An Avery Dennison White Paper

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Products and Services

Country of Origin Labeling: Just the Facts

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Country of Origin Labeling: Just the Facts

Introduction

The mandatory Country of Origin Labeling, (COOL), Rule became effective on September 30, 2008.

The intent of this law is to provide consumers with additional information on which to base their purchasing decisions. COOL is a retail labeling program and as such does not provide a basis for addressing food safety.

Examining the COOL Ruling

Summary:

The 2002 and 2008 Farm Bills amended the Agricultural Marketing Act of 1946 to require retailers to notify their customers of the country of origin of covered commodities. Covered commodities include beef (including veal), lamb, pork, chicken, goat, wild and farm-raised fish and shellfish, perishable agricultural commodities, peanuts, pecans, ginseng, and macadamia nuts. The implementation of mandatory COOL for all covered commodities except wild and farm-raised fish and shellfish was effective September 30, 2008.

The 2008 Farm Bill contains a number of provisions that amended the COOL provisions in the Act. These changes include the addition of chicken, goat, macadamia nuts, pecans, and ginseng as covered commodities, the addition of provisions for labeling products of multiple origins, as well as a number of other changes.

The statute also states that any person engaged in supplying a covered commodity to a retailer must make the country of origin and the production method available to the buyer.

Retail establishments that are licensed under the Perishable Agricultural Marketing Act (PACA) are required to provide COOL information to consumers. Under the PACA, a retailer is any person engaged in the business of selling any perishable commodity at retail. Retailers are required to be licensed when the invoiced cost of all purchases of perishable agricultural commodities exceeds $230,000 during a calendar year. The term **perishable agricultural commodity** means fresh and frozen fruits and vegetables. Butcher shops, fish markets and the like that do not sell fruit and vegetables and exporters are excluded in the definition and therefore do not have to comply with the COOL requirements.

Food service establishments such as restaurants, cafeterias, lunchrooms, food stands, bars, taverns, lounges, and delicatessens are exempt from the COOL requirements. Covered commodities that are not sold separately but rather are ingredients in a processed food item are also exempt. Salad bars and delis located within retail establishments that provide ready-to-eat foods are exempt from the law.

Processed food item means it is a retail item derived from a covered commodity that has undergone specific processing changing the character of the covered commodity, or that has been combined with at least one other covered commodity or other substantive food component. The following are examples of processed foods that do not require COO labeling:

Chocolate	Breading	Tomato Sauce
Orange Juice	Peanut Butter	Bacon
Bagged Salad	Seafood Medley	Mixed Nuts

COOL would be required for canned salmon, bagged lettuce, and although canned roasted peanuts are considered a processed food item under the COOL rule, the Tariff Act states that if the nuts are of foreign origin, it must be indicated to the ultimate purchaser.

Processes that change the character of the covered commodity includes cooking. If the covered commodity undergoes any of the following processes, it does not have to be labeled:

Frying	Boiling	Roasting
Broiling	Steaming	Curing
Grilling	Baking	Smoked
Restructuring		

Examples of items excluded are:

Meatloaf, Meatballs
Fabricated Steak
Breaded Veal Cutlets, Chicken Tenders
Corned Beef
Sausage
Teriyaki flavored Pork loin
Salad mix containing lettuce and dressing packet or carrots
Fruit Cup containing melons, bananas and strawberries
Bag of mixed Vegetables containing peas and carrots
Roasted Peanuts
Sauces

What covered commodities require the country of origin labeling?

- Muscles Cuts of Beef (including veal), Pork, Lamb, Goat, and Chicken
- Ground Beef, Ground Pork, Ground Lamb, Ground Goat, and Ground Chicken

- Wild and Farm-Raised Fish and Shellfish
- Perishable Agricultural Commodities (fresh and frozen fruits and vegetables)
- Peanuts, Pecans, and Macadamia Nuts
- Ginseng

Meat, fruit, vegetable, nut, and ginseng covered commodities produced or packaged prior to September 30, 2008 are not affected by the rule.

What exactly is the definition of "Labeling"?

Country of Origin labeling must be specific and accurate. It is the retailer's responsibility to provide the country of origin information to the consumer. The ruling allows for the following labeling options:

Label	Sticker	Sign
Placard	Twist Tie	Pin Tag
Stamp	Band	

The identifying information can appear on the package, the display, holding unit, or bin containing the commodity at the final point of sale. The COOL declaration must be legible and placed in a conspicuous location so as to allow the information to be read and understood during the purchase process.

