



CIS 1146

Country of Origin Labeling (COOL) and Livestock Producers

Danielle Gunn

Extension Educator, University of Idaho
Extension, Fort Hall

C. Wilson Gray

Former Extension Economist,
Department of Agricultural Economics
and Rural Sociology, University of Idaho

Contents

- 1 Introduction
- 2 Legal Timeline of COOL Legislation and Its Effects
- 2 What Is COOL?
- 3 Was the Elimination of COOL for Beef and Pork Beneficial or Detrimental?
- 3 What Is Currently Labeled?
- 3 Labeling Requirements
- 4 COOL Compliance
- 4 How Is Country of Origin Determined?
- 4 As an Animal Producer, What Steps Do I Take to Stay Current with the Law?
- 6 Conclusion
- 6 Epilogue
- 6 Further Reading
- 8 Appendix

Introduction

COUNTRY OF ORIGIN LABELING (COOL) has experienced a complicated twenty-plus-year political history of delays, repeals, and modifications. It originally became law with the passage of the 2002 Farm Bill; however, Congress twice delayed its implementation. Amendments to the COOL law were made in the 2008 Farm Bill and determined COOL's start date as September 30, 2008. Yet a "final rule" for COOL, released on January 12, 2009, did not become effective until March 16, 2009.

final rule. A federal regulation, published in the *Federal Register*, that has advanced through the proposed rule and public comment stage and provides new or revised requirements and their effective date.

Although that version ultimately provides details about how to implement and enforce the rule, more changes ensued. The law was again amended on May 23, 2013, to eliminate the commingling of muscle-cut covered commodities of different origins. Then, on December 18, 2015, Congress passed a related amendment under the Consolidated Appropriation Act of 2016, officially removing muscle cuts and ground beef and pork from COOL requirements for retailers and their suppliers. That same year, to conform with the congressional mandate, the United States Department of Agriculture Agricultural Marketing Service (USDA AMS) published the final rule. In response to legal challenges from the World Trade Organization (WTO), the AMS also removed beef and pork products from COOL requirements to comply with US international trade obligations. This change occurred as a result of the WTO determination that the COOL requirement discriminated against imported meat production and was a technical barrier

to trade (National Agricultural Law Center n.d.). As a result, the WTO authorized Mexico and Canada to impose retaliatory tariffs on US products. Today, because beef and pork are no longer subject to COOL control, the AMS lacks regulatory authority over statements made by either retailers or suppliers of the two.

The mandatory COOL law (sometimes referred to as MCOOL [Mandatory Country of Origin Labeling] by the USDA AMS) requires that producers, other suppliers, and retailers provide country of origin information in order to sell specified products. Given the complexity of the legislation's history and application, this publication provides information on the law's background, what food sectors COOL regulates, and how affected producers can track and provide documentation regarding the origin of their animals.

Legal Timeline of COOL Legislation and Its Effects

- 
- 2002:** 2002 Farm Bill passes; COOL becomes law.
 - 2008:** Farm Bill amended; COOL's start date determined to be September 30.
 - 2009:** A "final rule" to the bill changed COOL's start date to March 16.
 - 2013:** COOL law amended to eliminate commingling of muscle-cut covered commodities of different origins.
 - 2015:**
 - Congress passes an amendment to the Consolidated Appropriations Act of 2016, officially removing muscle cuts and ground beef and pork from COOL requirements for retailers and their suppliers.
 - USDA AMS publishes the final rule and removes beef and pork products from COOL requirements to comply with US international trade obligations.
 - The WTO authorizes Mexico and Canada to impose retaliatory tariffs on US products.

What Is COOL?

