

LIVESTOCK PRODUCER COMPLIANCE WITH THE COOL INTERIM FINAL RULE

USDA has provided some additional useful information regarding livestock producer compliance with the Country of Origin Labeling (COOL) requirements of the farm bill. Livestock producers are not directly regulated by the COOL interim final rule since livestock are not considered covered commodities; however, only producers have first-hand knowledge concerning the origin of their animals. As a result, USDA is providing assistance in understanding certain provisions of the law.

Definitive information on the origin of animals must be provided to slaughter facilities so that meat covered commodities can be accurately labeled at retail. Presumption of origin chain is not permitted by packers and other entities in the marketing. For example, it is not acceptable to assume that the animal is of U.S. origin if an animal has no ear tag and/or brands identifying that the animal was born and/or raised in Canada or Mexico.

The COOL law allows the use of producer affidavits to provide information of origin to packers. Thus, under the interim final rule, USDA will consider a producer affidavit as acceptable evidence on which a packer may rely upon to initiate a claim of origin, as long as the affidavit is made by someone having first-hand knowledge of the origin of the animal(s) and identifies the animal(s) unique to the transaction. Evidence that identifies the animal(s) unique to a transaction can include a tag ID system along with other information such as the type and sex of the animals, number of head involved in the transaction, the date of the transaction, and the name of the buyer.

With regard to what is considered first-hand knowledge, a subsequent producer-buyer (e.g., backgrounder, feeder) that commingles animals from several sources is authorized to rely on previous producer affidavits as a basis for formulating their own affidavit for the origin of the new lot. Such affidavits must also identify the animals unique to the transaction. In contrast, first-hand knowledge would not include an affidavit made by someone such as a truck driver whose knowledge would be limited to where he picked up the load. The driver would not have sufficient information about the chain of custody and other information needed to provide the origin declaration. The responsible party (e.g., buyer) for commingling the animals would be the attester to the origin of the newly formed group of animals and would retain the original affidavits or other appropriate records, to substantiate claims made about the newly formed group.

In the Federal Register notice published on July 28, 2008, under a question posed in the document, "What are the record-keeping requirements of this regulation?" USDA provides this additional information: under this interim final rule, slaughter facilities that slaughter animals that are part of a National Animal Identification System (NAIS) compliant system or other recognized official identification system (e.g., Canadian official system, Mexico official system) may also rely on the presence of an official ear tag and/or the presence of any accompanying animal markings (i.e., "Can", "M"), as applicable, on which to base their origin claims. This provision also applies to such animals officially identified as a group lot.

Other records may be used to assist in a COOL verification audit. That information and more can be found on USDA's AMS Country of Origin Labeling website under "Livestock Producer Compliance with Interim Final Rule." A link to the interim final rule and the farm bill language can also be found on the USDA site. The interim final rule goes into effect on September 30, 2008.