

Country of Origin Labeling - COOL

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■ Legislative History

The 2002 U.S. farm bill included a controversial provision mandating country of origin labeling (COOL) for red meats, fish, shellfish, peanuts, and “perishable agricultural commodities” i.e. fresh or frozen fruits and vegetables. On January 27, 2004 Congress pushed back implementation of COOL until September 30, 2006 for all covered commodities except fish and shellfish. COOL went into effect for fish and shellfish on April 4, 2005. On November 10, 2005 Congress further delayed implementation of COOL for the remaining commodities until September 30, 2008.

The 2008 farm bill made some significant changes to COOL. Chicken, goat, ginseng, pecans and macadamia nuts were added to the list of covered commodities. A state label (e.g. Washington apples, Idaho potatoes) may be used in lieu of a U.S. label. Meat from animals slaughtered before September 30, 2008 was exempted. Any animal in the U.S. on July 15, 2008 that remains in the U.S. will be treated as a U.S. raised animal. The potential fine was reduced from \$10,000 per violation per day to \$1,000 per willful violation.

Because of the short time from final passage of the 2008 farm bill (06/18/08) until implementation of COOL (09/30/08), USDA/AMS has said the first six months will be used to “conduct an industry education and outreach program concerning the provisions and requirements of this rule.” Presumably this means few, if any, fines prior to April 2009.

COOL rules are quite different than normal country labeling rules. Standard country labeling requirements identify the point of final processing as the country of origin. For example, if Chinese silk is woven into fabric in the Philippines which is cut and sewn into a tie in New York, the tie is labeled as a product of the U.S. Under most situations, the COOL law requires the listing of all countries in which an animal is raised and the meat is processed. This will require a considerable amount of record keeping in some cases. Because

of the large amount of Canadian pork and hogs shipped to the U.S., COOL is a very important issue to Canadian pork producers.

■ Intent

COOL was originally pushed, not by consumers, but by a group of U.S. farmers and ranchers. Many U.S. producers felt COOL would be beneficial to farm prices. Some felt a sufficient number of U.S. consumers would discriminate against imported foods as to create a price premium for U.S. foods. Others felt the recordkeeping and labeling requirements would be sufficiently burdensome to cause processors and retailers to shun imported foods and thereby gain market share for U.S. foods.

COOL has become a consumer issue. The widespread publicity regarding melamine in Chinese food products led to increased consumer concern about the safety of imported foods. Consequently, consumer interests largely have taken control of COOL away from agricultural groups.

COOL is not as popular with those farmers who fear that the premiums consumers may be willing to pay for U.S. origin food are less than the estimated \$2 billion annual implementation cost that comes with COOL. Congress appropriated no money to implement and monitor COOL. Consequently, the cost of labeling is likely to be borne by farmers and ranchers through wider marketing margins and a smaller share of the consumer's food dollar.

Nor is COOL popular with the management of grocery stores. It is the retailer who faces the threat of fines for not labeling covered commodities and being able to verify the country of origin of the food they sell.

■ Who Has to Label?

Grocers have to label. The COOL law applies to non-restaurant retail sales of covered commodities. Only stores that annually invoice over \$230,000 of fruits and vegetables must label their covered commodities for country of origin. Restaurants, cafeterias, delicatessens, meat markets and small stores (annually selling less than \$230,000 of fruits and vegetables) are exempt from labeling.

■ What's Covered by COOL

Commodities covered by COOL include muscle meats of beef, veal, lamb (but not mutton), goat, pork, and chicken plus ground products of these same meats. Also covered are fish and shellfish, peanuts, pecans, macadamia nuts, ginseng, and fresh or frozen fruits and vegetables.

The law applies to sales of non-mixed, unprocessed products. Pork that is an ingredient in a food product such as frozen pizza is not covered by COOL, nor are processed products such as bacon and ham. Ground pork is covered by COOL, but sausage is not. Merely adding water does not exempt the product from the requirements of COOL.

Ground beef is a special challenge. Ground beef is frequently a mixture of domestic and imported meats. Under the interim final rule, the label must include all countries in which the cattle were raised or the beef processed.

■ COOL Meat Labels

USDA's original guidelines called for a label that specified where the animal was raised and where processing occurred. For example, a pork chop from a hog that was born, raised, slaughtered and processed in the U.S. would be labeled simply a product of the U.S. However, ground beef that is a mixture of trimmings imported from Australia, trimmings from feeder cattle imported from Mexico, and trimmings from U.S. born cattle would be labeled - "Product of Australia, From Mexican Cattle Raised and Slaughtered in the U.S., and Product of U.S." There were some modifications in the 2008 farm bill meant to make tracking and labeling easier. USDA's current rules have established four categories for meat origin:

Category A – U.S. Origin

This label can only be used on meat from animals:

- born, raised and slaughtered in the U.S., **or**
- born and raised in Alaska or Hawaii and shipped for fewer than 61 days through Canada to the U.S. and slaughtered in the U.S., **or**
- meat from animals slaughtered in the U.S. that are "grandfathered" by being in the U.S. on July 15, 2008 and continuously thereafter.

Category B – Multiple Countries of Origin

Meat from animals born in Country X and brought into the U.S. for raising and slaughter is labeled as Product of the U.S. and Country X.

Category C – Imported for Immediate Slaughter

Meat from animals slaughtered soon after being imported from Country X is labeled as product of Country X and the U.S.

Category D – Foreign Origin

Meat that is imported into the U.S. must be labeled with the country of origin.