The information may be typed, printed or handwritten without obscuring other labeling information required by Federal regulation. The country of origin of a product can be in the form of a check box provided it is in conformance with other Federal labeling laws.

A bulk container used at the retail in store level used to present product to consumers may contain a covered commodity from more than one country, provided all possible origins and production methods are listed. Retailers can commingle covered commodities from more than one origin and production as long as all sources and methods are listed.

For products purchased remotely, i.e. internet sales, retailers must provide country of origin and production method on the internet or at the time of delivery.

The 2008 Farm Bill expressly authorizes the use of State, regional, or locality label designations in lieu of country of origin for perishable agricultural commodities, peanuts, ginseng, and macadamia nuts.

Recordkeeping Requirements

Retailers must keep accurate record of the country of origin at the point of sale for the length of time the product is on hand. The records must be legible and can be maintained in either electronic or hard copy formats. If the product is pre-labeled, the label itself will be sufficient as evidence to document the identity of the product's origin and method of production. Retailers are required to maintain records identifying supplier by unique identifier for one year.

Suppliers engaging in the business of supplying covered commodities to a retailer must maintain and make available information of country of origin and production methods to the buyer for one year after a transaction on a product intended for sale at retail. Documents must identify such products with unique identifiers, such as lot number.

How will the requirements be enforced and what are the penalties of non- compliance?

During the first six months following the effective date of the regulation, the Agricultural Marketing Service, AMS will conduct an industry education and outreach program concerning the provisions and requirements of the rule.

Only the United States Department of Agriculture (USDA) is able to initiate enforcement actions against a person found to be in violation of the law. USDA may also conduct investigations of complaints made by any persons alleging violations of these regulations when the Secretary of Agriculture determines that reasonable grounds for such investigation exist. Anyone who prepares, stores, handles or distributes a covered commodity intended for retail sale should maintain an accurate recordkeeping audit trail.

The Secretary can impose a civil penalty only if the retailer or supplier has not made a good faith effort to comply, and only after the Secretary provides notice and an opportunity for a hearing is provided.

The law provides a 30-day period in which the retailers and suppliers may take the necessary corrective action after receiving notice of a nonconformance. If the Secretary determines the retailer or supplier has not made a good faith effort to comply or continues to willfully violate the Act, the retailer or supplier may be fined up to **$1,000 for each violation** with a **maximum total fine** of **not more than $10,000**.

COOL violations and the accompanying monetary fines, (i.e., per item, per incident, per location, per bin), are a function of judicial hearings and court decisions and therefore determined by case law. Because no violations of COOL regulations have currently been tested by the judicial system, there is no existing case law on which to reach a definitive conclusion regarding penalty enforcement.

Violation Examples

Case #1

Failure to Label a Product – Retailer fails to label a covered commodity identifying the country of origin and production method at the consumer final point of sale.

A grocery store has a display case advertising fresh farm-raised tuna on sale. As a consumer, I cannot tell where the tuna came from. The retailer communicated to its customers about the sale but neglected to provide the country of origin. As a corrective action, this retailer should declare the information on a card on the display case or label each product with a label on the package.

Case #2

Mislabeled Product – Retailer incorrectly identifies the country of origin of a covered commodity. This is not a violation for the retailer, if the supplier of the commodity provided the incorrect information.

Example: While looking for some shrimp, I noticed a bulk bin filled with wild, frozen, bagged shrimp. There was a sign above the case stating "Product of U.S.A.". Taking a closer look, I noticed that some of the shrimp was, in fact, from the US. However, some of the packaged shrimp was from Ecuador and Chile. This retailer commingled the commodities and mislabeled the country of origin. The retailer should list all of the country of origins and production methods on the display sign or with an individual label directly on the product.

Case #3

Failure to Maintain Records- Retailer and/or supplier of a covered commodity fails to maintain records that document the country of origin and production method.

Example: A grocery retailer is selling lobster to its customers. The retailer did not provide the method of production (farm-raised or wild) to the consumer because the Canadian supplier of the lobster did not provide the information. Suppliers must provide complete and accurate information to the retailer, and the retailer must provide the information to the consumer.

What is the Benefit to Consumers?

When consumers choose a product, do they base their decision on brand, taste, price or origin? If the country of origin influences consumer's buying decisions, could food retailers and manufacturers see increased sales? It is possible that "Made in the USA" is preferred on some products. Consumers associate these products with a certain quality standard and guarantee of safety, such as Washington State apples. But on other products consumers may prefer the imported item. Many times retailers will use country of origin labels to identify imported products to suggest that the import embodies top quality and warrants a premium price, such as Parma ham.

