

# COOL Compliance

Recordkeeping should begin immediately, though violations won't be cited in the six-month education period following Sept. 30 implementation.

by **Meghan Richey**

**C**ountry-of-origin labeling (COOL) became mandatory Sept. 30, but it won't be fully enforced with citations and fines until April 2009, according to the U.S. Department of Agriculture (USDA). Instead, the marketing program will be operated under an "informed compliance approach," says Agriculture Undersecretary Bruce Knight. Suppliers and retailers of covered commodities are still expected to maintain records of origin, but for the time being USDA will focus on industry education and outreach.

"We are not going to begin enforcement until six months from [implementation] because we want to make sure that everyone will be able to come into compliance as quickly as possible," explains Agriculture Marketing Service (AMS) administrator Lloyd Day, noting that retail surveillance for fish and shellfish will continue as normal, since COOL has applied to them since 2004.

Enforcement of COOL for fish and shellfish previously received \$1 million, but there is no allocated budget for enforcement of the remaining covered commodities, raising some questions as to how USDA will fund the planned education and outreach activities, plus future enforcement of the full law. Day says they will work within the existing \$1 million for now, but estimates that

they will need about \$9.6 million to carry out full enforcement, which he hopes is included in an appropriations bill.

## How to be compliant

Beef producers now have two options for recordkeeping compliance: an affidavit to support their existing recordkeeping and business practices, or participation in a source-verified program, such as the National Animal Identification System (NAIS), a Process Verified Program (PVP, such as AngusSource®) or a Quality Systems Assessment (QSA) program.

Day explains that "affidavits must be made by someone having firsthand knowledge and identify animals unique to a transaction." Feedlots can use the individual affidavits they receive from producers as firsthand knowledge of origin and then prepare a composite affidavit to supply to subsequent purchasers. These composite affidavits will fulfill packers' recordkeeping requirements, too. Printable versions of the recommended affidavits are available at [www.beefusa.org/uDocs/countryoforiginaffidavit453.pdf](http://www.beefusa.org/uDocs/countryoforiginaffidavit453.pdf).

The interim final rule for COOL states that all livestock present in the U.S. on or before July 15, 2008, that have remained here continuously are considered of U.S. origin. Therefore, producers should keep

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an inventory record of all animals in their possession on July 15. Producers also should request a signed affidavit for all livestock that they purchase.

## The mixed origin loophole

In the weeks preceding mandatory implementation, several organizations, including Ranchers-Cattlemen Action Legal Fund United Stockgrowers of America (R-CALF USA), American Farm Bureau Federation (AFBF), National Farmer's Union (NFU) and U.S. Cattlemen's Association, called attention to a "loophole" in USDA's interpretation of COOL that would have allowed marketers to use mixed origin labels for meat that may have actually qualified for the U.S. origin label.

The mixed origin label was originally created to give packers that harvest a mixture of Mexican, Canadian and U.S. animals flexibility in labeling their product and possibly avoid incurring the additional

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## Implementation details

**Who must label.** The law dictates that "retailers" must label covered products, with a retailer being defined as any person licensed under the Perishable Agricultural Commodities Act who handles fresh and frozen fruits and vegetables with an invoice value of at least \$230,000. Butcher shops and foodservice establishments are thus exempt.

**What must be labeled?** Labels must be placed on muscle cuts and ground beef, lamb, chicken, goat and pork; fish and shellfish; fresh and frozen fruits and vegetables; and peanuts, pecans, macadamia nuts and ginseng. Processed food items are excluded, such as marinated or ready-to-eat meat products.

**Determining origin.** There are four origin categories. First, U.S. origin includes animals born, bred and harvested in the U.S. Second, mixed country origin covers animals born in another country that then come to the U.S., such as feeder calves from Canada or Mexico. The third category is for animals that come to the U.S. just for harvest, which Agriculture Marketing Service (AMS) administrator Lloyd Day clarifies by saying, "That's really Canadian cows that are coming in for slaughter. And those would be [labeled] products of Canada and the United States." The fourth category is foreign origin.

At retail, the origin labels can take the form of a placard, band, pin tag, sign, sticker or twist tie; must appear in a conspicuous location; and symbols or flags are not considered adequate labeling.

**Recordkeeping requirements.** Producers, harvest facilities, distributors, handlers, packers and processors are all considered "retail suppliers" and are required to possess or have legal access to origin records. Records must identify the covered commodity, retail supplier and origin information, and they must be maintained for one year from the date the origin declaration is made at retail.

**Compliance and enforcement.** At the request of a USDA representative, retailers and suppliers have five days to provide records that verify an origin claim. If a violation is found, they then have 30 days to initiate some kind of corrective action before a \$1,000-per-violation fine is assessed. However, only fish and shellfish will be subject to retail reviews and audits for the next six months.

"We are enabling a six-month informed compliance, or education and outreach activity, so that the 36,000 retail establishments and all those supplying to them will understand how to comply with this law," Day explains.

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expense of segregating livestock based on origin. Without segregation, most meat would have then been labeled “Product of the U.S., Canada and Mexico.”

On Sept. 26, just four days before the Sept. 30 implementation deadline, USDA revised its interpretation by clarifying that this was not its intent, nor was it the intent of Congress when COOL was passed. In an updated fact sheet of frequently asked questions about COOL (available at [www.ams.usda.gov/AMSV1.0/](http://www.ams.usda.gov/AMSV1.0/)

*getFile?dDocName=STELPRDC5071922*), USDA said, “If meat 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.”

In response, the American Meat Institute (AMI) said this now raises implementation

costs to \$3.9 billion, rather than USDA’s estimate of \$2.5 billion specified in the *Federal Register*. Knight reiterates that USDA’s estimate for first-year implementation costs is still \$2.5 billion.

Despite USDA’s clarification attempts, critics such as R-CALF Chief Executive Officer (CEO) Bill Bullard say the loophole still exists, as packers will be safe to label all meat with mixed origin labels as long as they process just one imported animal per day.

