

Advocacy Urges USDA to Minimize Impacts of Country of Origin Labeling Rule on the Food Industry

On December 5, 2003, the Office of Advocacy (Advocacy) filed a comment letter with the United States Department of Agriculture (USDA) Agricultural Marketing Service (AMS) concerning its proposed rule on mandatory country-of-origin labeling (COOL). A complete copy of Advocacy's comment letter may be accessed at www.sba.gov/advo/laws/comments.

- The Farm Security and Rural Investment Act of 2002, commonly known as the 2002 Farm Bill, required USDA to issue regulations requiring country-of-origin labeling for certain commodities including beef, lamb, pork, fish, peanuts, fresh and frozen fruits and vegetables. USDA published the proposed rule in the *Federal Register* on October 30, 2003. The comment deadline is December 29, 2003. Comments can be filed by email at cool@usda.gov or by facsimile at (202) 720-3499.
- The law and proposed regulations require food retailers to notify their customers of the country of origin of covered commodities beginning on September 30, 2004. By statute, the term "retailer" for the COOL regulations is defined under the Perishable Agricultural Commodities Act of 1930 (PACA), which applies to retailers that handle fresh and frozen fruits and vegetables with an invoice value of at least \$230,000 annually. The proposed rule imposes recordkeeping and record retention requirements: food retailers must retain certain records that establish identification of their supplier(s) and country-of-origin information for two years; and food producers/growers and suppliers must retain for two years copies of the information provided to retailers for the labeling of the covered commodities.
- AMS acknowledged that the proposed rule is likely to have a significant economic impact on a substantial number of small entities, and therefore, AMS prepared an initial regulatory flexibility analysis (IRFA) pursuant to the Regulatory Flexibility Act (RFA). Advocacy's comments focused on AMS' analysis of the economic impacts on small entities.
- In its comment letter, Advocacy requested that AMS expand its analysis and consideration of less burdensome alternatives to recognize that the rule's economic impact extends to PACA-licensed small retailers, suppliers and producers/growers and PACA-exempt small food entities. Advocacy encouraged AMS to lessen the burden of compliance with the rule by reducing the record retention requirements. Advocacy also provided AMS with specific data on the rule's economic impact on small entities obtained from affected small businesses and their representatives during two roundtables hosted by Advocacy on country-of-origin labeling.

For more information, visit Advocacy's web page at www.sba.gov/advo or contact Linwood Rayford at (202) 205-6533.