The cost of the solution for the retailer could be a concern. How much would it cost for food retailers to comply with the mandate? Labeling, recordkeeping and changes in their operating processes need to be efficient and economical.

The COOL ruling does not require a supplier to label its products if the box and/or bill of lading states the country of origin. However, further labeling on the part of retailer will need to occur if the box and/or bill of lading do not remain with the product, in order to provide the same information to their consumers.

Available Solutions

Because the COOL ruling does not specify a uniform method of indicating Country of Origin, retailers have many marking/display options from which to choose and may find it necessary to employ more than one solution. For instance, a labeling method used at a deli / meat counter may not be appropriate for use in other areas within the store where those meats are displayed and sold.

Typically, when new mandates or requirements emerge within an industry, those subject to the regulations engage in a series of trial and error compliance methods before they discover the optimum solution for them.

There are advantages and disadvantages of every allowable method of country of origin labeling. Therefore it is necessary to evaluate them based on the following criteria:

- **Ease of use**
- **Cost to implement**
- **Visibility**
- **Customer Clarity**
- **Legibility / Accuracy**
- **Labor intensity**
- **Promotional Value**
- **Versatility**

To demonstrate this evaluation process we will evaluate four methods of COOL compliance using the above criteria. **1 = worst and 5 = best**

	Placard (Handwritten)	Labeler / Labels	Pre-Print Stickers	Scale Labels
Ease of Use	**5**	**4**	**3**	**5**
Cost	**5**	**3**	**2**	**3**
Visibility	**2**	**5**	**5**	**1**
Customer Clarity	**1**	**5**	**5**	**2**
Legibility	**1**	**5**	**5**	**5**
Labor Intensity	**3**	**5**	**4**	**4**
Promotional Value	**1**	**5**	**5**	**1**
Versatility	**2**	**5**	**4**	**1**
Overall Rating	**20**	**37**	**33**	**22**

Figure 1: Example of evaluation criteria charting

Figure 2: placards in a meat counter

1) Handwriting COO information on a placard, (typically located in a refrigerated meat counter – as seen in figure 2 above), rates high in **ease of use and cost**. However, the disadvantages outweigh the advantages for the following reasons:

- ✓ handwriting can be hard to see **(visibility)**
- ✓ it may be confusing to customers as to which commodity the writing refers **(customer clarity)**
- ✓ legibility can be poor
- ✓ With multiple COOs, handwriting signs is time consuming and must be repeated each time foods are rotated **(labor intensive)**
- ✓ COO information is not utilized as a selling tool **(promotional value)**
- ✓ Placards are only feasible in a contained area **(versatility)**

2) Using a **labeler** with pre-configured country of origin words (shown in figure 3 below), rates very high in almost every category. Although there is a minor investment in the labeler and supplies, it rates the highest of the four methods for the following reasons:

- ✓ Once the country of origin has been dialed a simple click & stick produces a label, **(ease of use)**
- ✓ The labeler and the FDA approved labels are inexpensive when compared to other preprinted labels **(cost)**
- ✓ Labels are easy to see and read **(visibility)**
- ✓ Can be used to label individual products – no confusion about which product is from where **(customer clarity)**
- ✓ Legible all the time **(legibility)**
- ✓ Fast - 2 seconds to label a product **(not labor intensive)**
- ✓ Strategically placed information can be perceived as added value to customers **(promotional value)**
- ✓ **Versatile** - can be used on individual products or stationary signs & tags FDA approved adhesive can be used directly on fruits/foods. Other adhesives are toxic.

Figure 3: Monarch 1152 WB Labeler

3) **Pre-printed stickers** with various country of origins printed on them (shown in figure 5 below) rate very well in **visibility, legibility, promotional value and customer clarity**. They rate lower in the remaining four categories for the following reasons:

- ✓ The labels must be sorted and matched with correct product **Ease of Use = 3**
- ✓ Different stickers must be purchased for each country of origin which can be **costly**
- ✓ Peeling and sticking each product takes about 5 seconds per item **(labor intensive)**
- ✓ Although these labels can be used to label both individual products and signage, they are not truly **versatile** because the message cannot be changed to accommodate product from a new country, multiple labels must be ordered and stored and the most commonly used labels will run out first and may cause improper or no labeling to take place

