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Country of Origin Labeling Program
Room 2607-S
Agricultural Marketing Service (AMS)
USDA, STOP 0254
1400 Independence Avenue, SW
Washington, DC 20250-0254
RE: Docket No. LS-03-04

CC via e-mail: cool@usda.gov

Pursuant to the November 27, 2006, notice at 71 Federal Register 68431, the Center for Food Safety (CFS) submits the following comments to Docket No. LS-03-04 in response to the agency's "Invitation for Public Comments on Mandatory Country of Origin Labeling of Fish and Shellfish." CFS is a non-profit membership organization that works to protect human health and the environment by curbing the proliferation of harmful food production technologies and by promoting organic and other forms of sustainable agriculture. CFS represents members throughout the country that support organic agriculture and regularly purchase organic products.¹

I. COOL's Costs Have Been Overestimated.

A. Hourly work has been miscalculated. According to the United States General Accounting Office (GAO), the USDA has grossly overestimated its costs for implementation and execution of COOL. USDA used higher hourly cost estimates for complying with the record-keeping requirements of the country-of-origin labeling law than it used in developing estimates for similar programs, and provides *no documented evidence* to justify these differences.² Furthermore, COOL labeling has already been in operation in eight states for more than ten years³, and has required little work: "The COOL requirement takes about 15 minutes. The inspectors check the shipping boxes and packagers

¹ See generally <http://www.centerforfoodsafety.org>.

² United States General Accounting Office Report to Congressional Requesters. "Country-of-Origin Labeling: Opportunities for USDA and Industry to Implement Challenging Aspects of the New Law." August 2003. Page 31

³ Alabama, Arkansas, Florida, Louisiana, Maine, Mississippi, North Dakota and Wyoming.

in the store against the display signs or labels.⁴

B. Cost of record keeping has been miscalculated. An analysis by the Department of Food and Resource Economics for the University of Florida provides compelling evidence that costs related to the implementation and management of COOL will be substantially lower than they have been estimated. Among other findings that are highly in favor of COOL, they found that “the cost of record keeping relating to the labeling legislation is between \$69.86 million and \$193.43 million, which is 90 to 95% *less* than the USDA cost estimate.”⁵ This means that consumers will be paying less than one-tenth of a cent per pound for the products regulated by this law.⁶

C. Record keeping systems may already exist. These expenses have also been overestimated in the false assumption that costly new systems of record keeping will have to be created. The same analysis by the Department of Food and Resource Economics for the University of Florida explains how this is unnecessary: “Regulated entities keep a number of records in the regular course of business. Those records are likely sufficient to allow them to identify the origin of the product.”⁷

GAO findings correspond to this, noting that many of these records already exist, as a great portion of the record keeping may represent costs that businesses *already* incur⁸. For instance, of the documents USDA has published that are necessary under the COOL law, each one was found to be records that are commonly kept by producers.⁹ Clearly, there is no need to create an entirely new system of record keeping, which significantly reduces anticipated costs.

II. Consumers Want COOL

According to a poll published in June of 2005, 85 percent of people surveyed say they want country of origin labeling, with 74 percent who believe that congress should require such labeling.¹⁰ A more recent survey published in February of 2006 looks at 800 respondents from four cities: Central New Jersey, Boston, Chicago, and Colorado Springs.¹¹ Of this group, 60% of the people said that the country of origin would influence their purchasing decision, and 82% indicated that it would be useful.¹²

⁴ The American Voice. “Issues and Allegations: Country of Origin Labeling”

⁵ VanSickle, John et al. “Country of Origin Labeling: A Legal and Economic Analysis” page 1

⁶ VanSickle, John et al. “Country of Origin Labeling: A Legal and Economic Analysis” page 1

⁷ VanSickle, John et al. “Country of Origin Labeling: A Legal and Economic Analysis” Page 5

⁸United States General Accounting Office Report to Congressional Requesters. “Country-of-Origin Labeling: Opportunities for USDA and Industry to Implement Challenging Aspects of the New Law.” August 2003. Page 29

⁹“Country of Origin Labeling: Examples of records that may be useful for COOL verifications puposes,”

USDAAMS website, www.ams.usda.gov/cool/records.htm

and

VanSickle, John et al. “Country of Origin Labeling: A Legal and Economic Analysis” page 15