The COOL law is federal regulation that requires any person or entity engaged in the business of supplying a COOL covered commodity to food retailers, such as supermarkets, club warehouses, and grocery stores (whether brick-and-mortar or online), to provide to consumers country-of-origin labeling for the following products:

- muscle cuts and ground portions of venison, chicken, lamb, and goat
- perishable agricultural commodities, including wild-caught and farm-raised fish and shellfish, fresh and frozen fruits and vegetables; raw peanuts; pecans; ginseng; and macadamia nuts

Foods that have undergone processes that change their character, such as cooking, curing, or smoking, or those that have been combined with other food components, are exempt. Examples of processed foods include canned tuna, roasted peanuts, salad mixes, flavored meats, and orange juice. Food-service establishments, such as restaurants, cafeterias, and food stands, and suppliers (butcher shops and fish markets) are also exempt. Anyone or any entity that imports, grows, distributes, handles, packs, and processes COOL covered commodities must maintain COOL records for one year from the sell date. COOL information can be typed, printed, or handwritten directly on the product, on the shipping container, or in a document that accompanies the product through retail sale. Labeling formats include placards, signs, labels, stickers, bands, and twist ties. Online retailers can provide information on a sales vehicle or at the time of delivery.

Some meat producers might assume that COOL is a food-safety law. It is not. In fact, COOL is a marketing program that ensures consumers receive one piece of information about covered commodities: the country of origin. It does not regulate food safety because its enforcement does not alter who supplies commodities nor does it affect the requirements for supplying them in the marketplace. All food products covered under COOL have already passed existing food-safety standards. The AMS administers COOL because it is a marketing program. Food-safety issues are handled by the Food Safety and Inspection Service or the Animal and Plant Health Inspection Service, in association with the Food and Drug Administration.

Was the Elimination of COOL for Beef and Pork Beneficial or Detrimental?

The amendments implemented in 2009 and 2013 incurred significant costs to producers, processors, wholesalers, and retailers of beef and pork products. The federal register currently estimates economic benefits from the removal of beef and pork at approximately \$1.8 billion in cost avoidance, even though all entities listed changed practices in 2009 and 2013 to identify and label the country of origin on their products. Other benefits include reduced costs in labor and other inputs necessary to track and label beef and pork products. The USDA AMS determined that the withdrawal of beef and pork products from the 2009 and 2013 COOL regulations translated into \$1.832 billion cost savings for beef and pork producers, intermediaries, and retailers and that 992,781 firms and 1,027,204 operations were affected (USDA AMS 2016).

The only costs of the rule to the US consumer involve the loss of information. Because of the rule changes in 2016, consumers no longer know where their beef and pork products originated from. They have lost the option to choose these products that are identified as being produced in the United States. The lack of voluntary country-of-origin labeling programs prompted the USDA to assume that consumers weren't interested in knowing this information nor wanted to pay the price premiums associated with labeling to cover the additional costs.

What Is Currently Labeled?

Many, but not all, retailers must label lamb, goat, and poultry products (covered commodities) with country-of-origin information. The term “lamb” refers to any meat from sheep, including mutton. To help retailers fulfill this requirement (which has been in effect since 2016), packers and processors that supply covered commodities to retailers must provide COOL information to them. They do this in a number of ways, which includes providing labels to the retailer or labeling the product directly.

Other information that appears on a label designates a meat product as falling into one of four general categories:

- **Product of the United States**—A covered commodity derived “from an animal that is exclusively born, raised, slaughtered, and packaged in the United States,” according to the AMS final rule.
- **Multiple countries of origin**—A product, whose animal it was derived from was born and/or raised in a different country or countries and then slaughtered in the United States. Covered commodities in this category have to identify all the relevant countries, including the country in which slaughter took place.
- **Animals imported for immediate slaughter**—Covered commodities from animals raised in another country but slaughtered in the United States fall into this category.
- **Imported finished products to be sold at retail**—Indicates that meat products imported from another country are a product of that country.

According to the AMS final rule, source countries of covered commodities should be identified using “abbreviations and variant spellings that unmistakably indicate the country of origin.” For example, “U.S.” represents the United States and the abbreviation “U.K.” can represent “the United Kingdom of Great Britain and Northern Ireland.” Symbols or flags alone are not acceptable.

