

12866 requires that a regulatory cost-benefit assessment be performed on all economically significant regulatory actions. In accordance with Executive Order 12866, this preliminary economic impact assessment contains a statement of need for the proposed rule, an examination of alternative approaches, and an analysis of benefits and costs.

Summary of the Economic Analysis

The estimated benefits associated with this rule are likely to be negligible. The estimated first-year incremental cost for growers, producers, processors, wholesalers, and retailers ranges from \$582 million to \$3.9 billion. The estimated cost to the U.S. economy in higher food prices and reduced food production in the tenth year after implementation of the rule ranges from \$138 million to \$596 million.

Note that this analysis does not quantify certain costs of the proposed rule such as the cost of the rule after the first year, or the cost of any supply disruptions or any other "lead-time" issues. Except for the recordkeeping requirements, there is insufficient information to distinguish between first year start up and maintenance costs versus ongoing maintenance costs for this proposed rule. Maintenance costs beyond the first year are expected to be lower than the combined start up and maintenance costs required in the first year. AMS invites further comment on start up costs and maintenance costs for the first year and beyond for firms directly affected by this proposed rule.

USDA finds little evidence that consumers are willing to pay a price premium for country of origin labeling. USDA also finds little evidence that consumers are likely to increase their purchase of food items bearing the U.S. origin label as a result of this rulemaking. Current evidence does not suggest that U.S. producers will receive sufficiently higher prices for U.S.-labeled products to cover the labeling, recordkeeping, and other related costs. The lack of participation in voluntary programs for labeling products of U.S. origin provides evidence that consumers do not have a strong preference for country of origin.

Statement of Need

This proposed rule is the direct result of statutory obligations to implement the COOL provisions of the Farm Bill, which amended the Act by adding Subtitle D—Country of Origin Labeling. There are no alternatives to Federal regulatory intervention for implementing this statutory directive.

The country of origin labeling provisions of the Farm Bill change

current Federal labeling requirements for muscle cuts of beef, pork, and lamb; ground beef, ground pork, and ground lamb; farm-raised fish; wild fish; perishable agricultural commodities; and peanuts (hereafter, covered commodities). Under current Federal laws and regulations, country of origin labeling is not universally required for covered commodities. In particular, labeling of U.S. origin is not mandatory, and labeling of imported products at the consumer level is required only in certain circumstances.

The Tariff Act, FMIA, and other legislation require most imports to bear labels informing the "ultimate purchaser" of the country of origin. "Ultimate purchaser" is defined as the last U.S. person who will receive the article in the form in which it was imported. The Tariff Act requires country of origin declarations on containers (e.g., cartons and boxes) holding imported fresh fruits and vegetables when entering the United States. Under the provisions of this statute, loose produce in a labeled container can be displayed and sold in an open bin at retail outlets without country of origin labels on each individual piece of produce. A placard or other bin label indicating country of origin is not required. If the produce in a shipping container is packed in consumer-ready packaging, however, those packages must bear a country of origin declaration. For example, grapes packaged in bags or shrink-wrapped English cucumbers must have country of origin labels on each consumer-ready package. Further, if the food item is destined for a U.S. processor or manufacturer where it will undergo "substantial transformation," that processor or manufacturer is considered the ultimate purchaser. As a result, under the Tariff Act, these covered commodities are not required to carry a country of origin mark after processing in the United States.

The strongest case for establishing a market failure justification for mandatory COOL is inadequate or asymmetric information. Country of origin is clearly a credence attribute, which means that consumers cannot observe the attribute before or after purchasing the product. Without labeling, there is no way for consumers to know the country of origin of a covered commodity. If the country of origin of the commodities covered by this proposed rule is an attribute desired by consumers and there is market failure that impedes the voluntary provision of this information, then market efficiency could be improved by providing credible information to

consumers. With credible country of origin information, consumers could select products based on their preferences for country of origin, and the food industry could respond to consumer demand signals by providing products according to the expressed demands of consumers.

Consumer surveys indicate that some consumers desire country of origin information on foods (Refs. 1, 2, and 3). The consumer surveys also indicate that consumers may desire COOL not out of any intrinsic value they place knowing the country of origin, but because it represents to them a proxy for product safety or quality, serves as an indicator of desirable environmental or labor practices, or represents a means for them to support U.S. or another country's producers.

An important question to consider in weighing the economic basis for mandatory COOL is whether there are any barriers to the voluntary, private provision of the optimal level of country of origin information. Private costs incurred by firms in the supply chain represent the primary barrier to the voluntary provision of country of origin information. There are no significant regulatory barriers to the voluntary provision of this information.

For the market to voluntarily provide credible country of origin declarations, information regarding country of origin must flow between firms involved in all stages of the food supply chain. Just as it is for consumers, country of origin information is a credence attribute for firms in the food supply chain. Firms must incur costs to provide credible country of origin information. If the increase in price firms in the supply chain expect to receive for providing consumers with country of origin information is less than the cost of providing it, then firms will not voluntarily incur the costs of providing this information.

If there were profits to be made from country of origin labeling, there would be strong incentives for firms to advertise and market country of origin labeled foods. Firms in the food supply chain would not be expected to forgo opportunities for additional profits. Retailers would demand that food manufacturers supply them with products having verifiable origin information. If consumers favored product by origin, food manufacturers would demand food commodities specifying origin and verifiable origin information.

U.S. farmers and fish harvesters could benefit financially from country of origin labels if consumers prefer domestic products to imports. In this