection," 67 *Fed. Reg.* 70205 (2002).

[6]AMS did not estimate all costs associated with the voluntary program, nor did it develop a cost/benefit analysis. AMS will have to develop a cost/benefit analysis for the proposed rule to implement the mandatory program.

[7]See section 304 of the Tariff Act of 1930, as amended, 19 U.S.C. 1304 (2000).

foods are displayed, loose, in open grocery bins. In January 2000 we reported that meat packers and processors do not routinely maintain country-of-origin information, as required under the Tariff Act, on imported meat after it passes a USDA safety inspection.[8] We also reported that U.S. Customs Service (now the Bureau of Customs and Border Protection), which administers tariff requirements, has not been enforcing those requirements for the meat industry.[9] The new law has provisions concerning origin identification—for example, new definitions for U.S. products and the requirement to distinguish between farm-raised and wild fish and shellfish, whether they are domestic or imported, which differ from the Tariff Act.

As you requested, this report (1) examines how certain existing federal, state, and industry programs that include origin identity requirements address oversight, verification of origin, and enforcement, and assesses their applicability as models for USDA to use to implement the new country-of-origin labeling law; (2) identifies which U.S. trading partner countries require country-of-origin labeling at the retail level for foods subject to the new labeling law and how these programs are being implemented; and (3) assesses the reasonableness of USDA's assumptions and methodology for estimating the cost to industry of the first year record-keeping paperwork burden for the voluntary country-of-origin labeling program. You also asked us to update a 1998 report by USDA's Foreign Agricultural Service—*1998 Foreign Country of Origin Labeling Survey*—in which the Service surveyed its in-country attachés in 46 countries and the European Union on country-of-origin labeling practices in their host countries.

As part of this study, we examined the Tariff Act requirements and Bureau of Customs and Border Protection regulations, which require origin identity for imported items, as they apply to the foods covered by the new country-of-origin labeling law. We also examined the following federal, state, and industry programs, which include origin identity or related

[8]See U.S. General Accounting Office, *Beef and Lamb: Implications of Labeling by Country of Origin*, GAO/RCED-00-44 (Washington, D.C.: Jan. 27, 2000).

[9]Pursuant to section 403 of the Homeland Security Act of 2002, Pub. L. No. 107-296, 116 Stat. 2135, 2178 (2002), the U.S. Customs Service transferred from the Department of the Treasury to the Department of Homeland Security. The activities discussed in this report are organized within the Bureau of Customs and Border Protection.

requirements, for their usefulness as models for country-of-origin identity under the new law:

- *School meals programs*, such as the National School Lunch and Breakfast Programs, in which foods donated by the federal government or purchased with federal funds should be of U.S. origin.
- *The Subsistence Prime Vendor Program*, in which foods purchased by the Department of Defense to feed military troops should be of U.S. origin.
- *The National Organic Program*, in which foods labeled "organic" must be grown—or, if from animals, raised—in accordance with the National Organic Act.
- *Seafood Inspection Program*, in which the quality certification of domestic fish and shellfish is maintained through to the commercial buyer/consumer.
- *The Market Access Program*, in which advertisements and other promotional activities paid for with federal funds, must be for agricultural goods that are 50 percent or more of U.S. origin.
- *Food for Peace Program*, in which USDA purchases U.S.-grown product (generally grain) from U.S. farmers for subsequent donation to poor countries.
- *Process Verified Programs*, in which USDA verifies that the identity of meat from animals raised with special handling or feeding, among other things, is maintained through to the consumer.
- *Breed claim/grading programs*, in which the identity of meat from animals—a breed certification (such as Angus beef)—or carcasses—a grade certification (such as USDA Prime)—is maintained through to the consumer.
- *State programs* that require country-of-origin identification for selected foods (such as Florida which requires imported produce to be marked with country of origin).

- *Local government/industry-sponsored programs* that promote specific foods linked to origin (such as Vidalia® onions, which must be grown in the proximity of Vidalia County, Georgia).

We also contacted the 50 states to identify state origin identity laws and programs. This report describes, but does not evaluate, the state programs.

To determine country-of-origin practices of U.S. trading partners and update the 1998 Foreign Agricultural Service report, we surveyed the agricultural attachés for the key trading partner countries and the European Union that were surveyed in 1998, as well as other key trading partners, for a total of 57 countries.[10] The 57 countries account for about 94 percent of U.S. trading activity for food and animals. We asked about the country-of-origin requirements at retail in the host countries for fruits and vegetables, peanuts, fish and shellfish, and meat. We did not independently verify country practices or evaluate their programs. The results of our survey are summarized in this report. In addition, survey results stratified by food product and by country are included in a special publication entitled *Country-of-Origin Labeling for Certain Foods—Survey Results* (GAO-03-781SP), which is available on the Internet at http://www.gao.gov/cgi-bin/getrpt?gao-03-781SP.

Appendix I describes our scope and methodology in detail.

Results in Brief

While the methods and applicability of existing federal, state, and industry programs vary, several have features that may be useful to USDA as models for oversight, verification of origin, and enforcement for the country-of-origin labeling law. For example, both USDA's school meals programs and the Department of Defense's Subsistence Prime Vendor Program require contractors to certify that the foods they provide are of U.S. origin (i.e., from U.S. farmers and livestock producers). To verify the contractors' certifications for these programs, USDA conducts periodic plant inspections and audits plant procedures for ensuring that no imported foods are used; DOD periodically audits contractor performance but has no procedures in place to verify that foods are of U.S. origin. USDA's National

[10]The 57 countries include the 15 member countries of the European Union. The attaché to the European Union Commission also completed a survey. In addition, USDA's Foreign Agricultural Service asked us to survey 9 countries that have limited trade activity with the United States. We did not include the responses from those countries in our analyses.

Organic Program uses independent agents—often state or local government employees or representatives of nonprofit groups—to certify and oversee compliance by farmers, livestock growers, processors, and handlers. Participants in the organic program must keep records for 5 years; agents may recommend that USDA suspend or fine participants who violate program requirements. AMS's "process verified programs" for the livestock and meat industries, such as the Red Angus program, are also models of using third-party inspections to verify origin; participants pay up to $5,000 annually for AMS inspections that may go back to an animal's birth to confirm that meat is of superior quality and commands a higher price. Florida's labeling program for imported fresh produce may be useful to USDA as a model for marking options and for using a state's enforcement infrastructure to administer a country-of-origin labeling program. Local government/industry origin-identity programs, such as Vidalia® onions, are examples of using affidavits from growers to verify origin. For oversight and enforcement, these market-niche foods rely on retailers or other producers to spot violators. However, the usefulness of these programs as models has limitations because none was designed to address the unique features of the new law. Specifically, the new law requires that both domestic and imported items be labeled; it defines U.S. meat, fish, and shellfish differently than existing laws; and it requires the further identification of fish and shellfish as being either farm raised or caught in open waters. In implementing the law, USDA will be further challenged by the meat industry's practice of not routinely maintaining origin identity on imported meat when it is subsequently cut or ground.

Our survey of agricultural attachés showed that of the 57 U.S. trading partner countries, 48 require country-of-origin labeling for one or more of the commodities covered by the new law and 44 also require domestic products to be labeled. Specifically, of the 57 countries, 46 require labeling at retail for produce (fresh or frozen); 34 for peanuts; 41 for one or more of the covered meats (fresh or frozen); and 39 for fish/shellfish (fresh or frozen). Most of the countries with country-of-origin labeling programs conduct routine inspections and impose fines for labeling violations. While European Union legislation mandates country-of-origin labeling requirements for many of the foods covered under the new U.S. law, the results of our survey of the agricultural attachés showed that implementation, enforcement, and verification practices varied among the 15 member countries. Similarly, among the largest U.S. trading partners—Canada, Mexico, and Japan—practices varied considerably. For foods subject to the new law, Canada requires country-of-origin labeling at retail only for imported prepackaged fruits and vegetables, Mexico requires it for all imported and domestic prepackaged foods, and Japan requires it for all imported and domestic loose and prepackaged foods. Finally, their own practices notwithstanding, certain trading partners have suggested that new U.S. country-of-origin labeling requirements may have a negative impact on trade; Mexico specifically suggested that the requirements amount to a nontariff barrier that conflicts with U.S. trade obligations.

USDA used assumptions that are questionable and not well supported in developing its $1.9 billion estimate for the first year cost to industry to develop and maintain record-keeping systems for the voluntary country-of-origin labeling program. The key assumptions pertain to (1) the extent to which businesses are already keeping the necessary records, (2) the types and number of businesses that would have to keep records, (3) the number of hours that each affected business would have to spend in developing and maintaining a record keeping system, and (4) the cost per hour of developing and maintaining such a system. With regard to existing records, USDA assumed that all the record keeping would be a new burden, which is not always the case. For example, grocery stores are already maintaining country-of-origin records on certain fruits and vegetables for a period of 2 years as required under another law. In determining the number of businesses covered by the law, USDA made an arbitrary assumption that about 90 percent of all farmers, ranchers, and fishermen (2 million) would be subject to record keeping; others, including authors of a University of Florida study, believe the figure is much lower. Furthermore, USDA could provide no documentation to support its estimates for the number of hours needed to develop and maintain a record-keeping system, and it assumed an hourly rate of $50 for processors to carry out these tasks, which was more than double the hourly rates it used in recent estimates for other programs. Shortly after USDA published its estimate, it compiled and published examples of routine documents and records that businesses may already maintain that may be useful for verifying compliance for each covered food and each industry sector in that food's production. In comments to USDA on the estimate, industry groups provided information on, among other things, hourly rates and the time they believe they will need to set up and maintain an origin data system. Many commenters said USDA's hourly rates and time estimates were too low, while others said they were too high. Although no grocery stores have participated in the voluntary program, some meat processing companies, in anticipation of the law's implementation, have alerted their suppliers to keep records on where cattle that will go to slaughter after September 2004 were born and raised. Finally, a new requirement proposed by the Food and Drug Administration under authority of the Bioterrorism Act of 2002—that nearly all businesses in the food industry maintain certain records—may affect the cost to industry to comply with the country-of-origin labeling law and both industry's and USDA's efforts to implement the law.

We are making several recommendations to (1) help industries comply with the new country-of-origin labeling law, (2) bring the meat industry into compliance with existing Tariff Act requirements, (3) ensure an accurate estimate of the record-keeping burden under the final program rules, and (4) create a level playing field for the retail sale of certain covered foods. In commenting on a draft of this report, USDA said that the report provides some useful guidance and input in implementing the complex country-of-origin labeling legislation. USDA disagreed with one recommendation—that it should consult with the Bureau of Customs and Border Protection to develop an approach for informing the meat industry of its responsibilities under Tariff Act requirements—because it does not believe it has the authority to enforce the Tariff Act. We are not recommending that it enforce the Tariff Act but, rather, that it consult on an approach for informing meat packers and processors of their responsibilities under the Tariff Act. We believe the recommendation is important because, as a result of the long-standing practice in the meat industry of ignoring Tariff Act rules, consumers do not have the same information on imported meat that they routinely have for other imported items. We discussed this recommendation with the Bureau of Customs and Border Protection, which concurred on the value of USDA consulting on an approach to inform the meat industry of its Tariff Act responsibilities.

Background

The Farm Security and Rural Investment Act of 2002, commonly known as the 2002 Farm Bill, amends the Agricultural Marketing Act of 1946 by adding Subtitle D—Country of Origin Labeling. That subtitle, which we refer to as the country-of-origin labeling law, applies to the following foods:[11]

- muscle cuts of beef, lamb, and pork;
- ground beef, ground lamb, and ground pork;
- farm-raised fish and shellfish;

[11]See Pub. L. No. 107-171, Title X, Subtitle I, Section 10816 (2002).

- wild fish and shellfish (referred to in this report as fish and shellfish caught in open waters);
- perishable agricultural commodities (referred to in this report as fruits and vegetables); and
- peanuts.

The new law uses the definitions of a "perishable agricultural commodity" and "retailer" found in the Perishable Agricultural Commodities Act of 1930, 7 U.S.C. 499a (2000). The 1930 act defines

- *perishable agricultural commodity* as fresh or frozen fruits and vegetables of every kind and character and a
- *retailer* as a dealer engaged in the business of selling a perishable agricultural commodity at retail that has annual invoice costs of perishable commodities in excess of $230,000.

AMS licenses retail food stores that are subject to the Perishable Agricultural Commodities Act. According to AMS, approximately 31,000 outlets—typically grocery stores—are considered retailers under the Perishable Agricultural Commodities Act and would be subject to the country-of-origin labeling law. Because the law applies to stores that have annual invoices for perishable agricultural commodities—fruits and vegetables—of more than $230,000, some larger fruit and vegetable stands/stores would be subject to the labeling law, according to AMS officials; however, large butcher shops and fish markets would not be subject to the new law, because they would not have sufficient invoices in fruits and vegetables.[12] Butcher shops and fish markets do not have to provide consumers with information on the origin of the foods they sell. Those businesses also would not incur the costs associated with maintaining origin information and labeling that grocery stores will incur for meat, fish, and shellfish under the new labeling law.