¹⁰ Lake Snell Perry Mermin & Associates for Public Citizen surveyed 1,004 adults living in private households in the continental United States. To view a press release on the results go

to: <http://www.citizen.org/pressroom/release.cfm?ID=1970>

and

Public Citizen, “New Poll Shows Consumers Overwhelming Support Country-of-Origin Labeling on Food. June 20,2005. [http://www.citizen.org/pressroom/print_release.cfm?ID=1970]

¹¹ O’Dierno, Linda J et al. “Identification and Evaluation of Viable Market Opportunities for Organically-Grown Aquatic Products” United States Market for Organic Seafood. February 2006. page 4

¹² O’Dierno, Linda J et al. “Identification and Evaluation of Viable Market Opportunities for Organically-Grown Aquatic Products” United States Market for Organic Seafood. February 2006. Page 39

Ironically, reports, such as the “U.S. Market for Organic Seafood,” often undermines the fact that 60% is still the majority of the people they polled by qualifying their results with the term “only.”¹³ In every consumer poll conducted, however, the majority of consumers have consistently demanded COOL¹⁴ for several reasons:

A. Consumers want to know from where their food comes. Customers firmly believe that water quality affects the value of seafood, so the region from which a fish comes from is tied to its superiority. The U.S. Market for Organic Seafood’s study notes that “quality and safety of the product were often viewed as a function of where the fish was caught.”¹⁵ In the seafood industry, the quality of the fish is often directly linked to its origins: in the same survey that found that 60% of the people in four focus groups would be affected by country-of-origin labeling on fish, 75% of the participants noted that they would be more likely to purchase seafood products if they knew more about regions that are known for “high quality and availability.”¹⁶

B. Consumers believe that domestic vs. imported seafood products are superior. The aforementioned “high quality” areas usually refer to domestic products, as people trust products from the US more readily than products from elsewhere. For example, for wild caught seafood products, 59% of respondents to the focus group survey indicated that they would strongly prefer domestic seafood products to imports, while another 21% somewhat prefer domestic, with only 14% who felt indifferent, which means a total of 80% who prefer seafood from the US.¹⁷ In the same focus group survey (see above), when given the choice between farm-raised seafood, an overwhelming 95% of consumers polled selected fish from the USA vs. imports.¹⁸

C. Consumers want to know how their seafood is produced. While a large portion of retailers believe that customers are not influenced by COOL, 67% of these same retailers acknowledge that consumers are influenced by production method labeling, a subsidiary element of COOL.¹⁹ Furthermore, 72% went on to say that they believe their customers prefer wild caught to farm raised.²⁰

Evidence of this preference can be found from the expose on erroneously labeled salmon by Marian Burros of the New York Times which found that six out of eight seafood retailers were misleading customers by labeling farmed salmon as wild. While farmed salmon sells for about \$5-\$12/pound in New York City, salmon labeled as wild can sell for as high as \$29/pound.²¹ Additionally,

¹³ See Generally: O’Dierno, Linda J et al. “Identification and Evaluation of Viable Market Opportunities for Organically-Grown Aquatic Products” United States Market for Organic Seafood. February 2006

¹⁴ See polls conducted by Lake Snell Perry Mermin & Associates for Public Citizen, O’Dierno, Linda J, et al...

¹⁵ O’Dierno, Linda J, et al. “Identification and Evaluation of Viable Market Opportunities for Organically-Grown Aquatic Products.” United States Market for Organic Seafood. February 2006. page 14

¹⁶ O’Dierno, Linda J, et al. “Identification and Evaluation of Viable Market Opportunities for Organically-Grown Aquatic Products.” United States Market for Organic Seafood. February 2006. page 15

¹⁷ O’Dierno, Linda J, et al. “Identification and Evaluation of Viable Market Opportunities for Organically-Grown Aquatic Products.” United States Market for Organic Seafood. February 2006. page 20

¹⁸ O’Dierno, Linda J, et al. “Identification and Evaluation of Viable Market Opportunities for Organically-Grown Aquatic Products.” United States Market for Organic Seafood. February 2006. page 21

¹⁹ O’Dierno, Linda J et al. “Identification and Evaluation of Viable Market Opportunities for Organically-Grown Aquatic Products” United States Market for Organic Seafood. February 2006Page 74

