



Media Teleconference

July 9, 2013

11 a.m Eastern

Introduction of Speakers

Mark Dopp

Senior Vice President of Regulatory Affairs and General
Counsel

American Meat Institute

&

Catherine Stetson

Partner

Hogan Lovells

COOL Timeline: A Review

- 2002 – Mandatory country of origin language included in 2002 Farm Bill.
- 2003 – USDA published burdensome rule requiring labeling that specified countries where various production points occurred, *e.g.*, born, raised, and slaughtered.
- 2008 – Congress includes in 2008 Farm Bill amendments to address key problems identified in previously proposed COOL rule to make it less burdensome.

COOL Timeline, Cont'd.

- 2009 – Final rule takes effect.
- 2009 – Mexico and Canada file complaint against U.S., arguing that COOL violates U.S. WTO obligations.
- 2011 – Panel finds in favor of Mexico and Canada for several reasons.
- 2012 – WTO Appellate Body also finds U.S. out of compliance.
- 2012 -- May 23, 2013 Compliance date set.

COOL Timeline, Cont'd.

- March 2013 – USDA proposes new rule that is very similar to original 2003 rule.
- May 2013 – USDA finalizes rule with no changes, unjustifiably dismissing significant comments from public.

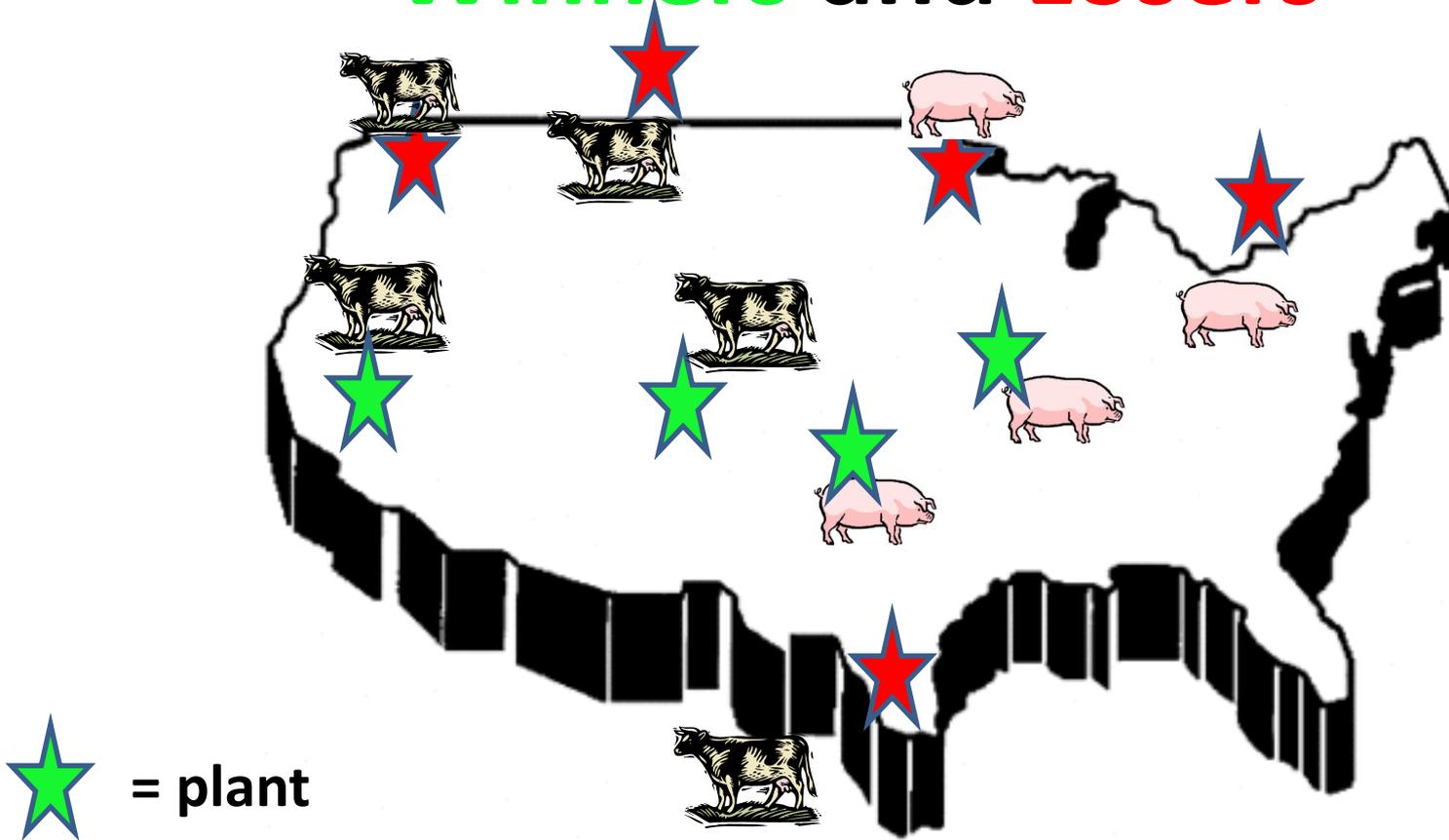
2013 Final Rule

- Requires labels for muscle cut covered commodities to declare the country of origin regarding three production steps – born, raised, and slaughtered.
- Eliminates ability to commingle products, which requires segregation of livestock and products throughout the supply chain.

2013 Final Rule

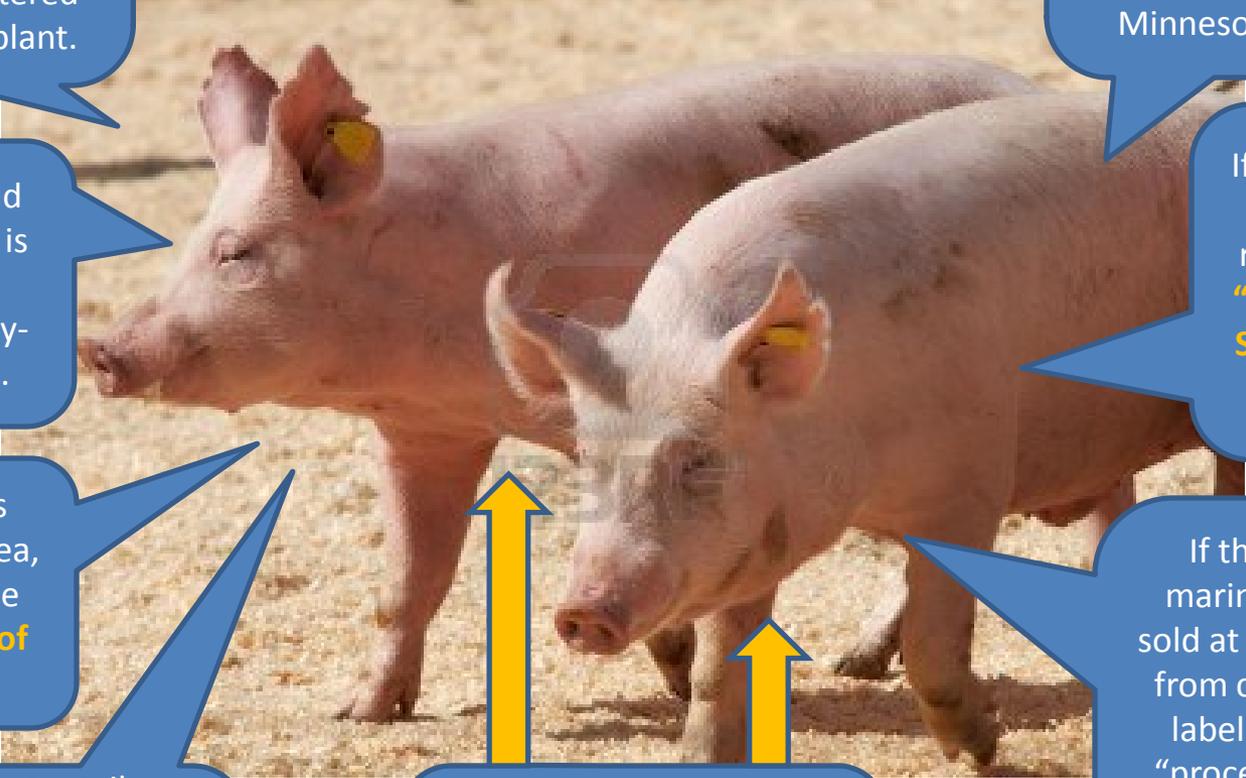
- This rule puts companies, plants and producers, at risk of going out of business.
- 2009 -- “Agency concluded that the measurable economic benefits of mandatory COOL will be small.”
- 2013 – “The Agency believes that the incremental economic benefits from the labeling of production steps will be comparatively small relative to those that were discussed in the 2009 final rule.”

