

PolicyPennings by Daryll E. Ray & Harwood D. Schaffer

Final wording for COOL implementation

In March and April 2013, we wrote three articles (<http://agpolicy.org/articles13.html>) examining the World Trade Organization's (WTO) ruling that the US mandatory Country of Origin Labeling (COOL) were in inconsistent with the WTO Technical Barriers to Trade obligation to accord imported products treatment no less favorable than accorded to domestic product. In particular the WTO found fault with 1) the "mixed origin" label for both beef and pork that allowed packers to commingle muscle cuts of US, Canadian, and Mexican origin and 2) the COOL label that did not convey where the animal was born, raised, and slaughtered, though packers were required to collect that data.

The COOL statute covers beef, pork, lamb, chicken, goat meat, wild and farm-raised fish and shellfish, perishable agricultural commodities, peanuts, pecans, ginseng, and macadamia nuts. The revised rule primarily focuses on beef and pork because other covered products either have few imports or the country in which they are grown are the same as the one in which they are processed.

The July 23, 2012 WTO decision gave the US until May 23, 2013 to come into compliance with its ruling or face the possibility of trade sanctions. On March 12, 2013, the United States Department of Agriculture Agricultural Marketing Service (AMS) published proposed revised regulations that it believed would correct the problems found by the WTO.

Given the short timeframe, the AMS allowed only 30 days for the comment period, issued the final revised rule (<http://www.gpo.gov/fdsys/pkg/FR-2013-05-24/pdf/2013-12366.pdf>) on May 20, 2013, and made the rule effective May 23, 2013—instead of 30 days after publication in the Federal Register—to avoid the possibility of trade sanctions by Canada and Mexico.

To compensate for the short notice given to the beef and pork industries, the AMS established a 6 months period during which it "will conduct an industry education and outreach program concerning the provisions and requirements of this rule. AMS has determined that this allocation of resources will ensure that the industry effectively and rationally implements this final rule." The AMS also allows "existing stock of muscle cut covered commodities labeled in accordance with the 2009 COOL regulations that are already in the chain of commerce to clear the system."

During the 30-day comment period, the AMS received 936 comments from stakeholders ranging from consumers to foreign governments. Of those comments, 453 "including four petitions signed by more than 40,000 individuals...indicated that the proposed

rule makes labels more informative for consumers."

The remaining "476 comments opposing the rule [came] from numerous producer, packer, and international trading partner entities, as well as individual ranchers, packing companies and Foreign Government officials."

Many of the comments opposing the rule were concerned with the costs of implementing the changes in the COOL labels and losing the ability to commingle cattle processed on the same day including the costs of segregating animals depending on the label to be used. As a result, the AMS revised the cost estimates that were contained in the proposed rule. The new estimate of costs range from \$53.1 million to \$137.8 million.

Language was of concern to some commenters. One commenter "recommended that chicken should be labeled 'hatched' instead of 'born.' This commenter as well as other commenters stated their opposition to having to use the term 'slaughtered.' The commenters suggested alternatives to the term 'slaughtered' that consumers may find more acceptable including 'harvested' or 'processed.'" The agency explained that those terms were already permissible under COOL regulations.

In addition, "in terms of using labels and stickers to provide the origin information, the Agency recognizes that there is limited space to include the specific location information for each production step. Therefore, under this final rule, abbreviations for the production steps are permitted as long as the information can be clearly understood by consumers. For example, consumers would likely understand 'brn' as meaning 'born'; 'htchd' as meaning 'hatched'; 'raisd' as meaning 'raised'; 'slghtrd' as meaning 'slaughtered' or 'hrvstd' as meaning 'harvested'. In addition, the current COOL regulations allow for some use of country abbreviations."

For muscle cuts from animals slaughtered in the US, the consumer can expect to see 4 different labels:

- "Born, raised, and slaughtered in the United States" for animals that spent their whole life in the US;
- "Born in Country X, raised and slaughtered in the United States" for animals that were born outside the US but spent some time in the US before slaughter. It is to be understood that if an animal was born in Country X, some of the raising took place in that country;
- "Born and raised in Country X, slaughtered in the US" for animals that were imported into the US for immediate slaughter;

Cont. on p. 2

Cont. from p. 1

- “Born and raised in the United States, raised in Country X, slaughtered in the United States” for animals that were born and raised in the US, raised in another country, and then slaughtered in the US.

“As stated in the March 12, 2013, proposed rule, under the current COOL regulations, imported muscle cut covered commodities retain their origin as declared to the US Customs and

Border Protection at the time the products entered the United States (i.e., Product of Country X) through retail sale.” However if there is documentation of the

three production steps, muscle cuts that were slaughtered outside the US can use the “born, raised, and slaughtered” format.

Daryll E. Ray holds the Blasingame Chair of Excellence in Agricultural Policy, Institute of Agriculture, University of Tennessee, and is the Director of UT’s Agricultural Policy Analysis Center (APAC). Harwood D. Schaffer is a Research Assistant Professor at APAC. (865) 974-7407; Fax: (865) 974-7298; dray@utk.edu and hdschaffer@utk.edu; <http://www.agpolicy.org>.