[12]Small convenience stores and gasoline marts would not be subject to the labeling law because they would not have sufficient activity in fruits and vegetables, according to AMS officials.

The new country-of-origin labeling law establishes criteria for food covered by the law to be designated as having a U.S. country of origin. Specifically, to be labeled a U.S. product:

- beef, pork, and lamb must come exclusively from an animal that is exclusively born, raised, and slaughtered in the United States;[13]
- fruits, vegetables, and peanuts must be exclusively produced in the United States;
- farm-raised fish and shellfish must be hatched, raised, harvested, and processed in the United States; and
- wild fish and shellfish must be harvested in waters of the United States, a territory of the United States, a state, or by a U.S.-flagged or U.S.-registered vessel and processed in the United States, a territory of the United States, a state, or aboard a U.S.-flagged or U.S.-registered vessel.

The Tariff Act's country-of-origin marking requirement for imported articles applies to the foods covered by the new law. For covered foods, both fresh and frozen, that are imported in consumer-ready packages, the Tariff Act rules require that the country of origin be marked on the individual packages, as well as on the carton or other container in which the packages were transported. In addition, under U.S. Customs Service rulings in 1983 and 1991, when produce items are removed from the marked containers and put loose into open bins in the produce section, the grocery store does not have to identify the items or the display bins by the items' country of origin.[14] If the usual marking rules referred to in these rulings concerning produce were applied by the Bureau of Customs and Border Protection, a grocery store that took unpackaged meat and seafood and displayed it loose in display cases would not have to identify the items by country of origin. As a result, fresh fruits, vegetables, peanuts, meat, fish, and shellfish; frozen shellfish; and live lobsters sold loose by item or weight would not require labeling. However, the crates, bags, or other

[13]Beef would also be a U.S. product under the new law if it were from an animal exclusively born and raised in Alaska or Hawaii and transported for a period not to exceed 60 days through Canada to the United States and then slaughtered in the United States.

[14]See U.S. Customs ruling HRL 722992. This ruling was interpreted in Customs ruling HRL 733798 not to require marking because open bins or display racks were not determined to constitute "containers."

containers in which these imported food items are transported must be marked with country of origin. Tariff Act rules also require that imported foods that are repackaged in consumer-ready packages must be marked with their country of origin.

In April 1999 we issued a report that examined the potential implications and benefits of country-of-origin labeling for fresh produce.[15] Our report noted that grocery stores usually know the country of origin of the imported produce that they display in open bins, because they have the marked boxes or cartons in which the items were imported. We noted that state inspectors in Florida, a state that requires country-of-origin labeling for imported fresh produce, checked shipping boxes against the labeling signs that grocers placed on produce bins to verify the accuracy of the labels.

In our January 2000 report on the potential implications of country-of-origin labeling for muscle cuts of beef and lamb, we found that meat packers and processors did not routinely maintain country-of-origin information on imported meat as required under the Tariff Act. We found that this was due in part to the fact that the Bureau of Customs and Border Protection does not generally enforce the act's labeling requirement for meat after inspection at the border. We also said it might be due to the fact that USDA has given meat packers and processors different guidance on the need to maintain country-of-origin information. More specifically, USDA, which administers the Federal Meat Inspection Act, requires that the country of origin appear in English on all carcasses or containers of meat entering the United States. However, unlike Tariff Act rules, which require an imported product to maintain its import identity through to the ultimate purchaser, USDA considers imported meat to be part of the domestic meat supply once it passes a USDA safety inspection. Any subsequent cutting, blending, or grinding may be done without maintaining country-of-origin identity. Thus, grocery stores may not know whether the meat they sell is domestic or imported, let alone the country of origin of a particular package of meat. In fact, a package of fresh ground beef that carries a USDA inspection sticker may contain meat from domestic or imported cattle, or both.

[15] See U.S. General Accounting Office, *Fresh Produce: Potential Consequences of Country-of-Origin Labeling*, GAO/RCED-99-112 (Washington, D.C.: Apr. 21, 1999).

Under the Tariff Act, animals maintain their foreign country identity. With regard to livestock, however, USDA considers imported livestock to be part of the domestic herd after the Animal and Plant Health Inspection Service inspects and releases the animals.[16] Both Tariff Act rules and USDA regulations consider the meat from an imported animal to be domestic if the animal was slaughtered in a U.S. facility.

Existing Programs May Be Useful As Models to Some Extent, but They Do Not Adequately Address Unique Features of the New Law

Several federal, state, and industry programs have features that may be useful as models to USDA for addressing oversight, verifying origin, and enforcing the new country-of-origin labeling law. However, the usefulness of these programs as models is limited because none of them was designed to address the unique features of the new law, such as the law's definitions of U.S. products. Implementing the law across the meat industry is further complicated by the industry's practice of not routinely maintaining the country-of-origin identity of imported meat after it has been cut or ground in a U.S. facility.

Federal Programs Have Features That May Be Useful As Models

USDA's school meals programs and the Department of Defense's Subsistence Prime Vendor Program are examples of large programs that use certifications to verify the origin of food. Both programs also have well-established oversight and enforcement procedures. A number of other USDA programs, as well as the National Oceanic and Atmospheric Administration's Seafood Inspection Program, have origin identity and related requirements. These programs use various means to verify origin, including third-party verifications and self-certifications; many also use oversight and enforcement options to ensure compliance. The smaller programs, such as process verified and meat grade and certification programs, demonstrate that the meat industry is able to maintain product identity when it is in its interest to do so. Such programs may be useful to USDA in bringing the meat industry into compliance when the mandatory regulations become effective. Table 1 describes selected features of federal programs that have origin identity or related requirements for foods.

[16]The Animal and Plant Health Inspection Service border inspection activities discussed in this report are now organized within the Bureau of Customs and Border Protection in the Department of Homeland Security.

Table 1: Programs That Have Origin Identity or Related Requirements for Foods

Program	Description
School meals programs (such as the National School Lunch and Breakfast Programs)	USDA requires that the fresh fruits and vegetables that it purchases for these programs must be domestically grown, processed, and packed, and that meats must be from domestic livestock.[a] Food suppliers certify in their contracts with AMS that the foods they provide will be domestic and that they will maintain records, such as invoices and production and inventory records that confirm that the food is domestic. Suppliers that handle both imported and domestic products must have written plans—segregation plans—that describe in detail how they will ensure that only domestic products will be provided to the programs. For example, for meat products, AMS conducts oversight visits to each supplier three times a year; these visits include examination of origin records. If violations are found, AMS may reject the food, suspend or debar the contractor, terminate the contract, impose fines, or take legal action, including criminal prosecution.
Subsistence Prime Vendor Program	The Department of Defense requires that food purchased for U.S. troops must be domestic. About 50 large wholesale suppliers—known as prime vendors—certify in their contracts that they and their subcontractors will provide only domestic food. The department performs compliance audits at least annually, which, although primarily focused on food quality, use observations and interviews with contract officials to verify that food was produced or processed in the United States. With respect to enforcement, the department can refuse the food or use a different prime vendor, but cannot assess fines.
National Organic Program	Foods labeled as organic must be produced in accordance with the Organic Foods Production Act of 1990.[b] The program uses third-party verification, in the form of USDA-approved certifying agents, to verify that the food meets the organic rules. These certifying agents perform annual inspections and review the participants' written annual plans for ensuring compliance with organic rules. Any person, including a retailer, who knowingly sells or labels a nonorganic product as "organic" may be subject to fines of up to $10,000 per violation (7 U.S.C. 6519 (2000)).
Market Access Program	Federal funds help finance advertisements and other promotional activities for agricultural products that are at least 50 percent U.S. in origin. Program participants self-certify that their agricultural products meet the U.S. origin requirement. USDA's Foreign Agricultural Service audits participants at least every 2 years, focusing primarily on the eligibility of program expenses. Payments made for ineligible expenses must be reimbursed.
Food for Peace Program	The U.S. government sells agricultural commodities—for example, wheat, rice, cornmeal, feed grains, vegetable oil, soybeans, and soybean meal—to developing countries under long-term credit arrangements. Participant growers and processors self-certify that the commodities are 100 percent U.S. in origin. USDA does not verify compliance with origin requirements for the commodities.
USDA Process Verified Program	Through this fee-for-service program, USDA verifies quality claims made by producers and marketers of livestock and fruits and vegetables. AMS, at a cost of about $5,000 annually per participant, conducts independent, third-party audits of participants' production and manufacturing processes to confirm that they maintain consistent quality. For livestock, companies have their marketing claims, such as breed or feeding practice claims, verified by USDA; they can then market as "USDA Process Verified" to their customers. In some cases, verification includes tracking animals back to the farms where they were born and raised. Companies that do not adhere to their approved procedures may be suspended from participating.

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Program	Description
Meat Grading and Certification Programs	AMS inspectors grade and/or certify meat at the request of meatpackers on a fee-for-service basis. Certification services, such as breed claims (e.g., “Certified Angus Beef”), consist of evaluating meat for compliance with specification and contractual requirements. Grading, such as “USDA Prime” or “USDA Choice,” involves visual inspections using USDA standards. These premium grade and certification identities follow the meat through the distribution chain to the retail level, including restaurants and retail markets.
Seafood Inspection Program:	The National Oceanic and Atmospheric Administration, on a fee-for-service basis, inspects and quality-grades domestic fish and shellfish. According to program officials, the inspected seafood is sold primarily to foreign markets that require this third-party certification of quality.

Source: GAO analysis of federal program information.

[a]Almost all public and some private nonprofit schools are subsidized by USDA for each complete school meal served, regardless of household income; lunches and breakfasts for children from low-income households receive greater subsidies.

[b]See Organic Foods Production Act of 1990, 7 U.S.C. 6501 (2000).

Appendix II contains additional information on these federal programs, including program scope, objectives, oversight, and enforcement.

State Country-of-Origin Labeling Programs Also Have Features That May Be Useful as Models to USDA

Eight states have implemented country-of-origin labeling programs, and each includes at least one of the commodities covered by the new country-of-origin labeling law. [17] Based on our discussions with program officials in eight states and our review of program documents, one state has country-of-origin labeling programs for meat and shellfish, three have programs for fish only, two have programs for meat only, and two have programs for fruits and vegetables (see table 2).[18] Two of the states—Florida and Maine—have had more than 10 years' experience operating labeling programs. Although their programs are limited in scope relative to the new national program, their first-hand experiences may be helpful to USDA, particularly with regard to marking/labeling options, initial implementation issues, and using states' enforcement infrastructures to administer a country-of-origin program.

[17]For this report, a state-implemented country-of-origin labeling program is one that is active statewide and includes oversight by some level of state (or state-delegated) government. We also identified four states—Idaho, Kansas, South Dakota, and Tennessee—that have country-of-origin labeling laws that have not been implemented.

[18]We did not independently evaluate the state laws/programs.

Table 2: Selected Information on State-Implemented Country-of-Origin Labeling Programs

State	Products covered	Product labeling
Alabama	Catfish	U.S./state or “imported”
Arkansas	Fish	U.S./state or import country name
Florida	Produce, bee pollen, and honey	Import country name
Louisiana (two programs)	Meat	U.S. or “imported” or import country name
	Shrimp, crawfish, crab, and crabmeat	Import country name[a]
Maine	Produce	Import country name[b]
Mississippi	Catfish	U.S./state or “imported”
North Dakota	Meat	U.S. or import country name
Wyoming	Meat	Import country name

Source: GAO analysis of state country-of-origin labeling programs.

[a]Louisiana labeling rules also indicate that imported meat can be labeled imported or indicate the country of origin.

[b]In Maine, domestic potatoes must be labeled as a U.S. product; apples grown in Maine must be labeled as a Maine product.

Also as shown in table 2, all of the states require retailers to label the covered imported foods—five with the country of origin, two with the word “imported,” and, in Louisiana, which has two separate programs, the shellfish program names the country of origin and the meat program uses the word “imported” or names the country of origin. Four state programs and Louisiana’s meat program also require covered U.S. foods to be labeled, and Maine requires U.S. apples and potatoes to be labeled. Some require the foods to be identified as American or from the United States; others allow the food to be identified by its state of origin.

Most states provide some flexibility in how the country of origin can be shown. For example, Florida allows labeling to appear on the item or in the display areas near the food; signage can be handwritten or printed and of varying size. Figure 1 shows examples of labels and marking options used on imported produce in Florida grocery stores.

Figure 1: Examples of Labels on Imported Produce in Florida Grocery Stores

Sources: GAO and Florida Department of Agriculture and Consumer Services.

Most of the eight states use their state department of agriculture staff to conduct compliance inspections at retailers, while the rest use their health departments or other state staff. Inspections are generally carried out at least once a year, in conjunction with other labeling and sanitation inspections. In Florida grocery stores, we observed inspectors examining shipping containers in storage areas to verify the accuracy of labels on display cases in the produce areas. Some states require retailers or distributors to maintain records for covered commodities.