Labeling Requirements

Retail labels for all US-origin muscle-cut products of chicken, lamb, and goat meat must state, “Born (or Hatched), Raised, and Slaughtered (or Harvested), in the U.S.” The COOL declarations for imported muscle cuts are determined by US Customs and Border Protection. Imported muscle cuts of chicken, lamb, or goat meat may simply state, “Product of Country X” (the name of the exporting country) (USDA AMS 2022d). Ground chicken, lamb, or goat meat must list all possible countries included or that may be reasonably included. Fruits, vegetables, peanuts, pecans, macadamia nuts, and ginseng require a declaration on the label of the location where the product was harvested. Fish and shellfish must include labeling that also identifies the production method (farm-raised or wild-caught) (USDA AMS 2022d).

COOL Compliance

The USDA conducts supplier traceback audits from retailer records to determine the accuracy of COOL and production-method claims. Any suppliers may be audited to verify information.

A meat product from lamb, goat, or chicken must bear a COOL label or is subject to labeling providing COOL information if it is sold at retail **and** is

- a muscle cut or
- a ground product.

The product is EXEMPT from COOL labeling requirements if it is

- sold at a food-service establishment (such as a restaurant, deli, or other institution)

OR

- has undergone specific processing resulting in a change of character (such as cooking, curing, smoking, or restructuring) or has been combined with at least one other covered commodity or other substantive food component. The exemption includes, for example, the following: (a) hot dogs and sausages, (b) lunch meat, (c) cooked products, (d) breaded products, (e) cured products, (f) products in which the meat is an ingredient (e.g., spaghetti sauce, pizza, frozen dinners), (g) fabricated steak, (h) meatloaf, and (i) marinated pork tenderloin.

The labeling requirement states that “*in determining what is considered reasonable, when a raw material from a specific origin is not in a processor’s inventory for more than 60 days, that country shall no longer be included as a possible country of origin.*” Warren Preston, former associate deputy administrator of AMS, has elaborated on this statement, explaining that

the requirement for ground meats means that a processor does not have to change labels immediately if it runs out of product from a country listed on the label. For example, suppose a meat grinder sources trimmings from lambs originating in the U.S., China, and Turkey, and lambs from New Zealand and Australia. The country-of-origin label would need to list the U.S., China, Turkey, New Zealand, and Australia, even though a particular batch might not include lamb from one or more of those countries.

Suppose then that the processor depleted its inventory of Australian lamb and did not replenish it. Then the current labels would be in compliance for 60 days. After 60 days, Australia would have to be deleted from the label.

However, if the inventory was replenished with Australian product on day 60, then the previous label would continue to be valid.

How Is Country of Origin Determined?

The AMS allowed animals present in the United States on or before July 15, 2008, that have remained continuously in the United States to be certified as US origin. While this grandfathered in a few animals, mostly Canadian and Mexican feeder cattle, it relieved a recordkeeping problem for feedlots where animals may have commingled, thus making indeterminate their country of origin.

To comply with this rule, all affected producers should inventory all animals on-farm. The records may well become useful in the future since animals are culled or sold after back-grounding in later years.

Beyond that, firms licensed as retailers under the Perishable Agricultural Commodities Act of 1930 must keep records and other evidence used to establish country of origin for one year. Suppliers must maintain documents that identify the previous source and next recipient of covered commodities for one year after a transaction. The supplier (i.e., producer) who initiated the country-of-origin claim must also maintain for one year documentation that verifies the claim. Currently, the slaughter facility has primary responsibility, but all suppliers in the marketing chain need to retain appropriate records.

As an Animal Producer, What Steps Do I Take to Stay Current with the Law?

The 2016 final rule states that “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 one year from the date of the transaction.”

Affected producers should keep records that meet these requirements, whether or not new ones are needed, and ensure that they are organized and thus available on request.

Although affected producers are not directly regulated by the COOL final rule, they supply covered commodities and thus are required to provide affidavits to prove animal- and other food-origin information. If producers do not comply with the law, they cannot sell their products to feeders, processors, or retailers.

