



Preparing for the Coming of COOL

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- Where are the rules for COOL?
 - USDA waiting for Congress to work out 2008 Farm Bill
 - Key Provisions ease the burden of compliance
 - Policy agreed to but “other issues” holding it up
 - President could still veto
 - Default to current law if no new Farm Bill





- History:
 - In 2002, Congress passed country of origin labeling law requiring retailers to provide labeling to customers at point of sale
 - Effective Date has been delayed twice
 - Current Effective Date is 9/30/2008
 - Important Revisions to the 02 Law are included in the Farm Bill



- 2002 Statute Says....
 - “retailers” shall provide country of origin information at point of sale for “perishable agricultural commodities”
 - “Retailers” and “Perishable agricultural commodities” have the same meaning as PACA of 1930 (7 USC 499(a)(b))
 - Retailers - \$230,000 threshold
 - Perishables- include “ffav of every kind and character”





- Retailers are permitted to inform consumers in the following ways:
 - Label
 - Stamp
 - Mark
 - Placard
 - Or other clear and visible sign on the covered commodity or on the package, display, holding unit or bin
- No specific statutory provisions about method

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- Food Service Exemption
 - COOL does not apply to covered commodity prepared or served at a “food service establishment” (Sec. 282(b))
 - “Establishments” are defined as a “restaurant, cafeteria, lunchroom, food stand, saloon, tavern, bar, lounge, or other similar facility operated as an enterprise engaged in the business of selling food to the public”
 - USDA interprets this exemption to apply to foods prepared in food service applications at retail too (i.e. salad bars, delis)

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- “Processed” Exemption
 - Likely to be an exemption for processed
 - USDA’s 2003 proposed rules excluded products that contained two or more different commodities
 - Examples: fruit cup containing honeydew, cantaloupe, and watermelon or a vegetable tray containing carrots and celery.



- Key Changes To Occur with Farm Bill Passage
 - Liability for retail mistakes is reduced
 - Suppliers who do not provide COO information to the retailer, as required in the Act, are held accountable
 - Retailers are not liable for misinformation provided by suppliers
 - Bad actors are allowed a hearing, and fines are limited to \$1000





- Key Changes, cont'd
 - Labeling of a US State, region or locality and that meets label standards is sufficient



- What do we do now?
 - COOL will go into effect
 - No repeal of the law
 - Industry is already implementing
 - September 30, 2008 is not far away
 - Effects every sector of the production chain
 - Entire chain must work together and focus on making COOL work efficiently with the least cost and impact on produce sales and profitability as possible





- Suppliers

- Make sure you have current systems in place where you know the COO of all your items
- Talk to your supply chain partners on ways to work together to comply
- Pre-packaged or items with PLU stickers, putting COO on the stickers or packaging is most efficient



- Retailers

- With Passage of the Farm Bill, good faith efforts to comply with COOL should not be punished
- Engage with your supply chain partners on how you can best work together to develop systems for compliance
- Don't be more prescriptive than the law





- Don't Panic
- Seafood Precedent
 - IFR with opportunity for comments
 - Effective date/enforcement approach
 - Major regulatory program
- United Fresh's White Paper/Compliance Guide



Questions and Answers

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