With regard to enforcement, all eight states have the authority to take some action against a retailer who violates the labeling requirements, and six have the authority to impose fines. During 2002, three states—Alabama, Florida, and Mississippi—fined retailers and others for violating their country-of-origin labeling requirements. See appendix III for more information on the eight states' country-of-origin labeling programs.

Some State and Industry Marketing Programs May Be Useful as Models to USDA

We also found a number of state- and industry-supported marketing programs for foods that provide examples of using affidavits and certifications from growers or producers to support product origin. For oversight and enforcement, at least a portion of these programs relies on retailers, growers, producers, or others to spot violations. Some aspects of these state and industry programs may be useful as models to USDA.

For example, more than half of the states have marketing programs for products grown or produced locally. These programs make promotional materials or slogans available to producers from their states. In order to participate in these programs, many states require participants to register with their state's department of agriculture. For example, Alaska requires participants to complete an application that includes an affidavit of eligibility stating that the participant takes full responsibility for proper use of the state logo, "Alaska Grown," in accordance with the policy requirements of the program. Arizona also requires participants to request and receive written permission to use the state logo, "Arizona Grown." Breach of any of the provisions of the Arizona program may result in termination of the participant's use of the promotional materials.

Oversight and enforcement for a number of these state programs rely on retailers, growers, producers, and others to spot violators and report them to state program officials. An official from one state told us that the state's program does not include inspections; however, the official knew of no instances where the state logo was used without permission. Programs also exist for products produced in areas within a state. For example, Vidalia® is a trademark for a variety of sweet yellow onions grown in a 20-county production area in Georgia. The Georgia Department of Agriculture registers all Vidalia® onion producers and packagers each year and has the authority to collect license fees for use of the trademark. Producers must apply for a license from the Georgia Department of Agriculture to sell Vidalia® onions and to use the Vidalia® mark. On the application, which is submitted annually, a grower must state the type of onions planted, total number of acres, and location. According to a director of markets, complaints of misuse of the Vidalia® label are investigated as soon as possible; any penalties assessed are based on the number of violations, their seriousness, and the circumstances involved.

With regard to industry marketing programs, the majority of states in the U.S. have a beef quality assurance program that alerts buyers that the meat has met certain quality criteria. The goal of this type of voluntary program is to ensure safe and nutritious beef for the consuming public and to maximize consumer confidence. The national guidelines for these programs, issued by the National Cattlemen's Beef Association, include standards on feed additives, medical treatment, and record keeping for program participants. Records must be kept for 2 years. In the South Dakota beef quality assurance program, a receiving log is kept that includes the verified source of delivered cattle. Another industry program with producer certifications involves the use of affidavits by beef producers to certify that their livestock did not consume feed containing specific materials and additives. This program began because of demand from large purchasers who wanted to purchase animals that were grown on feed meeting selected standards.

Unique Features of the New Law and Meat Industry Practices Present Implementation Challenges

While federal, state, and industry programs may be useful as models to USDA up to a point, they do not adequately address the unique features of the new country-of-origin labeling law. In particular, the new law requires that both domestic and imported items must be identified by their country of origin and defines domestic meat, fish, and shellfish differently than under Tariff rules or in existing programs. In addition, the new law also requires that imported and domestic fish and shellfish be further differentiated as farm raised or "wild" (caught in open waters). Implementing a program of this scope and size will be challenging for USDA. Implementing it for meat will be further complicated by meat industry practices.

By requiring that both domestic and imported items be identified, the law puts a new compliance burden on U.S. industries involved with the covered foods, including their production and distribution streams. As shown in table 3, the United States imported over 83 percent of fish and shellfish, by volume, in 2001—the most recent year for which USDA has compiled these data. However, for the rest of the covered foods, the United States produced more than it imported.

Table 3: Percentage of Covered Foods Imported in 2001, by Volume

Covered food	Percentage imported
Beef	11.6
Pork	5.1
Lamb	39.8
Fish and shellfish–fresh and frozen	83.3
Fruit–fresh and frozen	23.1
Vegetables–fresh and frozen	16.6
Peanuts	9.1

Source: USDA's Economic Research Service.

But the extent of the new burden is not clear. According to many industry representatives, the burden will be substantial. Others believe it will be small compared to the benefit to consumers of knowing where their food comes from. Currently, consumers have that information on many foods. For example, imported canned foods and foods that are imported in consumer-ready packaging, such as imported leg of lamb, are marked with their countries of origin. The new country-of-origin law brings in most other foods that are not necessarily origin-identified today. Of the few remaining foods, including poultry, a bill has been introduced that proposes to make poultry and goat subject to the new country-of-origin labeling law.[19]

Regarding definitions of a U.S. product, the new country-of-origin labeling law defines U.S. and imported meat, fish, and shellfish differently than those foods have traditionally been defined under Tariff Act rules and federal programs. For example, under Tariff rules, meat from an animal

[19]HR 2270, introduced on May 22, 2003, would amend the Agricultural Marketing Act of 1946.

born or raised for some period of time outside the United States is considered to be part of the domestic meat supply if the animal is slaughtered in the United States. Similarly, under Tariff Act rules, fish or shellfish caught in foreign waters or by a foreign-documented ship are considered domestic if they are processed in the United States or aboard a U.S. flagged ship, according to Bureau of Customs and Border Protection officials. In these examples, the meat, fish, and shellfish do not satisfy the new law's "born, raised, and slaughtered" or "harvested and processed" criteria to be considered domestic. As noted earlier, the new law stipulates that to be a U.S. product

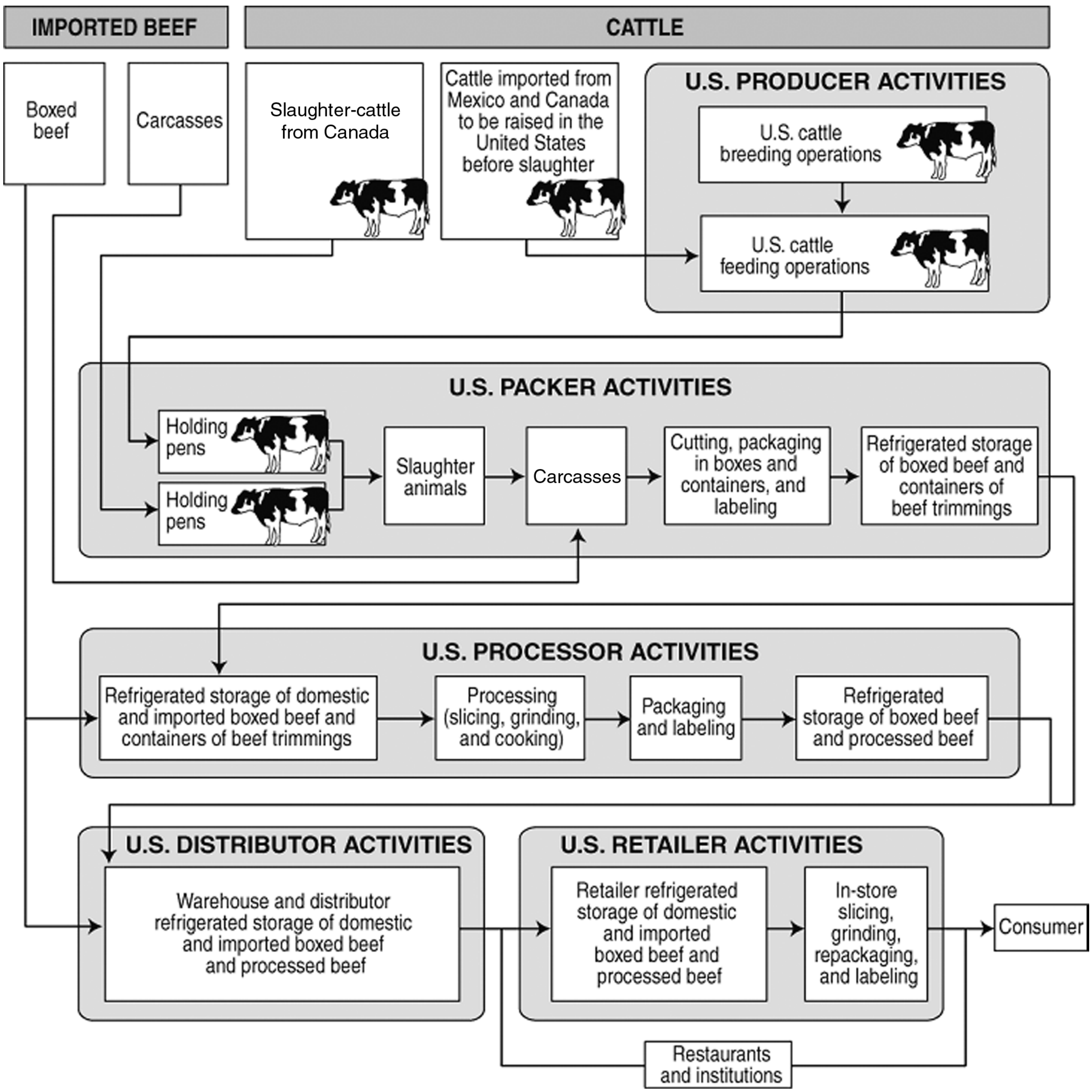
- meat must be "exclusively from an animal that is exclusively born, raised, and slaughtered in the United States;"
- farm-raised fish must be "hatched, raised, harvested, and processed in the United States;" and
- "wild" fish must be "harvested in waters of the United States, a territory of the United States, or a State," or by a U.S. flagged or U.S. registered ship and "processed in the United States, a territory of the United States, or a State, including the waters thereof" or aboard a U.S.-flagged or U.S.-registered ship.

USDA's school meals programs and the Department of Defense's Subsistence Prime Vendor Program define "domestic" foods differently. USDA uses the Tariff rule's definitions for domestic meat, fish, and shellfish, while the Department of Defense uses a slightly different definition for meat that describes imported meat that is further cut or ground in a U.S. facility as "domestic."

With regard to the new law's requirement to identify fish and shellfish—both domestic and imported—as either farm raised or caught in open waters (wild), fishermen know the origin of their catch. We were told by the seafood manager of a grocery chain distribution facility for one chain of grocery stores that for some species, such as salmon, some individuals in the distribution channels that have a long history of handling fresh seafood may be able to distinguish farm raised from wild fish based on appearance, but that would not be the case, generally. Therefore, unless the fisherman identifies the fish and shellfish with origin information, the processors, handlers, and/or grocers will have no way to determine origin.

Finally, with regard to practices in the meat industry, in January 2000 we reported that meat packers and processors do not routinely maintain country-of-origin information on imported meat as required under the Tariff Act. As our 2000 report stated, this is due in part to the fact that the Bureau of Customs and Border Protection does not generally enforce the act's labeling requirement for imported meat after inspection at the border. We believe it is also due to the fact that USDA's Food Safety and Inspection Service has given meat packers and processors different guidance on the need to maintain country-of-origin information. Unlike Tariff Act rules, which require an imported product to maintain its import identity through to the ultimate purchaser, USDA considers imported meat to be part of the domestic meat supply once it passes a USDA safety inspection; any subsequent cutting, blending, or grinding may be done without regard to country-of-origin identity. Figure 2 shows the activities involved in bringing imported beef, beef from imported cattle, and beef from domestic cattle to consumers.

Figure 2: Activities Involved in Bringing Beef to Consumers



Source: GAO.

Most U.S. Trading Partner Countries Require Country-of-Origin Labeling at Retail for Foods Covered by the U.S. Labeling Law

Most of the 57 U.S. trading partner countries, including the 15-member countries of the European Union, whose practices we surveyed through USDA's agricultural attachés require country-of-origin labeling for one or more commodities covered under the new U.S. law.[20] However, key trading partners have indicated that they may view new U.S. marking requirements as possible trade barriers.

Most U.S. Trading Partners Require Country-of-Origin Labeling for Some Foods

Of the 57 U.S. trading partner countries, 48 require country-of-origin labeling for one or more of the commodities covered by the new law and 44 also require domestic products to be labeled. Our survey of USDA attachés for these countries showed that 46 countries require labeling at retail for produce (fresh or frozen); 34 for peanuts; 41 for one or more of the covered meats (fresh or frozen); and 39 for fish or shellfish (fresh or frozen). See table 4.

[20]We did not analyze or independently verify the foreign laws/programs.

Table 4: Summary of Country-of-Origin Labeling Practices for 57 U.S. Trading Partners: Scope, Oversight, and Enforcement, by Product Category

	Labeling required			
Product category	Imported products	Domestic products	Routine inspections	Enforcement actions or penalties
Fish/shellfish/seafood—fresh (farm raised)	30	27	27	29
Fish/shellfish/seafood—fresh (wild)	27	24	24	26
Fish/shellfish/seafood—frozen	37	29	31	37
Fruits and vegetables—fresh (loose)	26	24	25	26
Fruits and vegetables—fresh (packaged)	38	34	33	36
Fruits and vegetables—frozen	34	28	27	34
Meat—cuts	35	33	30	35
Meat—frozen	41	36	33	40
Meat—ground	34	31	27	33
Peanuts—(loose)	17	11	15	16
Peanuts—(packaged/canned)	34	27	28	33

Source: GAO.