COOL law allows the use of producer affidavits to initiate an origin claim, which can include identification tagging or other recordkeeping systems. Those with first-hand knowledge of all animal origins and identities involved in the transaction must provide the information. At minimum, affidavits for food producers should include the following information:

- Owner and location
- Type and sex of animals
- Breeding herd inventory of purchased animals
 - » Cull sales
 - » Raised animals
 - » Births

For selling purposes, extract the following information from your records for the sale affidavit:

- Country of birth
- Number and sex of head involved in the transaction
- Date of the transaction
- Name of the buyer
- Seller's contact information

It is especially important for a producer to document herd size and composition routinely. Indeed, maintain inventory records on breeding animals since sales occur for an undefined period of time and origin information must be updated routinely. On-site records containing animal-origin information are very helpful, easy to maintain annually or quarterly, and can include the following:

- Beginning inventory
- Births, purchases, and leases

- Sales and deaths
- Ending inventory

Useful supporting materials include

- production records
- health records
- feed bills
- lambing and kidding records
- purchase and sale receipts
- statements of identification and recordkeeping procedures

Any subsequent producer or buyer that commingles animals from several sources must rely on previous affidavits to formulate their own affidavit for the origin of the new group of animals. In this case, the party responsible for commingling animals provides proof of origin. This party must also retain all original affidavits and/or other appropriate records for proof of origin for a minimum of one year. Additional records that can be used for origin verification include birth records, purchase/receiving records, health papers, receipts, animal inventory and/or feeding records, and brand inspections. Animals identified under the National Animal Identification System (NAIS) are compliant with COOL law. However, under COOL law, official tagging systems under NAIS are not mandated or regulated.

Packers and processors may require suppliers to provide records or access to records to substantiate origin claims. The COOL law also specifies that packers who participate in the NAIS system or other officially recognized system, such as other countries with official identification systems, may rely on official ear tags or animal markings (such as country brand) to prove origin claims.

In 2008, the USDA AMS agreed to a universal affidavit or declaration statement that documents animal origin claims. Animal industry representatives agreed upon three universal "Country of Origin Affidavit/Declaration" statements to establish and document origin claims on sheep and goats. **They do not apply to beef and swine producers.** It is thus beneficial that other livestock operators use the attached Recommended Country of Origin/Affidavit

Declaration statements (see appendix). The three affidavit components and language are as follows:

1. **A continuous country of origin affidavit/declaration. This allows producers to develop a continuous affidavit to be kept on file by buyers, feeders, and processors until it is revoked by the affidavit's signer. This is useful when producers repeatedly sell to the same buyers.**
2. **A supporting declaration of origin for specific transactions involving animals from producers with a continuous affidavit on file or as a stand-alone affidavit/declaration related to a specific transaction. This particular language can be included on check-in sheets, invoices, and billings. This document could be used for a one-time situation when you do not foresee selling to that buyer again.**
3. **Appended declaration statement for immediate/direct supplier transaction to packers. This covers direct transactions to packers from producers, marketing businesses, and feeders. COOL law requires packers to maintain origin records for one year. Packers must also be able to obtain records from their immediate suppliers within that period to substantiate country-of-origin claims. Animals suppliers will maintain records from one year, beginning with the date of animal delivery. Such records will be made available if necessary, under COOL law.**

These statements should minimize COOL labeling costs at the producer level. Producers need to maintain records to verify declarations made in these affidavits if records are requested. Use the sample recordkeeping sheets, if desired (see appendix).

Conclusion

The COOL law provides information to consumers regarding the origin of specified food commodities. This is beneficial for consumers. However, it is still unclear whether COOL helps affected US food producers market their products. COOL excludes major retail markets such as food-service (restaurants) and processed products. Because these products do not need to carry country-of-origin labeling, foreign products compete equally with US products in these

markets. Sectors of the US agricultural industry thus face additional work and expense to provide country-of-origin information. It is not known what the cost of implementation and maintenance of COOL was to the beef and pork industry prior to the law's repeal. It is also unclear who bore the costs and how they were apportioned among industry segments. What is clear is that adequate record maintenance is crucial to comply with COOL, which creates an added burden to segments of the US agricultural industry. Regardless of the requirements and additional labor, US producers of products regulated by COOL need to ensure they continue to provide safe, wholesome products to maintain a competitive edge with other countries' products.

