



It's Finally COOL
*Country of Origin Labeling
for Meats and Produce*

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Major changes from August 14 version

- Clarification on seafood COOL (slide 7)
- Clarification between COOL law and USDA rule (slide 26)
- Several slides added dealing with affidavits, including sample affidavit language in three parts (new slides 28-32)
- Clarification on “initiating supplier” for fruits, vegetables, nuts, ginseng (slides 24 and 50)

Introductory caveats

- Information will continually become available on the rollout of COOL
- You will be alerted to changes in this presentation via the same method you became aware of this presentation
- As retailers' and suppliers' requirements will determine how producers will “comply,” you are urged to check for edits to this presentation often.

Big questions

- Who does this affect?
- What does this affect *directly*?
- What are the labels going to say?
- When does this take effect?
- How will this work at retail?
- What does this mean to producers?
- What's it going to cost me?
- Is this going to be hard?
- What if I don't comply?

First, some background

- COOL became law in 2002 Farm Bill
 - Implementation delayed for several years
 - Many industry segments were worried about practicalities of implementing COOL
- COOL was changed in the 2008 Farm Bill
 - Ground meat problem “fixed”
 - Types of information required for compliance “fixed”
 - More labels added
- Interim Final Rule for COOL released by USDA on August 1, 2008

Who does this affect?

- Retailers and suppliers of covered commodities named in the 2002 or 2008 farm bills – not producers of livestock
- “Retailer” as defined by the 1930 Perishable Agricultural Commodities Act
 - Invoiced for more than \$230,000 in perishable ag commodities in a given year
 - 4,000 licensees operate 36,000 outlets
 - Butcher shops, exporters, restaurants, food service, salad bars, and delis are exempted

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What does this affect *directly*?

- Commodities included in the 2002 bill
 - Fresh beef, pork, fish, lamb, peanuts, fruits, and vegetables (whole muscle cuts and ground meat, not organs), wild and farm-raised fish and shellfish
- Commodities added in the 2008 farm bill
 - Chicken*, goat meat, macadamia nuts, pecans, and ginseng
- COOL was enacted in 2005 for wild and farm-raised fish and shellfish

*Turkey and eggs not included

What products are *not* affected?

- Covered commodities (cc) sold by restaurants, delis, or anywhere else other than at retail
- Any cc “processed or packaged” prior to September 30, 2008
- Processed food items sold at retail
 - “Change in character” of cc
 - Combined with another cc or another “substantive food component”
 - Breading, chocolate, tomato sauce, etc.
 - Cooking, curing, smoking, and restructuring
 - Note: simply adding water, sugar, or salt does not necessarily “change the character”

Examples of what's *not* covered

- Meatloaf
- Meat balls
- Fabricated steak
- Breaded veal cutlets
- Corned beef
- Sausage
- Breaded chicken tenders
- Teriyaki flavored pork loin
- Salad mix that includes lettuce and dressing packet
- Salad mix that includes lettuce and carrots
- Fruit cup with melons, bananas, and strawberries
- Roasted peanuts

What are the labels?

- U.S. Origin
 - Grown and processed OR born, raised, and slaughtered in the U.S.
- Product of the U.S., Country X and/or Country Y
 - Applies to muscle cuts of animals imported but not for immediate slaughter, ground meat, or commingled covered commodities
- Product of Country X and the U.S.
 - Product of covered livestock imported into the U.S. for immediate slaughter
- Product of Country X
 - Imported products

Alternate way to look at COOL designations

- Four origin categories for **meat**
 - A. Product of the U.S.
 - B. Multiple Countries of Origin
 - C. Imported for Immediate Slaughter
 - D. Foreign Country of Origin
- This is presented as you might hear references to “A origin beef” or “B origin pork”

U.S. Origin

- Meat items
 - (1) must be born, raised, and slaughtered in the US (from Alaska and Hawaii, animals can spend up to 60 days in Canada during transshipment) or
 - (2) present in the U.S. on or before **July 15, 2008**, and once present, never left the U.S.

