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An already long, contentious, arduous process just went into overtime. Inauguration day brought issuance of a memorandum targeting country-of-origin labeling (COOL) and all other Bush-administration legislation still pending implementation. The move allows USDA to potentially extend the effective date of COOL's final ruling just eight days after release of the final ruling. The industry now finds itself wondering what's next.

Mandatory COOL was the primary item of concern for many cattlemen at NCBA's Annual Convention in Phoenix. Much of the conversation, though, is simply a rehashing of arguments batted around for some time now. This year's convention marks the 6-year anniversary of an article I authored in *Feedstuffs* outlining fundamental principles of the issue (COOL Has Implications For The U.S. Beef Industry, *Feedstuffs*, Jan 27, 2003, 75:4). Despite being promoted as consumers' right-to-information, COOL represents some especially important connotations with respect to trade relations. The current uncertainty compounds those ramifications.

Canada declared the new regulations acceptable and backed away from its original stance by withdrawing a complaint filed with the WTO. The complaint, which also enjoined Mexico, was contingent upon steep costs and disproportionate discounts assigned to imported animals due to segregation requirements; some estimates peg the impact upwards of $90/head. The Bush administration was careful to implement changes in the final rule allowing for some additional flexibility thus making COOL more conducive towards maintaining normal trade relations.

To understand the dispute further, it's critical to provide some background of COOL's three primary categories:

> A: "Product of the U.S." – meat from animals born, raised, and slaughtered in the U.S. or from animals present in the U.S. on or prior to July 15, 2008; the label represents origin of the U.S. only.
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> B: "Product of the U.S., Country X" – meat from animals born in Country X and raised and slaughtered in the U.S. Meat from these animals were not exclusively born, raised and slaughtered in the U.S. or imported for immediate slaughter; the label denotes multiple countries of origin.
>
> C: "Product of Country X, U.S." – meat from animals imported into the U.S. for immediate slaughter.

The interim rule was vague and left some the industry having to muddle through legal interpretation – especially as it relates to commingling of "A", "B", and "C" animals by a processing facility. Most notably, it dealt with scenarios in which "A" and "B" animals were commingled but failed to specifically address intricacies involving the third category. USDA provided the following guidance (*COOL: Frequently Asked Questions*; Sep 26, 2008):

> Q. Can a packer or intermediary supplier that processes whole muscle meat products derived from both mixed origin animals (e.g., product of U.S., Canada and Mexico) and U.S. origin animals commingle and label these products with a mixed origin label?
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> A. If meat covered commodities derived from U.S. and mixed origin animals are commingled during a production day, the resulting product may carry the mixed origin claim (e.g., Product of U.S., Canada, and Mexico). Thus it is not permissible to label meat derived from livestock of U.S. origin with a mixed origin label if solely U.S. origin meat was produced during the production day."

As a result, general interpretation was that distinct and dedicated harvest and fabrication schedules would need to be facilitated for C-category animals. Therein enters the concern over costs and discounts. Operational continuity would have to be altered to accommodate C-category cattle and mandate dedicated shifts to maintain segregation integrity. In other words,

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qualitatively speaking, the "A" and "B" labels were to represent a very different connotation than product carrying the "C" label. The Canadian government took issue with that stance contending "B" and "C" product is not substantively different.

The final rule now reads as follows (Federal Register; Vol. 74, No. 10; p 2659):

> "For muscle cut covered commodities derived from animals that are born in Country X or Country Y, raised and slaughtered in the United States, that are commingled during a production day with muscle cut covered commodities that are derived from animals that are imported into the United States for immediate slaughter…the origin may be designated as product of the United States, Country X, and (as applicable) Country Y….the countries of origin may be listed in any order."

The provision helped to placate concerns of the Canadian government going forward. (It should be noted, the law as written does not let processors and retailers off the hook in terms of label integrity and/or record keeping. For example, plants that may designate operations as "A" only, solely processing such cattle, will still be required to maintain records for verification purposes.)

However, the final rule doesn't appease COOL proponents. (Remember, the law covers a multitude of food products but politically sources from the beef industry.) Supporters argue the final rule is disingenuous: American consumers are the priority and possess the right to increased information about the food they purchase. That's especially true when considering the "any order" statement: the final version fails to designate product derived from animals imported for immediate slaughter versus being raised in the United States. Relative availability of "A" product has been diluted by opportunity to utilize a mixed-source schedule and label the product accordingly. Such ideology cites recent polls such as that from Consumer Reports (Nov 21, 2008): "…nearly half say their confidence in the safety of the nation's food supply has decreased, and many are concerned with the safety of imported food."

On the other hand, cattlemen from Canada and Mexico (which is pressing ahead with its WTO complaint due to negative economic ramifications impacting their producers) argue that country-of-origin labeling violates NAFTA requirements. Primarily, NAFTA must regard all meat as U.S. origin if it results from animals harvested in the United States. That's especially true considering there's no substantive difference among the categories in terms of food safety and/or eating quality – it all falls under the same grading and inspection regulatory guidelines. At the very least, the law represents discrimination by establishing distinction among "B" and "C" categories. Therefore, any effort to segregate or differentiate "C" cattle from "B" cattle represents an unsubstantiated non-tariff trade barrier and thus establishes damaging and restrictive policy. Legislating differentiation is misplaced and not congruent with NAFTA policy – domestic producers desiring an A-category premium should leverage the free-market system, e.g. the voluntary Born-and-Raised in the U.S.A.

The 2003 *Feedstuffs* article outlined the ultimate evaluation of COOL's success. It will be dictated by the ability to provide consumers with meaningful information and create value at a reasonable cost while also establishing U.S. producers with a comparative advantage over foreign competitors. But that's the long-term perspective. In the short-run, the industry is burdened with implementing a law that is extremely complex and burdensome from a logistical, notification and record-keeping standpoint. What about the benefits? Domestically, COOL provides no assurance of additional consumer revenue; internationally, it creates animosity and potentially impedes sales to our two largest export partners – markets which can't be taken for granted. Given the adverse cost/benefit considerations, not to mention potential for unintended consequences along the way, COOL represents a steep and tenuous risk/reward proposition. Reopening COOL for comment will likely only serve to worsen that scenario.