Producers with an interest in producing branded or other specialty products with specific marketing characteristics and/or those produced via specialized production techniques (i.e., grass-fed animals, organic crops, and others) may continue to do so. However, if the commodities are covered under COOL law, mandatory country-of-origin information must be provided.

Epilogue

The COOL law may be amended as infrastructure for food production changes and adapts to consumer demands and/or federal regulations. The authors will provide updates about any additional law modifications as they occur.

Revision of CIS 1146 (2005).

Further Reading

- American Sheep Industry Association. 2008. "Animals Producer Compliance with COOL." *ASI Weekly* 8 August.
- Iowa COOL Coalition. n.d. "Preparing for Country of Origin Labeling." <https://www.extension.iastate.edu/chickasaw/files/documents/COOLAffidavit.pdf>.
- Kirshenbaum, S., and D. Buhler. 2018. "Americans Are Confused about Food and Unsure Where to Turn for Answers, Study Shows." *Alliance for Science*. <https://allianceforscience.org/blog/2018/03/americans-confused-food-unsure-turn-answers/>. Accessed 23 August 2022.
- The National Agricultural Law Center. n.d. "Country of Origin Labeling (COOL): An Overview." <https://nationalaglawcenter.org/overview/cool/#:~:text=Retailers%20have%20the%20primary%20burden,point%20of%20sale%20to%20consumers>. Accessed 31 January 2024.

United States Department of Agriculture Agricultural Marketing Service (USDA AMS). 2008. MCOOL Rule on Ground Meats Clarified. Statement by Warren Preston, Assoc. Deputy Administrator, August 11.

USDA AMS. 2009. “Mandatory Country of Origin Labeling of Beef, Pork, Lamb, Chicken, Goat Meat, Wild and Farm-Raised Fish and Shellfish, Perishable Agricultural Commodities, Peanuts, Pecans, Ginseng, and Macadamia Nuts” (final rule). Parts 60 and 65. *Federal Register* 15 January 74(10): 2658–2701 and 2704–07. <https://www.govinfo.gov/content/pkg/FR-2009-01-15/pdf/E9-600.pdf>.

USDA AMS. 2016. “Removal of Mandatory Country of Origin Labeling Requirements for Beef and Pork Muscle Cuts, Ground Beef, and Ground Pork” (final rule). 7CFR Part 65. *Federal Register* 2 March 81(41): 10755–61. <https://www.govinfo.gov/content/pkg/FR-2016-03-02/pdf/2016-04609.pdf>.

USDA AMS. 2022a. “Common Questions & Answers” (COOL). <https://www.ams.usda.gov/rules-regulations/cool/common-questions-answers>. Accessed August 23.

USDA AMS. 2022b. “Country of Origin Labeling (COOL).” Accessed June 2022. www.ams.usda.gov/cool.

USDA AMS. 2022c. “Country of Origin Labeling (COOL) Retailer Outreach Factsheet.” Accessed May 2022. <https://www.ams.usda.gov/publications/content/cool-retailer-outreach-factsheet>.

USDA AMS (Fair Trade Practices Program). 2022d. *Country of Origin Labeling (COOL) Supplier Information*. 2 p. Accessed June 2022. <https://www.ams.usda.gov/sites/default/files/media/COOLBrochureSupplier.pdf>.

Appendix

Recommended Country of Origin Affidavit/Declaration Statements

Continuous Country of Origin Affidavit/Declaration:

(The following affidavit statement can be used by any operation in the animal(s) chain attesting to the Country of Origin of animal(s) 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 animals referenced by this document or other communications specific to the transaction and transferred are of _____ (country) origin. Should the origin of my animal(s) 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

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 statement would be used as a supporting declaration of origin specific to transactions involving animals 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 animals referenced by this document and transferred are of _____ (country) origin.

Signature

Date

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 animal(s) origin for one year from the date of delivery of the animal(s) 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 1638a, 2003).