Product of the U.S., Country X, and/or Country Y

- Applies to **muscle cuts** from covered commodities produced from an animal that was imported from another country into the U.S. but NOT for immediate slaughter
 - Think “Born in another country, raised and/or slaughtered in the U.S.”
 - Origin of resulting retail product can be labeled “Product of the US, Country X and/or Country Y” where X and Y represent the countries of “actual or possible origin”

Sample labels for multiple country products

- Pork from feeder pigs born in Canada, imported to U.S. for finishing and slaughter
 - “Product of the U.S. and Canada”
- Beef from cattle born in U.S., Mexico, and Canada, finished and slaughtered in U.S.
 - “Product of the U.S., Canada, and Mexico (countries may be listed in any order)”
- More descriptive labels can be used as long as they can be substantiated

Key point about product of U.S. origin and product of multiple countries that include the U.S.

- One label can be used for meat from animals eligible for “Product of U.S.” and animals qualifying for “Product of U.S., Country X, and/or Country Y”
 - Under the law, it says product of U.S. origin **MAY** be labeled “Product of the U.S.”
 - This provision will allow packer/suppliers to minimize how many different labels they use by packing all muscle cuts they box under one label, “Product of U.S., Canada, and Mexico”
 - Sometimes referred to as “the marriage label”

Product of Country X and the U.S.

- Applies to muscle cuts from covered commodities produced from an animal that was imported from another country into the U.S. **for immediate slaughter**
 - Think “born and raised in Country X, but slaughtered in the U.S.”
 - Meat from animals born, raised and finished in Canada and imported to U.S. for slaughter
 - “Product of Canada and U.S.” – and the order matters

Product of Country X

- Applies to imported covered commodities, both meat and non-meat items
 - If no production or processing occurs in the U.S., the product retains the country of origin as was reported to US Customs and Border Protection
- Cannot lose the “Product of Country X” designation just by cutting and repackaging Country X origin product at a store or distribution center in the U.S. unless you meet the definition of a “processed food product”

How is ground meat labeled?

- Applies to ground beef, pork, chicken, goat, or lamb
- Declaration shall contain all countries of origin contained therein or “reasonably contained therein”
- “Reasonable” defined
 - When a processor hasn’t had any ground product from Country X in his inventory for more than 60 days, Country X shall no longer be possible as a country of origin

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Ground meat label example

- Processor has ground beef and lean trim product on hand that is (a) of multiple origin from U.S., Canada, and Mexico, (b) imported from Australia, and (c) imported from New Zealand
 - Hamburger will be labeled “Product of the U.S., Canada, Mexico, Australia, and New Zealand”
- Grinder runs out of New Zealand inventory and does not replace it
 - For 60 days, it is “reasonable” for grinder to leave the label unchanged
 - After 60 days, grinder must remove “New Zealand” from label

What about labels for remote sales?

- Internet sales
 - Retailer can denote country(ies) of origin on the website and/or the physical label on the product purchased remotely

When does COOL take effect?

- By September 30, 2008, retailers must supply country of origin on retail packaging or display
- All product that is “processed or packaged” before the implementation date is excluded from COOL
- “...it is reasonable to allow time for covered commodities that are already in the chain of commerce and for which no origin information is known or been provided to clear the system.”

So what? This applies to retailers...doesn't it...?