■ Meat Labeling Options

One big challenge of COOL for packers, processors and retailers is to track and correctly label meat when handling products from several countries at the same time. In order to help make this more manageable, USDA's interim final rule provides some options. Packers may voluntarily label Category A meat (U.S. only) with a Category B label (multi country) if Category A animals are slaughtered on the same day and in the same plant as Category B animals. For example, if a U.S. packer slaughters hogs born and raised in the U.S. on the same day as hogs born in Canada and raised in the U.S., all of the pork may carry a Product of U.S. and Canada label. Likewise, packers may voluntarily label Category A meat with a Category C label if Category A animals are slaughtered on the same day and in the same plant as Category C animals. Some U.S. packers who regularly slaughter Canadian-born hogs as part of their daily kill are making wide use of this provision by labeling all their pork as product of U.S. and Canada.

Meat processors may also take advantage of the multi country label when meat from both U.S. and foreign born animals is processed on the same day.

This labeling option is even more flexible for retailers. Retailers who process meat at their store (e.g. cutting and packaging) may voluntarily label Category A meat (U.S. only) with a multi country label if meat from Category A animals is processed within 60 days of Category B or C or D meat. For example, a retailer who processes both U.S. pork and pork from hogs born in Canada can label all of it as a product of U.S. and Canada as long as both U.S. and Canadian pork are being processed in the same store within 60 days of each other.

■ Tracking and Recordkeeping

COOL requires grocers to label covered commodities with the countries where they were produced. Since retailers will rarely have direct knowledge of this, they must rely on wholesalers and packers to provide the information. Since

packers often don't know either, they must rely on producers. The COOL law requires suppliers to make country of origin information available to retailers.

Packers may rely on a producer affidavit regarding country of origin providing it is made by "someone having first-hand knowledge" of the origin of the animals and identifies the animals in the transaction.

The farm bill prohibits USDA from implementing a mandatory animal tracking system to certify the country of origin. Grocers will have to rely on industry tracking systems to verify the country of origin of the meat they sell. This should put pressure on the marketing system to move to a more tightly integrated structure.

Retailers must keep records substantiating the country of origin of covered commodities for a period of one year after retailing the commodity. These records have to be made available to USDA inspectors within 5 business days of a request. Suppliers (including farmers) of covered commodities or of animals which yield a covered commodity, must maintain records to establish country of origin, including the immediate previous source and immediate subsequent recipient of the commodity. These records also must be maintained for one year and made available for inspection within 5 business days.

■ **Impact**

It is too early to tell the ultimate result of COOL. The impact of COOL will depend on how U.S. packers, retailers, and consumers respond to this new labeling law.

■ **Consumers' Likely Response**

Mandating country of origin labels may create a niche market for certain meats available in limited quantity. Once labeled, some consumers may find they prefer to buy Argentine beef or Canadian pork, allowing it to sell at a premium to the U.S. product, much a Danish ham and New Zealand lamb do today.

Some U.S. consumers clearly prefer to buy U.S. pork. But will enough U.S. consumers be willing to pay a higher price for U.S. pork that it will sell at a premium in grocery stores? Or, will Canadian pork sell at a premium? About 4% of the pork consumed in the U.S. is imported as pork. Another 9% of the pork consumed in the U.S. comes from Canadian born pigs that are

slaughtered in the U.S. Thus, about 87% of the pork Americans eat qualifies for a U.S. origin label.

Given that U.S. pork currently has an 87% market share, more than 87% of consumers would need to have a preference for U.S. pork for it to command a higher price at retail. Since Canadian pork has only a 4% market share (another 9% is Canadian-U.S. pork), anything more than 4% of U.S. consumers wanting to buy Canadian pork offers the potential for a price premium.

Since a large share of meats is not covered by COOL (food service and small sellers) it is reasonable to expect product will be shifted to the destination with the higher price. This reduces the likelihood of price differentials in grocery stores due to country of origin.

■ Retailers' Likely Response

Although some U.S. consumers may prefer the option of buying imported meats, they may not get the opportunity. Marketing products with different labels is a logistical and recordkeeping hassle. Since selling only U.S. meat is simpler than segregating and tracking product from several countries, some retailers are likely to prefer to buy only U.S. meats.

■ Packers' Likely Response

For most large packers, segregating meat by the source of the animals is difficult and costly. For those U.S. packers who slaughter few imported animals, adopting a policy of only slaughtering animals born and raised in the U.S. makes economic sense. However, given the 10 million hogs annually imported from Canada, if all U.S. packers give up killing Canadian hogs several U.S. kill plants will need to be closed.

The option of placing the same multi country label on all their product has great appeal. Ultimately, what retailers want and are willing to pay for will determine the packers' approach to labeling.

■ Summary

The new Country of Origin Labeling requirements took effect in the U.S. on September 30, 2008. Most non-processed beef, pork and chicken sold in grocery stores must be labeled with the countries in which the animals were

raised and slaughtered. There are a number of potential outcomes from COOL. The law could be loosely enforced or repealed. Packers may make widespread use of multi country labels. In this case COOL is likely to have little impact on pork or hog trade between the U.S. and Canada. Canadian pork has the potential to develop into a niche market and sell at a premium to U.S. pork. U.S. retailers may resist handling more than one label, causing packers to resist buying hogs born in Canada. Time will tell.

■ References

USDA/AMS COOL homepage:

<http://www.ams.usda.gov/AMSV1.0/ams.fetchTemplateData.do?template=TemplateM&navID=CountryofOriginLabeling&rightNav1=CountryofOriginLabeling&topNav=&leftNav=CommodityAreas&page=CountryOfOriginLabeling&acct=cntryoforgnlbl>

Canadian beef and pork industry COOL homepage:

<http://meatcool.info/>