Winners and Losers



Many plants built along the borders have business models premised upon steady, open flow of livestock across international borders. The 2013 final COOL rule incentivizes the purchase of livestock that have spent their entire lives in one country only due to costs of tracking and segregating animals that have spent any part of their lives outside the country.

A Tale of Two Tenderloins



Traveled 100 miles from Canada across U.S. border to Minnesota as a piglet. Raised on a Minnesota farm and slaughtered in a Minnesota plant.

Traveled 100 miles from Iowa to Minnesota as a piglet. Raised on a Minnesota farm and slaughtered in a Minnesota plant.

If tenderloin is sold to a restaurant, it is exempt from mandatory country-of-origin labeling.

If tenderloin is sold at retail, USDA requires the label, **"Born, Raised, and Slaughtered in the U.S."**

If tenderloin is exported to Korea, it must bear the label **"Product of the U.S."**

If the tenderloin is marinated before it is sold at retail, it is exempt from country-of-origin labeling because it is "processed." If labeled voluntarily, USDA requires the label, **"Product of the U.S."**

If sold at retail as a covered commodity, USDA requires **"Born in Canada, Raised and Slaughtered in the U.S."**

Bacon from both pigs would be exempt from country-of-origin labeling because it is "processed." Voluntary labels must read **"Product of the U.S."**

Identity Crisis

From steer born in Juarez, Mexico, and raised and slaughtered in Amarillo, Texas, U.S.



From steer born in Amarillo, Texas, raised and slaughtered in Amarillo.

And Today...

- U.S., Canadian meat industry groups file suit in U.S. District court by:
 - American Association of Meat Processors
 - American Meat Institute
 - Canadian Cattlemen’s Association
 - Canadian Pork Council
 - National Cattlemen’s Beef Association
 - National Pork Producers Council
 - North American Meat Association
 - Southwest Meat Association

Violates Constitutional Protection From Compelled Speech

- Government may compel speech only when there is a substantial government interest, e.g., a warning about a contagious disease where the warning provides public health protection
- USDA has repeatedly said that COOL is not a food safety or public health benefit labeling problem
- “Consumer curiosity” is not a substantial government interest

Violates COOL Provisions of the Agricultural Marketing Act

- COOL statute mandates origin labels, but does not permit that countries where production steps occurred be listed.
- In enacting the 2008 Farm Bill, Congress specifically rejected these overly detailed disclosures.
- New final rule exceeds authority granted by the Agricultural Marketing Act.

Violates Administrative Procedure Act

- Rule will provide inaccurate information to consumers.
- Immediately effective harmful to industry – delayed enforcement still forces companies to implement much sooner.
- Revised rule will not address the concerns expressed by WTO or by Canada and Mexico and likely not in compliance.
- Rule picks winners and losers in the market -- will fundamentally alter meat industry with no identifiable benefit.

Questions?