- Retailers are covered under the law
- Some suppliers (packers) are responsible for initiating COOL declaration
- Suppliers have to have some way to prove origin
- On the day the requirements are effective, you will need to have proof of what country your livestock or produce came from
- This applies to *you*

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Table 1.--Estimated Number of Affected Entities

Type	Firms	Establishments
Beef, Lamb, Pork, and Goat		
Cattle and Calves	971,400	971,400
Sheep and Lambs	69,090	69,090
Hogs and Pigs	65,540	65,540
Goats	9,146	9,146
Stockyards, Dealers & Market Agencies	6,807	6,807
Livestock Processing & Slaughtering	2,943	3,207
Meat & Meat Product Wholesale	2,509	2,706
Chicken		
Chicken Producer and Processor	38	168
Chicken Wholesaler/Distributor	510	564
Perishable Agricultural Commodities		
Fruits & Vegetables	79,800	79,800
Ginseng Farms	190	190
Ginseng Dealers	46	46
Frozen fruit, juice & vegetable mfg	155	247
Fresh fruit & vegetable wholesale	4,654	5,016
Peanuts, Pecans, & Macadamia Nuts		
Peanut Farming	650	650
Macadamia Farming	53	53
Pecan Farming	1,119	1,119
Roasted nuts & peanut butter mfg	8	9
Peanut, Pecan, & Macadamia Wholesalers	5	5
General line grocery wholesalers	3,037	3,436
Retailers	4,040	36,392
Totals:		
Producers	1,197,026	1,197,156
Handlers, Processors, & Wholesalers	20,674	22,043
Retailers	4,040	36,392
Grand Total	1,221,740	1,255,591

**COOL
applies
to a
bunch
of folks**



Packer as the “initiating supplier”

- Law says a packer “must have possess or have legal access to records that are necessary to substantiate” an origin claim
- This starts the ball rolling backward all the way to the farm and ranch
 - For meat, “initiating supplier” is the packer
 - For non-meat, it’s the grower

What does this mean to you?

- Operationally, probably not much
 - Producer affidavits are acceptable evidence for slaughterers to base a COOL declaration
- Marketing, probably not much in the short term
 - This is mandatory, so no one is going to pay you for your ability to prove origin
 - Indirectly, you could benefit
 - Age- and source-verified programs

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More on producer affidavits

- Law says producer affidavits are sufficient to verify country of origin. USDA's rule requires:
 - Affidavit is made by someone with “first hand knowledge” of the origin, and
 - Affidavit identifies “the animals unique to the transaction”
- Second part is open to interpretation
 - Interpretation will be made by retailers to suppliers, then suppliers to producers
 - According to USDA-AMS, “the first handler of a covered commodity (packer) would determine what constitutes sufficient information and documentation to ensure compliance from their perspective.”

More on producer affidavits

- According to USDA-AMS, “USDA would not require witnessed or notarized affidavits to meet that requirement of documentation.”
- Good news – we don’t all have to become notaries public

Industry worked together on affidavits

- On Friday, Sept. 5, a coalition of producer groups and marketing groups submitted ideas for COOL implementation to USDA Under Secretary Bruce Knight
 - Draft language of affidavits to verify the origin of live animals included
- Early indications are USDA will accept the recommendations

Recommended statement (part 1)

Continuous Country of Origin Affidavit/Declaration: *(The following affidavit statement could be used by any operation in the livestock chain attesting to the Country of Origin of livestock but particularly for first-level producers.)*

As an affidavit is deemed by USDA as an official record of Country of Origin, I attest through first-hand knowledge, normal business records, or producer affidavit(s) that all livestock referenced by this document or other communications specific to the transaction and transferred are of _____ origin. Should the origin of my livestock become other than that described above, I agree to notify the buyer/agent when this occurs.

This affidavit/declaration shall remain in effect until revoked in writing by the undersigned and is delivered to _____ (agent/buyer).

Signature

Date

Business/Farm/Ranch Names/Location

Recommended statement (part 2)

Country of Origin Declaration Language for Seller/Buyer Invoices and Other Sales Documents with a Continuous Declaration on Record or as a Stand-Alone Declaration of Origin: *(The following declaration of Country of Origin statement would be used as a supporting declaration of origin specific to transactions involving livestock from persons with a continuous affidavit on file, or as a stand-alone affidavit/declaration on specific transaction(s) on invoices, check-in sheets and other sales documents.)*

I attest that all livestock referenced by this document and transferred are of _____ origin.

