

DEPARTMENT OF AGRICULTURE**Agricultural Marketing Service****7 CFR Part 60****[No. LS-03-04]****RIN 0581-AC26****Mandatory Country of Origin Labeling of Beef, Lamb, Pork, Fish, Perishable Agricultural Commodities, and Peanuts****AGENCY:** Agricultural Marketing Service, USDA.**ACTION:** Proposed rule.

SUMMARY: The Farm Security and Rural Investment Act of 2002 (Farm Bill) and the 2002 Supplemental Appropriations Act (Appropriations Act) amended the Agricultural Marketing Act of 1946 (Act) to require retailers to notify their customers of the country of origin of covered commodities beginning September 30, 2004. The law also requires the Department of Agriculture (USDA) to issue regulations to implement a mandatory country of origin labeling (COOL) program not later than September 30, 2004. Covered commodities include muscle cuts of beef (including veal), lamb, and pork; ground beef, ground lamb, and ground pork; farm-raised fish and shellfish; wild fish and shellfish; perishable agricultural commodities (fresh and frozen fruits and vegetables); and peanuts. This proposed rule contains definitions, the requirements for consumer notification and product marking, and the recordkeeping responsibilities of both retailers and suppliers.

DATES: Comments must be submitted on or before December 29, 2003 to be assured of consideration.

ADDRESSES: Send written comments to: Country of Origin Labeling Program, Room 2092-S; Agricultural Marketing Service (AMS), USDA; STOP 0249; 1400 Independence Avenue, SW.; Washington, DC 20250-0249, or by facsimile to 202/720-3499, or by e-mail to cool@usda.gov. State that your comments refer to Docket No. LS-03-04. Comments received will be posted to the AMS Web site at: <http://www.ams.usda.gov/cool/>. Comments sent to the above location that specifically pertain to the information collection and recordkeeping requirements of this action should also be sent to the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), New Executive Office Building, 725 17th

Street, NW., Room 725, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT:

Robert Keeney, Deputy Administrator, Fruit and Vegetable Programs, AMS, USDA, by telephone on 202/720-4722, or via e-mail at:

robert.keeney@usda.gov; or William Sessions, Associate Deputy Administrator, Livestock and Seed Program, AMS, USDA, by telephone on 202/720-5705, or via e-mail at: william.sessions@usda.gov.

SUPPLEMENTARY INFORMATION:**Questions and Answers Concerning This Proposed Rule***What Are the General Requirements of Country of Origin Labeling?*

The Farm Bill (Public Law 107-171) and the Appropriations Act (Public Law 107-206) amended the Act (7 U.S.C. 1621 *et seq.*) to require retailers to notify their customers of the country of origin of beef (including veal), lamb, pork, fish, perishable agricultural commodities, and peanuts beginning September 30, 2004. The law also requires USDA to issue regulations to implement this program no later than September 30, 2004. The law defines the terms “retailer” and “perishable agricultural commodity” as having the meanings given those terms in the Perishable Agricultural Commodities Act of 1930 (PACA)(7 U.S.C. 499 *et seq.*). Food service establishments are specifically excluded. In addition, the law specifically outlines the criteria a covered commodity must meet to bear a “United States country of origin” label.

Why Can't USDA Track Only Imported Products and Consider All Other Products To Be of "U.S. Origin?"

The COOL provision of the Farm Bill applies to *all* covered commodities. Moreover, the law specifically identifies the criteria that products of U.S. origin must meet. For beef, pork, and lamb, for example, U.S. origin can only be claimed if derived from animals that are born, raised, and slaughtered in the United States. The law further states that “Any person engaged in the business of supplying a covered commodity to a retailer shall provide information to the retailer indicating the country of origin of the covered commodity.” And, the law does not provide authority to control the movement of product, imported or domestic. In fact, the use of a mandatory identification system that would be required to track controlled product through the entire chain of commerce is specifically prohibited.

The Internal Revenue Service Essentially Uses Self-Certification, Backed Up by Selective Audits, for Those of Us Who File Income Taxes. Why Couldn't Self-Certification Work for COOL?

The COOL law requires firms or individuals that supply covered commodities to retailers to provide information indicating the product's country of origin. This information must address the production steps included in the origin claim (*i.e.*, born, raised, and slaughtered or produced). Self-certification documents or affidavits may play a role in assuring that auditable records are available throughout the chain of custody, but the auditable records must themselves also be available to ensure credibility of country of origin labeling claims.

With a Number of Covered Commodities, Particularly Produce Items, Already Labeled as to Country of Origin at Retail, How Big a Burden Will Mandatory Country of Origin Labeling Actually Cause?

It is certainly true that some covered commodities, particularly produce items, are already being labeled as to country of origin at retail establishments. It is also the case that existing Federal law and regulation (*e.g.*, PACA) help ensure the truthfulness of such labels. At the same time, the labeling of such commodities with country of origin information is neither mandatory nor universal at the current time. Thus, while the burden of implementing country of origin labeling for those commodities should be lessened, some additional effort may still be required. For example, suppliers will need to ensure that documentation is complete and properly maintained. Retailers will need to manage their product displays to ensure country of origin information is being properly conveyed to their customers.

Why Can't USDA Use The Same System To Verify Compliance With Country of Origin Labeling That It Uses for Meat Products Under USDA's Commodity Procurement Program?

There are several reasons why the systems must be different. First, the requirements for origin are not the same. The COOL law for U.S. origin requires meat products to be from cattle, hogs, and sheep that are born, raised, and slaughtered in the United States. USDA's commodity procurement program requires meat products to come from U.S.-produced livestock. The definition of U.S.-produced livestock excludes only imported meat and meat