Figure 5: Pre-printed Labels

4) **Scale Labels** commonly used at meat / delicatessen counters (figure 6), can be set up to include country of origin information somewhere on the label. This method rates high in **ease of use** because workers are already familiar with printing these scale labels for all meats and deli foods that require weighing. They also rate high in **legibility** because they are printed rather than handwritten. The six remaining categories warrant slightly lower ratings for the following reasons:

- ✓ Scale printers require some manual keying of information **(labor intensive)**
- ✓ The label stock for scale printers is 20% higher than labels for a labeling gun **(cost)**
- ✓ Because of the volume of print on one label, customers may not be able to discern what is there **(customer clarity)**
- ✓ There is so much information on one label (product/ nutrition/ weight), that country of origin information is hard to find **(visibility)**

- ✓ The COOL is not used as a selling tool to promote the value-add of the information being provided **(promotional value)**
- ✓ Depending on the method of stocking other areas, it may not be feasible to use one scale printer for all individual package labeling **(versatility)**

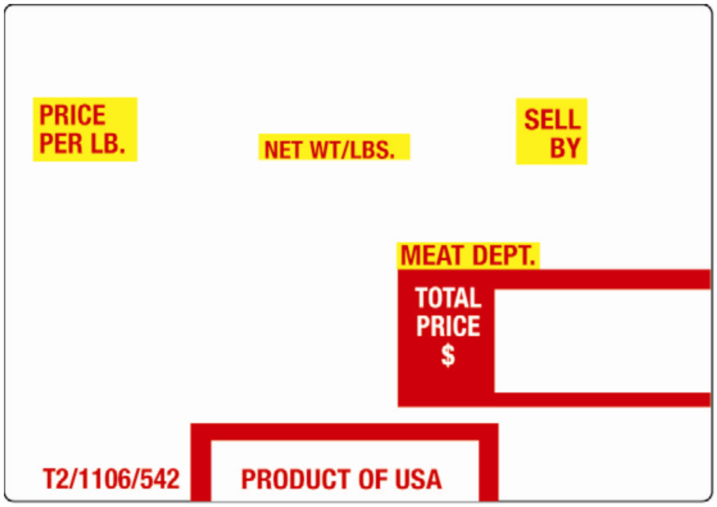

Figure 6: Scale Label with no print

Conclusion

We have determined that the main purpose of the mandate is to give consumers more information about the products they buy. The USDA and retailers realize that consumers are increasingly more conscious about the choices they make and the prevalence of food related illnesses warrants a sincere effort to provide as much information as possible on which they can base their food-buying decisions. It's more important than ever for suppliers and retailers to maintain accurate records of the origin and production method of the commodities they bring to the public. In this competitive market, customer's perceptions are extremely important. Retailers who not only provide the most complete information about their merchandise, but also display it in such a way that raises consumer awareness, reflect a concern for their customer base. This can instill consumer confidence in both their purchasing decisions and in the retail establishment itself.

Although the law does not specify that identification of the country of origin must be labeled on the individual product, on-demand identification and promotional labeling is an effective and efficient method of merchandising. With an affordable labeling solution, retailers retain the flexibility they need to comply with COOL regulations while raising customer awareness of beneficial information being provided by their retailer.

Today's label technology allows retailers to choose a wide variety of label stock and adhesives designed for various environments such as freezers, refrigerators and heat/steam. FDA approved organic labels for produce are available that will provide retailers with a flexible option to make any necessary changes in their COOL process quickly and economically.

It is important to choose an industry leader in retail labeling solutions that will work with you to develop a complete solution to meet your objectives as well as industry law requirements. Choosing a solutions provider which manufacturers its own labeling equipment and supplies will provide the assurance that your solution will perform as an efficient system rather than a series of components sourced through various resellers. Look for a company that has a reputation for reliability, guarantees its solutions and is committed to customer satisfaction as well as product & technology development.

For more information on country of origin labeling requirements you may refer to the following websites:

USDA:
http://www.ams.usda.gov/AMSv1.0/ams.fetchTemplateData.do?template=TemplateM&navID=CountryofOriginLabeling&rightNav1=CountryofOriginLabeling&topNav=&leftNav=CommodityAreas&page=CountryOfOriginLabeling&acct=cntryoforgnlbl

PMA (Produce Marketing Association):
http://www.pma.com/issues/labeling.cfm

FMI (Food Marketing Institute):
http://www.fmi.org/regulatory/?fuseaction=country_of_origin