Signature

Date

Recommended statement (part 3)

Appended Declaration Statement for Immediate/Direct Supplier

Transactions to Packers: (Some packers may request that their immediate/direct suppliers add the following language to the continuous or sales record affidavit/declaration statements to affirm the period of time in which Country of Origin records would be maintained by their immediate suppliers. This may be necessary as packers are required by law to maintain Country of Origin records for one-year and they must be able to obtain records from their immediate suppliers within that one-year period to substantiate country of origin claims.)

I attest that _____ (insert business name) has, and will maintain, records of livestock origin for one year from the date of delivery of the livestock to the packer/buyer.

I attest that these records reflecting specific transactions are available for inspection for the sole purpose of compliance with an audit as described by the country-of-origin labeling provisions contained in the Farm Security and Rural Investment Act of 2002 as amended. (P.L. 108-767, USCA section 1683a, 2003.)

What does each part of the recommended statement accomplish?

- Part 1
 - Allows producers to provide one affidavit attesting to the origin of his livestock for an undefined period of time
 - Meets the “first-hand knowledge” requirement
- Part 2
 - Allows livestock auctions/buyers/agents to combine affidavits/declarations from multiple sellers and “re-affidavit” livestock to buyers
 - Meets the “animals unique to the transaction” requirement
- Part 3
 - Gives packers confidence the records and/or affidavits they may need someday to satisfy an audit are maintained for a minimum amount of time
 - Meets the recordkeeping requirements placed on retailers and suppliers

How will this work at retail?

- Retailers must make country(ies) of origin available to the consumer
 - Wide range of labeling alternatives
 - Label, placard, sign, stamp, band, twist-tie, pin tag
 - Must be displayed in a “conspicuous” location
 - Legible, but no fonts/font sizes specified
 - Abbreviations only rarely accepted
 - U.S., US, U.S.A., USA all acceptable
 - Symbols or flags alone are not acceptable

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What is this going to cost me?

USDA Estimated First-Year Implementation Costs

Producer	Avg. Cost
Beef (\$9/head)	\$314
Lamb and Goats (\$3.50/head)	\$128
Pork (\$1/head)	\$1,599
Chicken (\$0/head*)	\$0
Fruits, Vegetables, and Ginseng	\$376
Peanuts, Pecans, and Macadamia Nuts	\$258

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* Assumed zero since contract poultry growers do not own the birds under their care.

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What's this going to cost the industry?

USDA Estimated Implementation Costs per Firm and Per Establishment

	Per Firm	Per Establishment
Producer	\$376	\$376
Supplier/ intermediary	\$53,948	\$50,598
Retailer	\$235,551	\$26,149

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What's this going to cost me? Is this going to be hard?

- Could be as cheap as a Big Chief tablet or expensive as a computer, depending on how you choose to track your records
 - USDA estimates \$376 per “producer”
- Retailers have to keep records for 1 year
 - So that means you do, too

What's this going to cost me? Is this going to be hard?

- 2008 Farm Bill forbids USDA to require records beyond those “maintained in the course of normal business”
- Law describes “animal health papers, import or customs documents” as such records
- Subsequent USDA publications describe birth records, receiving records, purchase records, tag ID system, feed bills, and State Brand requirements as “useful”

What's this going to cost me? Is this going to be hard?

- If you're in an NAIS-approved program, that qualifies as proof of origin for COOL
- Animals can be identified in group lots
 - Will be important for hogs, chickens, and other covered commodities

What if I don't comply?