Note: The European Union countries' requirements for meat apply only to beef.

Among U.S. trading partners, however, country-of-origin labeling requirements vary. Several countries require labeling for all foods covered by the new U.S. law, including, for example, Argentina, Australia, and Japan. In Argentina and Japan, both domestic and imported foods must be labeled, while in Australia, domestic foods sold loose do not have to be labeled. Other U.S. trading partners have country-of-origin labeling requirements for only some of the products in our survey. For example, Canada requires country-of-origin labeling at retail only for prepackaged imported fruits and vegetables, while Mexico requires such labeling for both imported and domestic prepackaged foods.

The agricultural attachés reported that most countries surveyed do have routine inspections to check for compliance with their country-of-origin labeling regulations. In addition to inspections, many countries have enforcement penalties and fines. For example, after incidents of mislabeling in Japan, the government increased the penalty for violations to a maximum of 100,000,000 yen, or approximately $833,000.[21] In contrast, in Austria the maximum penalty is 7,267 Euros (about $8,400).[22] In addition, in certain countries the penalties for mislabeling food products can include destruction of the product, the loss of a business license, or imprisonment.

The European Union legislation imposes country-of-origin labeling regulations for fruits and vegetables, fish and shellfish, and beef. According to the responses to our survey, a few member countries, including Finland, France, and Spain additionally include country-of-origin labeling requirements for peanuts. Most of the member countries have routine inspections; however, enforcement actions appear to differ among the countries. For example, in Denmark, if routine inspections reveal that a food is not correctly labeled, the inspector can issue a warning or a fine at his discretion. In contrast, in Portugal, if the country-of-origin indication is missing, government officials seize the food. If the supplier can prove the product origin, the product can be relabeled and reintroduced in the market; if origin cannot be proven, the food must be destroyed.

Key Trading Partners Have Country-of-Origin Labeling Programs but See New U.S. Requirements as Possible Trade Barriers

Although many U.S. trading partner countries have country-of-origin labeling programs for one or more commodities covered by the new U.S. law, certain countries, including Canada, Mexico, and Australia, have expressed concern that new U.S. identity requirements may have a negative impact on trade. These countries are among our largest trading partners in agricultural commodities, as shown in table 5.

[21]This conversion was provided to us by the Foreign Agricultural Service attaché for Japan on March 18, 2003.

[22]This conversion was calculated using the May 2003 monthly conversion rate published by the Federal Reserve Board.

Table 5: Top 10 U.S. Agricultural Trading Partner Countries, by Dollar Value (in thousands)

Country	U.S. imports	U.S. exports	Total
Canada	$10,347,720	$8,653,774	**$19,001,494**
Mexico	5,518,418	7,251,596	**12,770,014**
Japan	373,663	8,367,629	**8,741,292**
China	1,001,354	2,067,125	**3,068,479**
Netherlands	1,750,406	1,173,414	**2,923,820**
Korea	151,069	2,674,184	**2,825,253**
Italy	1,789,921	545,623	**2,335,544**
Australia	1,894,019	338,000	**2,232,019**
Taiwan	174,757	1,953,229	**2,127,986**
France	1,486,239	390,467	**1,876,706**

Source: U.S. Department of Agriculture's Foreign Agricultural Service.

In written comments to USDA, Canadian officials stated that the U.S. country-of-origin labeling law would restrict trade, especially in the red meat sector. For example, according to the officials, currently some U.S. ranchers import cattle from Mexico and Canada to raise them for slaughter. If, to reduce compliance costs, U.S. retailers choose to not handle beef with more than one country of origin (e.g., cattle born in Canada and raised and slaughtered in the United States), the market for these cattle would disappear. Of the foods covered by the new U.S. law, Canada requires country-of-origin labeling at retail only for prepackaged imported fresh fruits and vegetables.

The government of Mexico is also concerned about the impact of a U.S. country-of-origin labeling law. Although Mexico requires country-of-origin labeling for imported and domestic prepackaged foods that are covered by the new U.S. law, it does not require such labeling for imported fresh fruits, vegetables, and peanuts sold loose and imported unpackaged meat cuts, fish, and shellfish. Specifically, Mexican officials wrote in comments to USDA that U.S. country-of-origin labeling requirements would impose an unnecessary, burdensome, complicated, and expensive requirement on producers, exporters, importers, and retailers, thereby erecting barriers to trade in Mexican produce, meat, and seafood destined for the United States. As such, according to Mexican officials, the regulations amount to a nontariff barrier that conflicts with U.S. trade obligations under the North American Free Trade Agreement and the World Trade Organization. In addition, the officials noted that small suppliers in Mexico have neither the staff nor the expertise to comply with the U.S. country-of-origin labeling requirements.

Australian government officials have also expressed opposition to a mandatory U.S. country-of-origin labeling law. Australia requires country-of-origin labeling for all imported foods covered by the new U.S. law, but not for domestic foods sold loose or unpackaged. In comments to USDA, the Australian government wrote that these regulations could act as barriers to trade by discriminating against imported products in favor of domestic products and by imposing significant compliance costs on overseas producers. As a result, U.S. consumers will have fewer choices when purchasing food and perhaps higher priced domestic foods. In addition, Australian officials believe that the U.S. country-of-origin labeling regulations conflict with the more liberal stance taken by the U.S. concerning other agricultural issues.

Japan requires country-of-origin labeling for all foods covered by the U.S. law. Following the May 2003 discovery that a breeding cow had died of bovine spongiform encephalopathy (BSE)—commonly known as mad cow disease—in Alberta, Canada, Japan wrote to USDA regarding the country of origin of beef imported from the United States. Specifically, in a June 10, 2003, letter, Japan instructed USDA that the United States cannot export beef or beef products to Japan that come from cattle born, raised, or slaughtered in Canada. The letter stated that, effective July 1, 2003, beef and beef products exported to Japan from the United States must be accompanied by the USDA health certificate for the animal from which the meat was derived, indicating where the animal was born, raised, and slaughtered. USDA asked Japan to postpone the effective date pending discussions among the countries—Japan, Canada, and the United States. On June 25, 2003, Japan announced that it agreed to postpone the effective date until September 1, 2003.

A detailed presentation of the responses to our survey of the agricultural attachés for each of the 57 countries is being released as a special publication entitled *Country-of-Origin Labeling for Certain Foods—Survey Results* (GAO-03-781SP), which is available on the Internet at http://www.gao.gov/cgi-bin/getrpt?gao-03-781SP.

USDA Used Questionable Assumptions in Its Estimate of the First Year Record-Keeping Costs for Compliance with the Voluntary Country-of-Origin Labeling Program

Many of the assumptions that USDA used in developing its estimate of the first year record-keeping costs for compliance with the voluntary country-of-origin labeling program are questionable and not well supported. The key assumptions for USDA's estimate that these first-year costs for developing and maintaining a record keeping system would be about $1.97 billion pertain to the following:[23]

- the types and numbers of businesses that would have to keep records,
- the extent to which businesses were already keeping the necessary records,
- the number of hours that each affected business would have to spend in developing and maintaining a record-keeping system, and
- the cost per hour of developing and maintaining a record-keeping system.

In each area we have questions about what USDA assumed and/or the support for its assumptions.

The number of businesses required to keep records may be overstated. USDA made several assumptions and estimates pertaining to the number of businesses that would be required to maintain country-of-origin records. Taken together, these assumptions produce an upper bound for the number of businesses that might be affected. However, different assumptions would produce a lower number. For example, USDA assumed that nearly all producers would be required to maintain country-of-origin records even if they produced commodities not covered by the labeling law (e.g., grain producers), or produced covered commodities that were not sold through retail outlets in a form to which the labeling law applies (or not through retail outlets at all, such as by restaurants). USDA officials told us that they could not determine how many producers would not be required to maintain country-of-origin records, in part because many may

[23]USDA's estimate pertains to the cost of complying with voluntary guidelines. As such, it also is based on the assumption that all affected businesses will choose to comply. Since compliance is voluntary, it is possible that no one will comply, and that the actual cost of the voluntary guidelines will be zero. AMS officials, including the Administrator, told us that—as of July 28, 2003—they were not aware of any retailers participating in the voluntary program.

market both covered and non-covered commodities. So, after adding together the number of commercial farms and ranches in the United States (about 2.16 million) and an estimate of the number of commercial fishing vessels (100,000), USDA arbitrarily assumed that 10 percent of this total might not be required to maintain country-of-origin records. For purposes of estimating costs, this number was then rounded to 2 million affected producers. However, based on comments that USDA received on its estimate, there may be many more than 10 percent that would not be required to maintain country-of-origin records. For example, using USDA data, the authors of a study by the University of Florida International Agricultural Trade and Policy Center concluded that the number of producers of covered commodities, excluding fishing vessels, was about 1.34 million.[24] Using that figure and other assumptions, the study arrived at a much lower cost estimate.[25] We do not know exactly how many producers would be affected by the labeling law. However, to the extent to which some producers would not be required to maintain country-of-origin records because they either do not produce covered commodities (e.g., potatoes used in potato chips) or their foods are not sold at retail grocery stores subject to the new law (e.g., they are marketed to restaurants or institutions) in a form for which the labeling law applies, then USDA's estimate may overstate the record-keeping costs of compliance with the law.[26]

Some records on country of origin might already exist. In developing its cost estimate of the record-keeping burden, USDA assumed that all affected businesses would have to establish new record-keeping systems because it believed that at that time country-of-origin information was not required to be maintained by other federal statutes or regulations. As a result, USDA attributed all of the costs of maintaining these records to the new law. However, some of the record keeping may represent costs that businesses were already incurring. For example, since the release of USDA's estimates, USDA officials have acknowledged to us that the Perishable Agricultural Commodities Act requires that retailers maintain

[24]USDA used an estimate of approximately 100,000 fishing vessels that it believes could be affected by the country-of-origin labeling provision. The Department of Commerce's National Marine Fisheries Service developed this estimate for USDA.

[25]John Van Sickle et al., "Country of Origin Labeling: A Legal and Economic Analysis." University of Florida Institute of Food and Agricultural Science, May 2003.

[26]USDA officials believe that the number of producers that may fall into these categories for which the labeling law does not apply is small.

records on fruits and vegetables that they sell for 2 years, the same period required by the voluntary country-of-origin labeling law. USDA agrees that those records may include information on country of origin and that the existing record-keeping system may be useful for the new law. In addition, ranchers in many states are maintaining records on their livestock because certain processors want this type of information. To the extent that businesses are already maintaining some of the records that the country-of-origin labeling law requires, then USDA's estimate overstates the incremental costs properly attributable to the law. USDA has acknowledged that the record-keeping burden would be smaller than it originally estimated if some business records that verify country of origin are already being maintained because of some other federal requirement. USDA said that the purpose of the comment period on its cost estimate was to bring any examples of such other requirements to its attention.

The number of hours required for record keeping is uncertain. Although USDA has indicated that it relied on prior experience with other programs in developing its estimate of the number of hours that each type of business would need to spend in the first year to develop and maintain a record-keeping system to comply with the country-of-origin labeling law, USDA had no specific estimate from other programs to serve as its basis. In particular, USDA has written that it drew upon its experience with the development, operation, and auditing of documented source verification programs operated under the USDA Process Verified Program in determining the average number of hours that producers, processors, and retailers, respectively, would spend complying with the country-of-origin labeling law. However, USDA officials told us that USDA does not possess documentation detailing the number of hours required to set up and maintain record-keeping systems under that program. In the absence of hard data, USDA officials told us that they relied on professional judgment. In addition, USDA officials told us that USDA does not have any documentation of any discussions with industry participants concerning the amount of time required for compliance with the country-of-origin labeling law. Our review of comments on USDA's estimate shows that many industry representatives believe that USDA underestimated the number of hours that will be needed to set up and maintain a record-keeping system; others characterized the record-keeping burden as minimal because they already maintain records that may satisfy the new requirements. Therefore, we question the reliability of the estimates developed for complying with the record-keeping requirements of the law.

