

Mandatory COOL (Country of Origin Labeling)

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Brief History of COOL

- Became law in the 2002 Farm Bill (PL 107-171)
 - Amended Ag Marketing Act of 1946
- FY 2004 Consolidated Appropriations Act (PL 108-199) delayed implementation of COOL until September 2006 for all covered commodities except fish and seafood.
- The Agriculture, Rural Development, Food and Drug Administration and Related Agencies Appropriations Act of 2006 (PL 109-97) further delayed implementation of mandatory COOL for covered commodities except fish and seafood until September 30, 2008.
- The Food, Conservation and Energy Act of 2008 (May, 2008) modified COOL law.
- July 29, 2008: USDA issued Interim Final Rule for implementation on September 30, 2008

Commodities Subject to COOL

- Muscle cuts of beef, lamb, chicken, goat and pork
- Ground beef, lamb, chicken, goat and pork
- Wild & farm-raised fish & shellfish
- Fresh & frozen fruits & vegetables
- Raw peanuts, pecans & macadamia nuts
- Ginseng
- (Processed meat & food products exempt)

Implementation Timeline

- Mandatory final rules by September 30, 2008
- 6 month grace period for full compliance
- Retailers urged to begin phasing in the program immediately
 - Product produced before September 30, 2008 exempted

Retailers

- COOL legislation applies to retailers, who in turn, pass requirements down the supply chain (packers, feeders, stocker operators, cow-calf)
- Food service exempt, including salad bars and delis in retail establishments
- Retailers with invoice cost of perishable agricultural commodities < \$230,000/yr. exempt (Est. 53% of U.S. food sales)
- 4 categories

Categories

- Born, raised and slaughtered in the U.S.
 - Product of the U.S.
- Multiple countries of origin
 - Product of U.S. and country X and/or country Y
 - Ground beef: May include product of (list sources)
- Animals imported for immediate slaughter
 - Product of country X and U.S.
- Imported finished products (to be sold at retail)
 - Product of country X

Packers

“The supplier of a covered commodity (packer) that is responsible for initiating a country of origin declaration must possess or have legal access to records that are necessary to substantiate the claim.”

- USDA AMS Interim Rule

Packers must indicate to producers what records are required.

Producers

- Congress limited record-keeping requirements to documents used *“in the normal conduct of business”*
- Animals born or imported before July 15, 2008 are “grandfathered” in as U.S. origin
- Individual animal I.D. not required, but may be easier, particularly for stocker and feeder operators who co-mingle cattle which may be partially of foreign origin

Record-Keeping (Producers)

- *“Any person engaged in the business of supplying a covered commodity to a retailer, whether directly or indirectly, must maintain records to establish and identify the immediate previous source (if applicable) and immediate subsequent recipient of a covered commodity for a period of 1 year from the date of the transaction.” – USDA AMS Interim Rule*

Record-Keeping (Producers)

- *“any person engaged in the business of supplying a covered commodity to a retailer, whether directly or indirectly, (i.e., growers, distributors, handlers, packers and processors), must make available information to the subsequent purchaser about the country(ies) of origin of the covered commodity.” – USDA AMS Interim Rule*

Record-Keeping (Producers)

- *“a producer affidavit shall be considered acceptable evidence.....provided it is made by someone having first-hand knowledge of the origin of the animals and identifies the animals unique to the transaction.” – USDA AMS Interim Rule*
- NAIS-compliant production systems are acceptable as proof of origin, but mandatory animal I.D. by USDA as proof of origin is prohibited

Cow-Calf Implications

- Be prepared to supply affidavits for animals sold
 - Record of buyer and/or sale date and location
- Need records to document normal course of business
 - Herd and calving records
 - Vaccinations and vaccine purchases
 - Feed purchases
- Important to document herd size and composition as of July 15, 2008
 - You may be selling, for several years, brood animals that were grandfathered in on this date
- Maintain records on raised cows and bulls
- Request affidavits on purchased cows and bulls

Stocker Implications

- Request affidavits for purchased animals
 - Record of seller and/or sale date and location
- Provide affidavits for sales groups
 - Record of buyer and/or sale date and location
- Commingled animals (with same origin) need not be individually tracked as long as records document a balance between total purchases and sales
- Imported and domestic animals best segregated, with supporting records unless individual animal ID is used

Enforcement

- Legislative authority for enforcement given to the USDA Secretary; encouraged to partner with states with enforcement infrastructure
- 30 day period for retailers and suppliers to take necessary corrective action
- Civil penalty up to \$1000 if no good-faith effort to comply, but only after notice and opportunity for hearing

Estimated \$\$\$ Impact

- Cost to livestock producers estimated at \$450 million, or \$376 per firm.
- Estimated to add 4 cents/lb. to retail price of beef and 47 cents/cwt. to live price of cattle and sheep
- Estimated 0.9% decline in U.S. cattle numbers and 1.1% reduction in U.S. beef production