- Non-complying retailers and suppliers
 - Civil fines of up to \$1,000 per violation
 - Rs and Ss have 30 days to “take necessary steps to comply with the law after receiving notice from the Secretary”
- Fines do **not** apply to producers
 - Retailers will tell suppliers what they require of them
 - Suppliers will tell producers what they require of them
 - If a producer doesn't comply, he will likely lose a marketing option

Information on COOL specific to
fruits, vegetables, certain nuts,
and ginseng
(all non-meat covered
commodities)

Comparison with COOL for meat

- Only differences from previous slides are presented in subsequent slides
- COOL for fruits, vegetables, certain nuts, and ginseng is largely similar to COOL for meat and chicken

Processed foods

- COOL still doesn't apply to "processed food products"
 - Bag of frozen peas and carrots
 - Chocolate-covered strawberry
 - Roasted peanuts
 - Caramel, chocolate, and pecan candy bar
 - Eggplant parmigiana
 - Fruit medley with melons, bananas, and cherries
 - Salad mix with lettuce and carrots

Unresolved questions about “processed food products”

- Medley of melons, bananas, and cherries exempted
- Medley of watermelon, cantaloupe, and honeydew might **not** be exempted
 - Depends on how broadly you classify “melons”
- Similar issue for a bag of lettuce and carrots versus a bag of romaine and red leaf lettuce

United States origin

- Farm bill says “exclusively produced in the United States”
- Interim final rule
 - “From products produced in the United States”
 - “Produced” = “grown”
 - If a covered commodity is produced in the U.S. and then leaves the country for processing, it can maintain U.S. origin
 - If the identity of the product is maintained, and
 - U.S. origin claim can be substantiated with records

Imported produce

- If grown outside the U.S., the produce/nuts/ginseng maintains the origin as declared to Customs and Border Protection, assuming there is no “substantial transformation” in the U.S.
- That last point is moot because that “substantial transformation” would likely make the product “processed”

State, local, or regional origin

- Included into the 2008 Farm Bill for non-meat covered commodities only
- Allows for state, local, or regional labeling of covered produce, peanuts, pecans, macadamia nuts, and ginseng
 - “Washington apples”, “Vidalia onions”
- USDA extended this concept to imported covered commodities in interim final rule

“Commingled” products

- Single type of produce/nut/ginseng sourced from multiple countries
 - Container of strawberries from United States and Mexico
 - “Product of the U.S. and Mexico”
 - Frozen peas from U.S. mixed with frozen peas from Country X: Product of U.S. and Country X
 - Frozen peas from U.S. mixed with frozen carrots from Country X: country of origin labeling does not apply
- Must be labeled in accordance with existing Federal labeling requirements

Bulk containers

- May contain covered commodities from multiple countries of origin
- All possible countries of origin must be listed
 - Retail location regularly sources bananas from Costa Rica, Guatemala, and Ecuador
 - Bin label must have all three countries, unless you can substantiate a claim of only one or two countries of origin with records
- Several unresolved issues with bulk sales

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Pre-labeled produce/nuts/ginseng

- Pre-labeled, consumer-ready products
 - Retailer needs to maintain no records beyond the country of origin claim printed on the case-ready packaging
- Unresolved issue: is a PLU sticker considered “labeling”?

Who initiates COOL records?

- Firm that harvests produce, certain nuts, and ginseng is the one who initiates country of origin claims
 - Whoever pulls it out of the ground or picks it off the tree is responsible for declaring origin
- “Producer” and “packer/supplier” terms from meat COOL often refer to the same person or firm for non-meat COOL

Conclusions

- COOL will start on or before Sept. 30
- By law, you don't have to keep new types of records
- Be ready to sign affidavits and keep your records for at least a year
- AMS will engage in a nationwide industry outreach and education program in first six months of COOL (Oct 2008 – Mar 2009)

Resources used in developing this presentation

- www.ams.usda.gov/cool
 - Master USDA site dealing with COOL
 - Access the rule and the law from there
- <http://www.ams.usda.gov/AMSV1.0/getfile?dDocName=STELPRDC5071200>
 - “Livestock Producer Compliance with the COOL Interim Final Rule”

Questions?

- Call:
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