USDA's estimates of hourly costs for record keeping exceed estimates it used for other programs. USDA used higher estimates of the hourly cost of complying with the record-keeping requirements of the country-of-origin labeling law than it used in developing similar estimates for other programs and it has no documented evidence to justify these differences. According to the information sheet that USDA prepared on its estimated costs for complying with the labeling law, USDA used higher hourly wage rates than those reported by USDA's National Agricultural Statistics Service and the Department of Labor's Bureau of Labor Statistics because of its experience with the industry in the operation of programs aimed at tracking the origin of food products through a system. Specifically, USDA estimated that the hourly cost for producers would be $25, while it would be $50 for processors and other handlers and for retailers. In contrast, for the organic rule, USDA estimated that the hourly cost for producers and handlers to maintain records would be $23, while for the mandatory price-reporting rule USDA estimated that the hourly cost for processors, packers, and importers to maintain records would be $20. USDA officials told us that they estimated a higher hourly cost to maintain records for the country-of-origin labeling law because they believe that a computer system operator would be needed to maintain records to comply with that law because most food handlers and retailers handle a large variety of products produced at different locations.[27] However, those officials also told us that USDA does not have any documented evidence to support using estimates that are so much higher than those it used for other rules and that USDA did not obtain industry concurrence that these higher estimates are appropriate. Accordingly, there is substantial uncertainty regarding the likely cost of complying with the country-of-origin labeling law. If the hourly cost turns out to be more similar to the estimated cost for other USDA programs, then, other things being equal, the cost of complying with the record-keeping requirements of the labeling law will be substantially lower than what USDA has estimated for first-year record keeping.

To determine what information is contained in the records that accompany food to grocery stores, among other things, we visited food distribution centers and grocery stores in Florida and New Jersey and a grocery store in the District of Columbia. Officials at the distribution centers told us that existing records for receiving, storing, and shipping fresh produce and

[27]For the mandatory price-reporting rule, USDA estimated an hourly cost of $50 for establishing the record-keeping system, but a $20 hourly cost for maintaining the records.

meat provide such information as the number of cases of product and the cost per case, but do not provide country-of-origin information for each box or carton of a product. Similarly, at three grocery stores we visited, officials told us that the records they currently receive from their distributors do not contain country-of-origin information, although the containers may be labeled. Both the distribution center and grocery officials believe that the record-keeping changes that may be needed to comply with the mandatory country-of-origin labeling law present challenges and will increase their costs. The officials also foresee other challenges from the need to segregate foods from different countries throughout the entire cycle—from the receipt of the food at the distribution centers down to the grocery store displays. Currently, distribution centers are designed to receive, store, and ship full pallets of products whenever possible. Under the new law, distribution center officials believe that they will need to segregate products, which may require them to increase the number of pallets needed to store the segregated food and require additional warehouse space. The officials also told us that their labor costs would likely increase because of the additional time needed to keep foods segregated throughout the distribution cycle. Similarly, at the grocery store level, officials told us that segregating the covered foods by country of origin would require additional display shelves and would increase the costs for signs and label-printing equipment, as well as possibly increasing labor costs for additional time and effort. Officials at one store told us that labeling such store-prepared items as mixed fruit salads by country of origin will take longer both for preparation and for labeling, resulting in higher costs.

The costs that industry will incur for segregating and storing foods and for labeling products are not part of the paperwork burden and are not reflected in AMS's estimate. AMS will have to estimate these and other industry costs, as well as federal costs to oversee and enforce the country-of-origin labeling law, as part of the cost/benefit analysis that must accompany the proposed rule implementing the law. AMS expects to issue the proposed rule in the fall of 2003.

Shortly after USDA published its estimate, it compiled and published examples of routine documents and records that businesses may already maintain that may be useful for verifying compliance for each covered food and each industry sector in that food's production. (See figure 3 for an example for the peanut industry.) In addition to the myriad written comments AMS received from industry on the estimate and the voluntary guidelines, AMS also reached out to industry in a series of "listening" meetings that senior AMS officials held across the country in an effort to better understanding industry's concerns with record keeping and the voluntary program.

Figure 3: Documents/Records That USDA Has Identified As Routinely Maintained in the Peanut Industry That May Be Useful to Verify Compliance with the Country-of-Origin Labeling Law

Peanuts

Farm Operator / Producer / Custom Broker Importer	Buying / Warehouse – Storage Operator	Sheller / Handler / Custom Blancher-Remiller / Processor / Crusher-Accumulators Responsibility
Responsibility		
Provide enough information for an auditor to verify the County, State and/or Country where the product was grown.	Maintain the integrity of the identification system. Segregate peanuts according to the country designation. Segregate and control throughout the system and properly label product according to the country designation.	Maintain the integrity of the identification system. Identify and segregate individual lots as to the country of origin. Properly label or identify all peanuts
Examples of Records and Activities that may be useful.		
Official Inspection Certificates	Warehouse storage receipts	Conformations and memorandums of Purchase
F&V-95 Worksheet	Daily inventories by lots	and sales
Harvest Records	Weight tickets	Invoices on purchases
Delivery Tickets	Receiving records	Receiving records
Weight Tickets	Official Inspection Certificates	Sales tickets
Pesticide application record	F&V-95 Notesheets	Account of Sales
Sales tickets	Invoices and Purchases	Remilling / Blanching/ Transfer Records
Warehouse storage receipts	Ledger records of purchases	Daily inventories by lots
U.S. Customs Entry Forms	Unloading tickets	Ledger records of purchase
Purchase Records	U.S. Customs Entry Forms	Mill Out-turn records
Lost and damage claims documents		UPC codes
Production and Sales Contracts		PLU labeling information
		U.S. Customs Entry Forms
		Official Inspection Certification and Positive
		Lot and Identification
		Tags and Seals

The examples of documents and records listed in this table, although extensive, are not inclusive of all documents and records that may be useful to verify compliance with the Country of Origin Labeling provisions of the 2002 Farm Bill. Additionally, maintaining documents and records such as those listed as examples will not necessarily ensure compliance. The documents listed are examples only and are for the sole purpose of providing information for producers, processors, and retailers to consider when establishing records for verification purposes. During a compliance audit conducted by USDA, auditors will review any and all documents to the extent necessary to arrive at an accurate decision on the level of compliance.

Source: USDA.

Many of the industry associations and individual businesses that commented to USDA on the cost estimate provided information on, among other things, hourly rates and the time they believe they will need to set up and maintain a country-of-origin record-keeping system. The respondents expressed a wide range of opinions about the cost estimate; some believed that the costs were greatly overstated and that little additional effort would be required by retailers. Others wrote that the hourly rates and time involved in implementing the new requirements had been greatly understated by USDA. Although, as of July 28, 2003, no grocery stores have participated in the voluntary program, some meat processing companies, in anticipation of the law's implementation, have alerted their suppliers to keep records on where cattle that will be the source of meat on grocery shelves as of September 30, 2004, were born, raised, and slaughtered.

Lastly, a new requirement proposed by the Department of Health and Human Services' Food and Drug Administration (FDA), under the authority of the Bioterrorism Act of 2002, may affect industry's compliance costs and facilitate USDA and industry's implementation efforts with regard to the new country-of-origin labeling law.[28] Specifically, in May 2003, the department published a Notice of Proposed Rulemaking that would require the establishment and maintenance of records by nearly all businesses in the food industry, including processors, importers, handlers, distributors, and retailers.[29] The records involved will allow FDA to identify the immediate previous source and the immediate subsequent recipient of most food. The purpose of the rule is to significantly improve FDA's ability to respond to and help contain the serious adverse health consequences in the event of accidental or deliberate food contamination. In effect, FDA will have information from farm to table, or from point of import to table, on most food. Both import and domestic origin records would be a piece of the required information for certain points and may be a reasonable adjunct to add at the other points in the farm to table continuum. FDA must issue the final rules by December 12, 2003. The rules take effect by June 12, 2004, for larger businesses (500 employees or more); by December 12, 2004, for smaller businesses (from 11 to 499 employees); and by June 12, 2005, for the very small businesses (10 or fewer full-time employees).

[28]See the Public Health Security and Bioterrorism Preparedness and Response Act of 2002—commonly known as the Bioterrorism Act of 2002—Pub. L. No. 107-188 (2002).

[29]Meat, meat products, and egg products, which are exclusively regulated by USDA, are excluded from FDA's regulation.

Conclusions

Existing programs that include an origin requirement may be useful to AMS, up to a point, as models for overseeing compliance, verifying origin, and enforcing the new country-of-origin labeling law. In fact, these programs may be quite useful for implementing the program for fruits, vegetables, and peanuts, which generally comply with Tariff rules, because grocery stores generally know the country of origin of these foods.

However, for meat, fish, and shellfish, we do not believe the existing programs will be particularly useful. This is largely due to the law's unique definitions of a U.S. product for these items and its requirement to distinguish between fish and shellfish that are farm raised and those that are caught in open waters. Any procedures AMS puts in place to implement country-of-origin labeling will inevitably impose an additional burden on the U.S. meat, fish, and shellfish industries, and to a lesser extent on the fruit, vegetable, and peanut industries, if they are to provide assurance that country-of-origin identity is maintained. To address the origin identity gaps with minimal burden on the industries, USDA will benefit from knowing exactly what origin information is available at the various stages of the process for each of the covered foods. This information, as well as information on options for labeling foods, and other alternative industry practices, can best be learned directly from the industries.

In addition, the extent to which the meat industry deviates from Tariff rules when it processes imported meat further complicates AMS's responsibilities. Indeed, the earlier in the process that imported meat loses its identity, the more onerous the problem AMS and the industry face to ensure origin identity for meat. As we first reported in 2000, we believe the responsibility for the industry's deviation from Tariff rules is due in part to USDA's Food Safety and Inspection Service giving meat packers and processors different guidance on the need to maintain country-of-origin information. As a result, consumers, who already have origin information on imported items, including imported foods, do not routinely have this information on imported meat.

We also conclude that the examples that AMS is providing to industry of documents that may be used to verify origin—and its efforts to reach out to industry in meetings across the country—are good exercises from several perspectives. Primarily, they provide a benefit to the industries to better understand their record-keeping burden associated with country-of-origin labeling. But perhaps just as importantly, they give AMS a better understanding of the industries and the steps that each covered commodity goes through to reach grocery stores. With this understanding, AMS can design a final rule that will afford both a reasonable assurance that country-of-origin identity is there for consumers and enable AMS to better estimate the paperwork burden on industry, when it prepares the estimate under the Paperwork Reduction Act, for the final rule.

Finally, because the new law uses the definition of a retailer as contained in the Perishable Agricultural Commodities Act of 1930, which based the definition on annual invoices for perishable agricultural commodities, many fruit and vegetable stands are subject to the new country-of-origin identity requirements, while large butcher shops and fish markets are exempt. As a result, consumers may not have information they value on origin identity when they purchase meat, fish, and shellfish from butcher shops and fish markets; those businesses also would not incur the costs associated with maintaining origin information and labeling, which grocery stores will incur for meat, fish, and shellfish.

Recommendations for Executive Action

To help industry comply with the country-of-origin labeling law's definitions for U.S. products and other new requirements, we recommend that the Secretary of Agriculture direct AMS to

- recognize and address, in the final rules, the extent to which the new law's definition of U.S. products, particularly for meat, fish, and shellfish, differ from the definitions in the Tariff Act of 1930; and

- collaborate with industry to identify, to the extent practicable, different options or alternative practices for, among other things, developing and maintaining record-keeping systems and labeling covered foods.

Because the meat industry has not consistently adhered to the Tariff Act's requirements for maintaining country-of-origin identity after imported meat has been cut or ground, we further recommend that the Secretary of Agriculture direct the Food Safety and Inspection Service to consult with the Bureau of Customs and Border Protection to develop an approach for informing meat packers and processors of their responsibilities under Tariff Act requirements, with regard to maintaining the identity of imported meat.

In addition, to ensure an accurate estimate of the paperwork burden on industry for developing a record-keeping system and maintaining records on country of origin for the final rule, we recommend that the Secretary of

Agriculture direct AMS to work with industry associations to compile more accurate data on hourly rates, approximate number of hours, as well as the approximate numbers of growers, livestock producers, food processors, and other sectors subject to the new law.

Finally, to create a level playing field for the retail sale of meat, fish, and shellfish, we recommend that the Secretary of Agriculture consider proposing that Congress include large butcher shops and fish markets among retailers subject to the country-of-origin labeling law through a technical correction to the law.

Agency Comments and Our Response

We provided USDA a draft of this report for review and comment in meetings attended by officials from AMS, including the Administrator, and from the Food Safety and Inspection Service. We also discussed a relevant recommendation with the Bureau of Customs and Border Protection and provided relevant draft segments to the Department of Defense.

USDA believes that the report provides some useful guidance and input in implementing the complex country-of-origin labeling legislation. However, USDA did not agree with our recommendation for the Food Safety and Inspection Service to consult with the Bureau of Customs and Border Protection to develop an approach for informing meat packers and processors of their responsibilities under Tariff Act. According to USDA, the Food Safety and Inspection Service cannot do this because it does not have authority to enforce the Tariff Act. We agree that the Food Safety and Inspection Service does not have authority to enforce the Tariff Act. We are not recommending that it do so; rather, we are recommending that it consult with the Bureau of Customs and Border Protection so that together they can develop an approach to bring the meat industry into compliance with Tariff Act rules regarding imported meat. USDA further asserts that, under the Federal Meat Inspection Act, once imported meat products undergo safety-related inspection activities, they are "deemed and treated as domestic". Notwithstanding the requirements of the Federal Meat Inspection Act, the Tariff Act still requires that imported items be marked with their country of origin through to the ultimate purchaser—who, generally, would be the consumer. USDA's assertion does not address the fact that the meat industry fails to routinely follow Tariff requirements for imported meat. USDA also asserts that any guidance it provides can only relate to the Federal Meat Inspection Act and that we do not sufficiently explain that act and its complexity. While a detailed analysis of the Federal Meat Inspection Act is beyond the scope of this study, we believe the explicit guidance that the Food Safety and Inspection Service provides to meat packers and processors under that act—that following safety-related inspection activities, imported meat is deemed domestic—is the point of confusion with regard to industry's compliance with Tariff rules. We believe our recommendation is important because consultation between the Food Safety and Inspection Service and the Bureau of Customs and Border Protection could produce an approach to provide consumers with information they should already have under Tariff rules on the import origin of their meat.