²⁰ O’Dierno, Linda J et al. “Identification and Evaluation of Viable Market Opportunities for Organically-Grown Aquatic Products” United States Market for Organic Seafood. February 2006. Page 74-75

²¹ Burros, Marian. “Stores Say Wild Salmon, but Tests Say Farm Bred,” New York Times. April 10, 2005. []

Seafood Business, a publication which claims to be the “authority on buying and selling seafood,” says that demand for fresh wild salmon drove prices up to \$6 a pound in May of 2006, with many consumers willing to spend \$20/lb for what they consider to be a ‘superior product.’²² This is crucial, as it proves that with COOL’s requirement for labeling production method, consumers are willing to pay the premium.

III. Producers Want COOL

A. Producers know that there are predicted economic benefits. Commercial fisherman support the labeling requirement as mandated by COOL, because they have confidence that consumers will prefer domestic to foreign product. Dan McGowan, the president of Big Bowl, a chain of Chinese/Thai food restaurants explains that there is a “core of people now who don’t mind paying an extra quarter or 75 cents if they know it’s natural or organic or it’s supporting a local person.”²³ In an article by the Washington Post from two years ago, Deborah Long predicted that labeling with country of origin would increase sales for U.S. fishermen, as consumers tend to prefer domestic to foreign products.²⁴ This has since proven itself in poll results which indicate that 80% of those sampled preferred domestic over imported.²⁵

B. Producers want a uniform (non voluntary) standard. According to the National Farmers Union, 98% of American producers want country-of-origin labeling. 74% of American producers support the idea that Congress mandates the country-of-origin labeling program and 55% have little or not much trust in retailers’ participation.²⁶

Producers want mandatory labeling because they know that with only a voluntary program in place, it’s unlikely that retailers will play fairly; without specific standards, there is nothing stopping a retailer from labeling a fish as ‘wild Alaskan’ when it is really farmed from Canada. In the previously mentioned expose by the New York Times on this scenario proves that this is a serious issue.²⁷ When customers are willing to pay such a high premium for products labeled ‘wild’ or that claim to be from certain locales, the “temptation to make \$15 a pound on a piece of fish [is] simply too much for people.”²⁸

Conclusion: Cost/Benefit Analysis

COOL is a beneficial labeling tool for everyone. The costs of implementation and execution are

²² Redmayne, Peter, “With farmed fillets readily available wholesale for about \$3 a pound, the temptation to make \$15 a pound on a piece of fish was simply too much for some people.” One Man’s Opinion. *Seafood Business*. May 2005. [http://www.seafoodbusiness.com/archives/5_2005/opinion.asp]

²³ Severson, Kim, “Why Roots Matter More.” New York Times. November 15, 2006. []

²⁴ Associated Press, “USDA Delays Labeling Rules for Seafood” Washington Post. October 1 2004.

²⁵ O’Dierno, Linda J, et al. “Identification and Evaluation of Viable Market Opportunities for Organically-Grown Aquatic Products.” United States Market for Organic Seafood. February 2006. Page 39

²⁶ National Farmers Union 2007. “COOL Myths-Senate Briefing, 7-05” [<http://www.nfu.org/wp-content/uploads/2006/05/COOL%20Myths%20-%20Senate%20Briefing%207-051.pdf>]

²⁷ See generally. Burros, Marian. “Stores Say Wild Salmon, but Tests Say Farm Bred,” New York Times. April 10, 2005.

²⁸ Redmayne, Peter. “With farmed fillets readily available wholesale for about \$3 a pound, the temptation to make \$15 a pound on a piece of fish was simply too much for some people.” One Man’s Opinion. *Seafood Business*. May 2005. [http://www.seafoodbusiness.com/archives/5_2005/opinion.asp]

irrelevant when compared to the economic benefits obtained by uniform labeling standards. Given the high number of consumers who say they prefer domestic product to imports, and given the percentage of people who want COOL in effect, it's reasonable to believe that customer willingness-to-pay will successfully outweigh any costs associated with the implementation of the new labeling laws. This is particularly true considering that the cost of new labeling standards have so far been over estimated and much of the new labeling law overlaps current standards, meaning that new guidelines may not need to be put into place.

Respectfully Submitted,

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