With regard to our recommendation for AMS to "collaborate with industry to identify, to the extent practicable, different options or alternative practices for, among other things, developing and maintaining record-keeping systems and labeling covered foods," USDA agreed that there would be benefit to this but expressed concern that the new country-of-origin labeling law does not provide AMS with authority to require a specific record-keeping system. We do not intend for AMS to be that prescriptive. Rather, our intent is that AMS build on the type of broad general guidance that it is already providing industry; specifically, in identifying existing industry records that may be useful for meeting record-keeping requirements. Similarly, we envision that, based in part on its collaboration with industry, AMS could provide broad general guidance on other aspects of the law, such as signage alternatives for labeling covered foods.

USDA had no comment on our recommendation that AMS consider proposing that large butcher shops and fish markets be subject to the country-of-origin labeling law, which we believe would create a more level playing field for the retail sale of meat, fish, and shellfish. USDA concurred with the other two recommendations. Finally, USDA stressed that the $1.9 billion estimate for the record-keeping burden under the voluntary program does not reflect the full costs of implementing the law. We agree. We added language to clarify that this is not the total cost—but only the cost of the paperwork burden on industry—and that AMS will also have to develop a cost/benefit analysis for the proposed rule it plans to issue this Fall. USDA also provided technical suggestions, which we incorporated into the report as appropriate.

The Deputy Executive Director of Trade Compliance and Facilitation, Office of Field Operations, Bureau of Customs and Border Protection, concurred on the value of having USDA consult with the Bureau on developing an approach for informing meat packers and processors of their responsibilities under Tariff Act requirements, with regard to maintaining the identity of imported meat. Lastly, the Department of Defense, through the Primary Action Officer for this study, confirmed that the Department concurred with the report's treatment of the Subsistence Prime Vendor Program.

We conducted our review from September 2002 through July 2003 in accordance with generally accepted government auditing standards.

As agreed with your offices, unless you publicly announce the contents of this report earlier, we plan no further distribution until 30 days from the date of this letter. At that time, we will send copies of this report to congressional committees with jurisdiction over food safety issues; the Secretary of Agriculture; the Secretary of State; the Secretary of Defense; the Secretary of Commerce; the Office of the U.S. Trade Representative; the Director, Office of Management and Budget; the Commissioner of the Bureau of Customs and Border Protection; and other interested parties. We also will make copies available to others upon request. In addition, the report will be available at no charge on the GAO Web site at http://www.gao.gov.

If you have any questions about this report, please contact me or Erin Lansburgh at (202) 512-3841. Key contributors to this report are listed in appendix V.

Lawrence J. Dyckman
Director, Natural Resources
and Environment

Scope and Methodology

As you requested, this report (1) examines how certain existing federal, state, and industry programs that include origin identity requirements address oversight, verification of origin, and enforcement, and assesses their applicability as models for USDA to use to implement the new country-of-origin labeling law; (2) identifies which U.S. trading partner countries require country-of-origin labeling at the retail level for foods subject to the new labeling law and how these programs are being implemented; and (3) assesses the reasonableness of USDA's assumptions and methodology for estimating the cost of the first year record-keeping paperwork burden to industry for the voluntary country-of-origin labeling program. You also asked us to update a 1998 report by USDA's Foreign Agricultural Service—*1998 Foreign Country of Origin Labeling Survey*—in which the Service surveyed its in-country attachés on the country-of-origin labeling practices in 46 countries and the European Union.

To determine how existing federal, state, and industry programs that include origin identity requirements address oversight, verification of origin, and enforcement, and assess their applicability as models for USDA to use to implement the new country-of-origin labeling law, we interviewed officials and/or reviewed documents from USDA's Agricultural Marketing Service, Farm Service Agency, Food Safety and Inspection Service, Animal and Plant Health Inspection Service, and Food and Nutrition Service; the Department of Defense's Defense Logistics Agency; the Food and Drug Administration; National Oceanic and Atmospheric Administration; and the Bureau of Customs and Border Protection in the Department of Homeland Security (formerly the U.S. Customs Service in the Department of Treasury). We reviewed the new country-of-origin legislation and other related documents, including USDA's voluntary country-of-origin labeling guidelines and comments submitted on those guidelines, comments from USDA's listening sessions, congressional testimony, and examples of records and documents that may be helpful for verification purposes. We also visited two distribution facilities for supermarket chains (one in each of two states), three grocery stores (one in each of two states and one in the District of Columbia), and a meat packer processor that has a contract with USDA under the school meals programs. These locations were selected based on their proximity to our offices in Washington, D.C. and Atlanta, Ga, where the GAO analysts who conducted this study were located.

The federal programs we examined were identified in the legislation itself, in the request letter for this study, and in discussions with USDA and Food and Drug Administration officials who are knowledgeable about origin identity programs related to foods. To identify and collect information about state origin identity programs, we contacted all 50 states through the National Association of State Departments of Agriculture. We also interviewed state officials about origin programs in the following offices: the Alabama Department of Agriculture and Industries; the Arkansas State Plant Board; the Alaska Department of Natural Resources; the Delaware Department of Agriculture; the Florida Department of Agriculture and Consumer Services; the Georgia Department of Agriculture; the Hawaii Department of Agriculture; the Illinois Department of Agriculture; the Iowa Department of Agriculture and Land Stewardship; the Kansas Department of Agriculture; the Kentucky Department of Agriculture; the Louisiana Department of Agriculture and Forestry; the Maine Department of Agriculture, Food and Rural Resources; the Massachusetts Department of Food and Agriculture; the Mississippi Department of Agriculture and Commerce; the Missouri Department of Agriculture; the Nevada Department of Agriculture; the New Hampshire Department of Agriculture, Markets, and Food; the North Carolina Department of Agriculture and Consumer Services; the North Dakota Department of Health; the Oklahoma Department of Agriculture, Food, and Forestry; the Pennsylvania Department of Agriculture; the Tennessee Department of Agriculture; the Texas Department of Agriculture; the Virginia Department of Agriculture and Consumer Services; the Vermont Department of Agriculture, Food and Markets; the West Virginia Department of Agriculture; and the Wyoming Department of Agriculture. In addition, we reviewed legal and program documents associated with state country-of-origin and other labeling programs. We collected descriptive information about state country-of-origin labeling programs, such as their scope, labeling requirements, inspection activities, and enforcement penalties associated with the programs. During our review, we also identified a number of other state, local, and industry programs that included labeling or tracking of product origin; however, we did not identify all such programs. We did not evaluate the state, local, or industry programs included in our review.

We also interviewed officials and/or reviewed documents from the American Meat Institute and visited a beef packing plant that supplies beef products to schools through the school meals programs to examine how imported animals and the meats produced from them were segregated throughout slaughtering, cutting, chilling, and other meat grading and certification activities that take place at meat plants. We also interviewed officials and reviewed documents from the Food Marketing Institute and visited food distribution facilities in Florida and New Jersey and grocery stores in Florida, New Jersey, and the District of Columbia to examine the process for how the covered commodities are currently received, stored, distributed, and displayed at the retail level and existing record-keeping practices. In addition, we interviewed officials from the National Fisheries Institute, the Ranchers-Cattlemen Action Legal Fund, the United Stockgrowers of America, the Organization for Competitive Markets, the Livestock Marketing Association, the American Frozen Food Institute, the National Food Processors Association, and the American Peanut Council and Southern Peanut Farmers Federation.

To identify which U.S. trading partner countries require country-of-origin labeling at the retail level for foods subject to the new labeling law and how these programs are being implemented, we surveyed the Foreign Agricultural Service attachés in 57 countries.[1] These included 45 of the 46 that the Foreign Agricultural Service surveyed in 1998.[2] We omitted Bosnia, which was included in the 1998 survey, because it is a recipient of food and aid and not a major agricultural trading partner. The 57 also included 7, all major produce trading partners, which we surveyed for our 1999 report *Fresh Produce: Potential Consequences of Country-of-Origin Labeling.*[3] We included another 5 countries that were among the top 40 agricultural trading partners in 2001, but had not been included earlier. The 57 countries account for about 94 percent of U.S. foreign trading activity for food and animals. We received responses on all 57 countries. The countries we surveyed are listed in appendix IV.

Before sending our survey, we pretested it with Foreign Agricultural Service officials in three countries. During these pretests, we interviewed the respondents to ensure that (1) the questions were clear and unambiguous, (2) the terms we used were precise, and (3) the survey did not place an undue burden on the staff completing it. The survey instrument had questions regarding the country-of-origin requirements at retail in the host countries for fruits and vegetables, peanuts, fish and

[1]The 57 countries include the 15 member countries of the European Union. We also surveyed the U.S. Mission to the European Union.

[2]In addition, we surveyed nine countries as suggested by the Foreign Agricultural Service that have limited trade activity with the United States. Bahamas, Bahrain, Barbados, Bermuda, Cayman Islands, Iceland, Jamaica, Kenya, and the Netherlands Antilles. We received responses from five of the nine countries and provided those responses to the Foreign Agricultural Service. We did not include the responses in the analysis for this report, which focuses on the activities among our major trading partners.

[3]GAO/RCED–99-112 (Washington, D.C.: Apr. 21, 1999)

shellfish, and meat. The information presented in this report regarding foreign countries' labeling requirements, oversight, verification, and enforcement is based on information obtained from the survey and interviews. We did not analyze foreign countries' labeling laws or regulations, independently verify countries' practices, or evaluate their programs. The detailed results from our survey are available in a special publication entitled *Country-of-Origin Labeling for Certain Food–Survey Results* (GAO-03-781SP), which is available on the Internet at http://www.gao.gov/cgi-bin/getrpt?gao-03-781SP.

To assess the reasonableness of USDA's assumptions and methodology for estimating the cost of the first year record-keeping paperwork burden to industry for the voluntary country-of-origin labeling program, we interviewed officials from USDA's Agricultural Marketing Service and reviewed agency documents including the *Federal Register* notices on the Guidelines for the Interim Country of Origin Labeling Program and the Cost Estimate of Paperwork Burden for record keeping under the Voluntary Program; comments received from industry, consumer groups, trading partner countries, and others in response to the *Federal Register* notices; questions and answers on the cost estimate published on the Agricultural Marketing Service's Web page; the rules and regulations for implementing the Perishable Agricultural Commodities Act; other USDA documents; and the University of Florida International Agricultural Trade and Policy Center's report entitled *Country of Origin Labeling: A Legal and Economic Analysis; the Federal Register* Notice and Rules regarding the Cost Estimate of the Livestock Mandatory Reporting Program; and the Regulatory Impact Assessment for the Final Rule Implementing the National Organic Program.

We conducted our review from September 2002 to July 2003 in accordance with generally accepted government auditing standards.

State Programs that Require Country-of-Origin Identification at Retail for Foods Covered by the New U.S. Labeling Law

In contacting the 50 states, we identified 8 states with country-of-origin labeling programs that we considered implemented. We considered a labeling program to be implemented if it was active throughout the entire state and also had oversight by some level of state (or state-delegated) government. We did not audit the state programs; rather, we collected information about these programs through discussions with officials from the respective state agriculture and health departments. This appendix provides information about the scope of the programs, labeling options, inspections at the retail level, and enforcements actions for noncompliance with program requirements for 8 state programs, as provided in discussions with officials in each of the respective states.

Alabama

Alabama has a country-of-origin labeling program for catfish. At retail, both imported and domestic catfish must be labeled according to origin. Labeling for imported catfish must state "imported catfish." Labeling for domestic catfish must also indicate the source of the catfish: farm-raised, river or lake, or ocean. In addition, Alabama's definition of catfish includes the order Siluriformes or family Anarhichadidae that include basa as a catfish. Basa is an imported fish that is frequently labeled as catfish. Retailers selling catfish products that are not wrapped or in a container may comply with labeling requirements by placing a sign on the display case or refrigeration unit reasonably visible to the consumer. Anyone selling river or lake catfish exclusively and directly to the consumer may place a sign reasonably visible to the consumer identifying the source of the catfish instead of labeling each individual container or package of catfish.

Alabama Department of Agriculture and Industry staff perform inspections of retail stores for compliance with country-of-origin labeling requirements. These inspections are done in conjunction with other labeling and food safety inspections. Inspections of retail stores are conducted approximately three times a year. Generally, inspections include reviews of display cases and storage areas, plus paperwork, if necessary. Alabama's country-of-origin labeling program does not include a requirement that retailers maintain documents related to product origin. Penalties for noncompliance start with a warning, and subsequent violations can result in a civil fine of $500. During 2002, inspectors issued 11 fines totaling $5,500 for various labeling violations.

Arkansas

Arkansas has a program for fish. The suppliers, distributors, and retailers must label all packages of imported and domestic fish/catfish. Furthermore, catfish products must be specifically labeled by the processor, distributor or retailer to identify the source of production, such as “Farm-Raised Catfish,” “River or Lake Catfish,” “Imported Catfish,” or “Ocean Catfish.” Amendments to the law in 2003, by the Arkansas General Assembly, state that the term “catfish” may only be used when identifying any species of the scientific family Ictaluridae.

Arkansas Bureau of Standards investigators inspect retail stores, processors, and packagers for compliance with program requirements. Staff conducting the inspections are already in retail stores checking for accuracy of labels concerning the weight and quantity of packaged meats and goods. These random inspections consist of checking display labels against paper records. These records consist mainly of affidavits signed by catfish suppliers that certify the origin of the product and that the product was packaged and processed in sanitary conditions. Retailers found to be in violation of the law can be assessed civil penalties. The law provides for a graduated system of penalties starting with a fine of \$500–1,000 for a first offense, \$800–2,000 for a second offense within 3 years of the first, and \$1,500–2,500 for a third offense within 3 years.

Florida

Florida has a country-of-origin labeling program for fresh produce, packages of bee pollen, and honey, at the retail level. Only imported products must be labeled under the Florida program. Labeling for these products must indicate the country of origin. The industry complies with the labeling program for imported products through a variety of means. Hand-lettered signs are placed in retail bins, individual stickers are placed on products naming the country of origin, and some stores use permanent printed signage. Other stores use signs in which lettered product items and origin information can easily be slipped into slots on the edges of display bins.

Florida’s Department of Agriculture and Consumer Services staff routinely inspect more than 40,000 retail, processing, and food establishments annually, with approximately 15,000 to 20,000 having imported produce sales. Florida food safety inspectors visit all food retailers about three times per year, to inspect such items as store cleanliness, food storage temperatures, meat handling procedures, and country-of-origin labeling of produce. Florida’s country-of-origin labeling program does not include a paperwork retention requirement. Inspections at retail stores involve verification of signs or labels of origin in the retail display areas with shipping containers in the storage and unpacking areas at each location. Penalties for noncompliance with Florida's labeling law start with a warning to the retailer, and repeat violators are assessed administrative fines beginning at $200 and increasing if noncompliance continues. In some instances, calls are made to corporate headquarters, to ensure that the corporate managers are aware of the law and the need for compliance. State law provides for fines of $5,000 per violation, up to $20,000 per day. In one instance, a violator was fined $10,000 for repacking imported produce and presenting it as domestic. During 2002, inspectors issued 171 fines totaling about $57,000.

Louisiana

Louisiana has a program for fresh and frozen meat, including ground meat. Louisiana expanded the program to include shrimp, crawfish, crab, and crabmeat. For meat, both imported and domestic products must be labeled. Retailers must label meat as American, imported, or a blend of American and imported meats. American meat is defined as meat processed at an American packing plant. If a store sells only American meat, it may put up a sign or placard stating this and does not have to label individual items or displays. For shrimp, crawfish, crab, and crabmeat, only imported products must be labeled to indicate the country of origin. When foreign shrimp, crawfish, crab, and crabmeat are combined with domestic products, the marking or label must clearly show the country of origin of the foreign products. The country of origin must be displayed on the container if the shrimp, crawfish, crab, or crabmeat is in package form. A sign designating the country of origin may be used for shrimp, crawfish, crab, and crabmeat sold in bulk from a display case.

Louisiana Department of Agriculture and Forestry officials inspect retail stores for compliance with the state's country-of-origin labeling regulations in conjunction with other inspections, such as those for compliance with its general labeling laws. Inspections of retail stores are conducted at regular intervals. Inspections include reviews of display cases, storage areas, and paperwork, if required. Louisiana's country-of-origin labeling program does require distributors to maintain documents related to country of origin on crawfish and shrimp. Penalties for noncompliance with the state's country-of-origin labeling requirements start with a warning letter and may include a civil fine not to exceed $500 per violation/day. During 2002, inspectors did not issue any fines for noncompliance with Louisiana's country-of-origin labeling requirements.

Maine

Maine has a country-of-origin labeling program for fresh produce at the retail level. With the exception of apples and potatoes, only imported products must be labeled under the Maine program. Labeling for these products must include the country of origin. Both domestic and imported apples and potatoes are required to be labeled. Fresh produce may be labeled individually, on the package, on the bin or with a placard near the produce, or it can be displayed in the original shipping container.

Maine Department of Agriculture, Food and Rural Resources staff perform inspections at the retail level. Inspections are performed in retail stores at least once a year. If violations are identified, then the store is inspected more frequently. Inspectors view produce displays for proper labeling. The country of origin can be shown by either a display placard or by individual labels on produce. If inspectors have a question about the source of an item, they check the shipping boxes in storage areas. If further clarification is needed, the inspectors can also review shipping invoices. Officials said that invoices tend to include the source of the product. Maine's country-of-origin labeling program does not require retailers to maintain documents related to product origin. Penalties for noncompliance with Maine's country-of-origin labeling requirements may include a civil fine of not more than $100. During 2002, inspectors did not issue any fines for noncompliance with Maine's country-of-origin labeling requirements.

Mississippi

Mississippi has a country-of-origin labeling program for catfish at the retail level. Both imported and domestic catfish must be labeled at retail. Imported products do not have to be labeled with the country-of-origin, but must indicate that they are imported. Labeling for domestic catfish should include either the state of origin or indicate that the catfish is a product of the United States. Labeling for domestic catfish must also indicate the source of the catfish—whether it was farm raised or river caught. In addition, Mississippi's definition of catfish is limited to two families of fish, but not others that include basa. Basa is an imported fish that is frequently labeled as catfish. Retailers selling catfish products not wrapped or in a container may comply with labeling requirements by placing a sign on the display case or refrigeration unit reasonably visible to the consumer. Any person selling river or lake catfish exclusively and directly to the consumer may place a sign reasonably visible to the consumer identifying the source of their catfish instead of labeling each individual container or package of catfish.

Mississippi Department of Agriculture and Commerce staff inspect retail stores for compliance with the law as part of their regular inspections under the food sanitation law. Inspections of retail stores are performed approximately once a year. Inspectors review display labels for country-of-origin labeling and storage areas. Retailers are required to keep records of their purchases of catfish and other fish for a period of 2 years after such purchases and sales have occurred. These records do not have to be maintained at the retail store. The penalty for noncompliance with the country-of-origin labeling requirements of Mississippi's law is a civil fine of up to $1,000 for each violation. During 2002, the department found 11 violations at one location and issued a fine of $1,800.

North Dakota

North Dakota has a program for fresh beef, lamb, and pork, including ground products, sold at the retail level. Both imported and domestic beef, lamb, and pork must be labeled. Imported meats are labeled with their country of origin before they are delivered to the retail location. Meat received from a U.S. packing plant is considered a domestic product. Meat products must be labeled at the retail level with a clearly visible printed or written indication placed in the immediate vicinity of the food product.

The North Dakota Department of Health is responsible for inspections at the retail level and the North Dakota Department of Agriculture conducts inspections at meat packers and processors. Inspections for compliance with country-of-origin labeling requirements are conducted at least once every 2 years in conjunction with the routine health inspections at retail locations. Health inspections in seven counties are performed by county staff in cooperation with the department and are conducted two to three times a year. There are no document retention requirements specific to this program. Anyone found in violation of the law is turned over to the county state's attorneys office for filing of a complaint and possible legal action. To date, no such actions have been taken.

Wyoming

Wyoming has a country-of-origin labeling program for meat, including poultry, at the wholesale and retail level. Ground meat is not required to be labeled under Wyoming's program. Every retailer and wholesaler who sells or offers meat for sale in Wyoming through an establishment or processing plant that is the product of any foreign country shall clearly label the meat as imported and include the country of origin. Meat processed in the United States is considered a domestic product. For imported meat sold unpackaged in a retail case, a visible placard stating the country of origin may be used instead of a label.

Wyoming Department of Agriculture staff conduct inspections for compliance with the program in conjunction with food safety inspections required at the retail and wholesale levels. All establishments are risk-assessed and then inspections are carried out accordingly. At a minimum, establishments are inspected at least once a year, which includes compliance with country-of-origin labeling requirements. Inspectors inspect meat and containers of raw meat received by the establishment or processing plant to verify that meat that is the product of a foreign country is clearly labeled. Wyoming does not have fines associated with its country-of-origin labeling program. If inspectors find a retail location is not in compliance, the inspector informs store personnel of the requirement to label imported meat. In order to fine a retailer, the department would have to take the retailer to court. This has not been done since the program's inception.

Federal Programs that Require Origin Information

This appendix provides additional information on the following federal programs that have origin identity or related requirements for foods.

- School meals programs
- Subsistence Prime Vendor Program
- National Organic Program
- Market Access Program
- Food for Peace Program
- Meat grading and certification programs
- USDA Process Verified Program
- Seafood Inspection Program

School meals programs (such as the National School Lunch and Breakfast Programs)

The school meals programs, administered by the U.S. Department of Agriculture's (USDA) Food and Nutrition Service, operate in over 99,000 public and nonprofit private schools and residential childcare institutions. Total funding for the programs were more than $6 billion in cash reimbursements and commodities for fiscal year 2002. Each day, the School Lunch Program provides meals to about 28 million children. The meals programs were established under the National School Lunch Act of 1946, 42 U.S.C. 1751 (2000).

USDA provides both cash reimbursements to participating schools and entitlement commodities purchased by USDA's Agricultural Marketing Service and Farm Service Agency. The Agricultural Marketing Service purchases meat, fish, poultry, eggs, and fruit and vegetable products; the Farm Service Agency purchases other items, including peanut products, flour, grain, dairy products, oils, and shortening. About 20 percent of the dollar value of the food served in school lunches comes from USDA's commodity purchase programs. State and local school food authorities obtain the remaining 80 percent of food either through direct purchases from manufacturers or distributors or contracts with food service management companies that procure the foods for them.

All federal purchases for the program must be of domestic origin. For meat or meat products, domestic origin is defined in USDA guidelines for suppliers as produced in the United States, from livestock raised in the United States, its territories, possessions, Puerto Rico, or in the Trust Territories of the Pacific Islands. However, the animals do not have to be born in the United States. For example, meat from animals born in Mexico or Canada and raised for some portion of time in the United States can be sold to AMS for use in school meals programs.

Program Compliance and Enforcement

For meat, potential suppliers must apply for and receive approval from AMS to be eligible to supply meat for AMS's commodity meat purchase program. The meat suppliers are required to maintain records including, but not limited to, invoices, production, and inventory records evidencing product origin, and to make such records available for review. These suppliers comprise an Approved USDA Domestic Product Suppliers List. Slaughterhouses and processors identify themselves as either "domestic only" (i.e., they handle only products manufactured from livestock raised in the U.S. or its territories) or "segregation plan" facilities (they handle products derived from both domestic and imported livestock). Imported livestock are defined as livestock imported for immediate slaughter that arrive at the plant in sealed trucks. The segregation plan prepared by suppliers and contractors handling both imported and domestic livestock must clearly describe how the company will ensure that no meat from imported animals is inadvertently included in school meals programs' supplies; AMS must approve the plan before the company can become a contractor for USDA feeding programs.

AMS audits both "domestic only" and "segregation plan" facilities three times a year with its staff of 20 auditors. When violations are found, AMS can take enforcement actions including remedial actions (e.g., provide training), rejecting the meat, suspension or termination of the contract, debarment, liability for damages, or criminal prosecution. The annual compliance cost to AMS is about $112,500. These costs, which include oversight of school meal meat contractors, are funded by user fees paid by the meat suppliers. Currently, AMS auditors perform about 250 meat supplier compliance audits per year at an average cost of about $450 per audit. The cost per audit is based on an hourly fee that is assessed for the time required to prepare for, conduct, and report the results of the assessments, and the time required to complete all related travel.

Similarly, suppliers seeking to provide fruit and vegetable products to AMS for the school meals programs must complete an annual certification statement that all products are grown, processed, and packed in the United States. AMS uses five to six auditors who audit these suppliers based on a combination of random sample and risk assessment.

The Subsistence Prime Vendor Program

Since the early 1990s, the Department of Defense has used the "Prime Vendor" program to provide all food items, including food service equipment and operating supplies for U.S. land-based troops as well as for the U.S. Navy fleet and the U.S. Coast Guard. For food items, a partnership was created between the Defense Logistics Agency's Defense Supply Center in Philadelphia and a number of small and large full-line commercial food distributors known as Prime Vendors. There are currently about 50 Prime Vendors—located across the continental United States and foreign countries—that provide food items to military commands. Under the Prime Vendor Program, the department can take advantage of existing food distribution systems to obtain needed items much more quickly and inexpensively than through maintaining its own system, according to department officials. Inspectors spot-check deliveries at their destination for condition, identity, and quantity, including a visual check for domestic source requirements. The Berry Amendment has been included in Department of Defense appropriations bills for many years and codified into law; it requires that all food served to U.S.-based troops be of wholly domestic origin, including such ingredients as spices.[1]

Program Compliance and Enforcement

The Department of Defense annually audits Prime Vendors to ensure that food products meet contract specifications for quality and compliance with applicable statutes as well. The department has an auditing budget of approximately $430,000 annually; audits generally take about 2 days to complete. Audit teams are comprised of personnel from both the Department of Defense and other cognizant federal agencies, such as the National Marine Fisheries Service for audits of seafood or USDA for such items as poultry and beef. The audit team checks to ensure that food packaging bears the appropriate label. If the particular food item was not required to bear labeling showing the manufacturer or processor, the Prime

[1]See section 832 of the *National Defense Authorization Act for Fiscal Year 2002*, Pub. L. No. 107-107 (2001) (to be codified at 10 U.S.C. 2533a).

Vendor or supplier is requested to provide confirmation of domesticity. Generally, this is accomplished through an interview with the Prime Vendor. If violations are found, the department notifies the Prime Vendor to immediately discontinue supplying the noncompliant items.

This will have to change, however, because section 8136 of the fiscal year 2003 Department of Defense appropriations act (Pub. L. No. 107-248 (2002)) added a requirement for foods procured for U.S.-based troops. Specifically, seafood must be wholly domestic (i.e., caught on a U.S. flag vessel and processed in the United States). In addition, the Berry Amendment, as codified, exempts (1) certain groupings of items—such as tea in bulk, green coffee beans, and olive oil—that are not grown or produced domestically in sufficient quantities and (2) other foreign-grown products that are processed in the United States. Periodically, the Department of Defense and congressional representatives and potential suppliers have expressed concern about the requirement to purchase only domestic products.

The National Organic Program

The National Organic Program labeling requirements apply to raw, fresh products, and processed foods that contain organic ingredients. Foods that are sold, labeled, or represented as organic must be produced and processed following the organic program standards. The program is intended to assure consumers that the organic foods they purchase are produced, processed, and certified to consistent national organic standards. Labeling is based on the percentage of organic ingredients in a product and labels must include the USDA-approved certifying agent seal identifying that the organic products came from approved organic growers/handlers.

The program went into effect on October 21, 2002, and required that organic products be labeled all the way down to the retail level. The regulations also require that to be labeled organic, products had to be produced and handled by approved entities certified by USDA as accredited certifying agents. Certifying agents may be for-profit, not-for-profit, or governmental entities, but they are not employees of USDA.

Program Compliance and Enforcement

If an allegation is brought against an operator, the certifying agent will review the allegation. If the certifying agent believes a violation has occurred, the operator is sent a letter detailing the allegation. The operator is given time to comply; if the situation is not corrected, a revocation or suspension will be issued. In addition, civil penalties of up to $10,000 may be levied.

The Market Access Program

USDA's Foreign Agricultural Service uses funds from the Commodity Credit Corporation to administer the Market Access Program.[2] The program's purpose is to encourage the creation, maintenance, and expansion of commercial export markets for U.S. agricultural commodities through such activities as consumer advertising and participation in trade fairs. Program funds are authorized through agreements using a cost-share assistance approach that provides for partial reimbursement of eligible promotional expenses to eligible trade organizations that implement a foreign market development program. Participants may receive assistance for either generic or brand promotion activities; for example, program funds have been used to promote a market for U.S. blueberries and a large orange juice cooperative. An eligible commodity must contain at least 50 percent domestic content.

Program Compliance and Enforcement

In addition to the domestic content requirements, participants must submit travel and expense reports within required time frames. Records must be maintained for not less than 3 years after completion or termination of the agreement or not more than 5 full calendar years following the year of the transaction that is evidenced by such an account or record that took place, whichever is sooner. The Foreign Agricultural Service conducts compliance reviews of participants; each year approximately 50 percent of the participants' records are reviewed, which accounts for approximately 90 percent of the dollars awarded. All participants' records are reviewed at least every 2 years, according to officials. Typical problems identified by these audits are ineligible expense submissions—such as excessive travel expenses or charges for product samples and business cards—or math errors. According to program officials, these situations are rectified by participant reimbursements for overpayment.

[2]The Commodity Credit Corporation is a government owned and operated entity within USDA that was created to stabilize, support, and protect farm income prices. It also helps maintain balanced and adequate supplies of agricultural commodities and aids in their orderly distribution.

The Food For Peace Program

The Food For Peace Program (known also as Title I, P.L. 480),[3] administered by the Foreign Agricultural Service, provides for U.S. government sales of agricultural commodities to developing countries under long-term credit arrangements. Program commodities are used to, for example, combat hunger and malnutrition; promote broad-based equitable and sustainable development; and encourage the development of private enterprise and democratic participation in developing countries. The Farm Service Agency purchases the commodities supplied under the program, including wheat, rice, corn meal, vegetable oil, soybean meal, and soybeans. None of the agricultural commodities covered under the country-of-origin labeling requirements in the 2002 Farm Bill are currently included in the program.

Under this program, all agricultural products a participating company provides are to be produced in the United States. Specific language outlining this requirement is clearly stated in each announcement. For example, the announcement explains that the provided commodities are to be of domestic origin, defined as being “manufactured, processed, mined, harvested, or otherwise prepared for sale or distribution from components originating the United States.” All commodities supplied by U.S. companies must be 100 percent domestic in origin; the only exception is if the commodity is not available “at a fair and reasonable price” on the domestic market.

Program Compliance and Enforcement

As part of the contract requirements, the suppliers attest that the products they provide are of domestic origin. Generally, USDA does not verify that products provided are actually of domestic origin only.

Meat Grading and Certification

The Agricultural Marketing Act of 1946, as amended,[4] authorizes the Secretary of Agriculture to provide voluntary federal meat grading and certification services that facilitate the marketing of meat and meat products. AMS administers the programs; its regulations provide that grading and certification services will be furnished for both domestic and imported meat. Federal meat grading serves a number of functions,

[3]See 7 U.S.C. 1691 (2000).

[4]See 7 U.S.C. 1621 (2000).

including aid to livestock producers in identifying and receiving prices commensurate with the quality and quantity of the livestock they produce and providing consumers, retailers, and institutions with a uniform supply of meat of the desired quality. Grading services consist of the evaluation of carcass beef, lamb, and pork for compliance with the grades of the appropriate official U.S. standard. Certification services consist of the evaluation of meat and meat products for compliance with specification and contractual requirements. Commercial meat purchasers, including restaurants and exporters, regularly use these services to ensure that the quality and yields of the products they purchase comply with their stated requirements.

Under current regulations, a country-of-origin labeling mark must appear on imported carcasses before they can be graded. However, the mark is not required to remain on the cuts after processing, and the marks are sometimes removed during trimming. Meat packing plants segregate meat carcasses once they have been graded. For example, beef carcasses generally move through the fabrication phase of the plant segregated by grade such as prime, choice, and select. Some slaughter plants also have segregation plans for various certification programs including breed claims such as “Certified Angus Beef.”

Program Compliance and Enforcement

AMS staff conduct about 800 reviews annually of USDA graded meat sold at restaurants and retail establishments to ensure the proper use of USDA nomenclature for beef and lamb products, referred to as P.L. 272 reviews.[5] If violations are noted, appropriate remedial, administrative, and, if necessary, legal action can be taken to ensure compliance. AMS provides meat-grading services to industry on a “cost recovery” basis, which includes graders’ salaries, as well as the costs of supervision and management of the system. On average, grading services cost the beef industry about 38 cents per carcass. AMS’s meat grading services fee also covers the cost of its P.L. 272 meat grading reviews, which cost about $120,000 annually (800 reviews at an average cost of about $150 per review).

[5]Public Law 272 amended, in 1955, at 69 stat. 553, the Agricultural Marketing Act of 1946.

USDA Process Verified Program

The USDA Process Verified Program is a voluntary program that provides livestock and meat producers an opportunity to assure customers of their ability to provide consistent quality products by having their written manufacturing processes confirmed through independent third-party audits. These suppliers are able to have marketing claims such as breed, feeding practices, or other raising and processing claims verified by USDA and marketed as "USDA Process Verified." Some USDA-approved process verified programs track every animal from birth to the retail meat case. There are seven approved USDA Process Verified Programs—five pork and two beef.

Program Compliance and Enforcement

Process verified meat suppliers are required to maintain records including, but not limited to, a complete copy of the applicant's program documentation, including examples of all labels, tags, or other instruments used to identify animals or products; completed examples of all forms used in the program; and copies of all letters from consulting veterinarians, feed manufacturers, and tag manufacturers. Suppliers must agree to make such records available for review; all program documents must be retained for a period of at least 1 year. All approved programs are subject to unannounced annual compliance reviews by AMS auditors. An annual review costs about $5,000 and is conducted on a fee-for-service basis. AMS may suspend a company from the process verified program for a variety of reasons, including deliberate misrepresentation of the eligibility of livestock or products distributed under an approved program, failure to follow applicant's approved policies and procedures, and failure to respond to corrective actions in the time frame provided.

Seafood Inspection Program

The Seafood Inspection Program, administered by the National Oceanic and Atmospheric Administration within the Department of Commerce, is a voluntary fee-for-service program. The activities of the Seafood Inspection Program are authorized under the Agricultural Marketing Act of 1946, as amended. The Seafood Inspection Program routinely evaluates the safety, wholesomeness, proper labeling, and quality of fish and fishery products, as well as determining the adequacy of sanitation and hygienic practices of the processing facility and the safety of the processes used in the manufacture of food. These functions are similar to the functions performed by the inspection personnel of USDA and FDA toward ensuring that the consumer is provided with safe, wholesome, and properly labeled food of acceptable quality.

The National Oceanic and Atmospheric Administration employs about 130 federal inspectors. Services can be provided nationwide and in U.S. territories, as well as in foreign countries. In addition to the federal inspectors, the National Oceanic and Atmospheric Administration has agreements with 16 states under which specific state government employees are cross-licensed to inspect seafood for the Seafood Inspection Program. The official forms and certificates issued by Seafood Inspection Program inspectors are accepted as prima facie evidence in any U.S. court.

Both farm-raised and wild fish and shellfish can be inspected. The Seafood Inspection Program inspects about 18 percent of the U.S. domestic seafood supply. Users of these services include vessel owners, importers/exporters, processors, distributors, retailers, and food service operators. The Seafood Inspection Program publishes a bi-annual listing of fish establishments and products of businesses that are under inspection contract with the Seafood Inspection Program. Some U.S. trading partners, such as the nations of the European Union, require that seafood inspection/certification be performed by government personnel. In fiscal year 2002, the cost of the Seafood Inspection Program was approximately $13.8 million.

Businesses participating in the Seafood Inspection Program can request several types of inspections, including quality grading. Products meeting specific quality requirements may bear an official mark or statement. For example, if a product is to be quality graded, it may be marked with the “U.S. Grade A” seal. Participating businesses may advertise the qualifying inspection marks.

Program Compliance and Enforcement

According to Seafood Inspection Program officials, there are relatively few violations by participants in the Seafood Inspection Program. However, occasionally Seafood Inspection Program inspectors discover that a company has attempted to misrepresent or falsify claims; for example, a company may falsely indicate that a product meets European Union requirements when it does not. The National Oceanic and Atmospheric Administration’s Office of General Counsel provides guidance on a case-by-case basis for the appropriate response to an alleged offense. The National Oceanic and Atmospheric Administration may seek the imposition of administrative corrective action and/or criminal penalties by the proper federal, state, or local authorities.

U.S. Trading Partner Countries Surveyed and Their Country-of-Origin Requirements for Certain Foods

We surveyed the following 57 countries, which include the 15-member European Union:

Argentina
Australia
Austria
Belgium
Brazil
Canada
Chile
China
Colombia
Costa Rica
Czech Republic
Denmark
Dominican Republic
Ecuador
Egypt
El Salvador
Estonia
Finland
France
Germany
Greece
Guatemala
Honduras
Hong Kong
Hungary
India
Indonesia
Ireland
Israel
Italy
Japan
Korea
Latvia
Luxembourg
Malaysia
Mexico
Netherlands
New Zealand
Norway
Panama
Peru
Philippines
Portugal
Russia
Saudi Arabia
Singapore
South Africa
Spain
Sweden
Switzerland
Taiwan
Thailand
Turkey
United Arab Emirates
United Kingdom
Venezuela
Vietnam

Survey results stratified by food product and by country are included in a special publication entitled *Country-of-Origin Labeling for Certain Food—Survey Results* (GAO-03-781SP), which is available on the Internet at http://www.gao.gov/cgi-bin/getrpt?gao-03-781SP.

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