

# Country of Origin Affidavit/Declaration Questions & Answers for Livestock Marketing Businesses

***Updated with your questions September 19, 2008***

## **1) What exactly is LMA recommending that Livestock Auction Markets collect from our sellers and provide to our buyers for COOL?**

**First** – Distribute the Livestock Seller Continuous Origin Affidavit to as many of your sellers as possible in an effort to get these affidavits on file before livestock arrive at your facility. To help, LMA has drafted a sample producer letter to be sent along with the affidavit. Marketers should also provide copies of the Livestock Seller Continuous Origin Affidavit to market reps and at the unloading area to get additional affidavits completed as livestock are consigned or delivered to the auctions. As the auction collects signed affidavits from sellers, make a notation in the customer's file that an affidavit has been received or create a list for easy reference so that office staff will be aware of any need to collect affidavits from sellers.

**Second** – Complete a Continuous Country of Origin Affidavit for Direct Sales to Packers and submit that affidavit to all packer buyers doing business with the auction and keep a record of that affidavit in your files.

**Third** – Stamp or print the Marketing Business Buyer Invoice Declaration onto all Buyer Invoices. LMA can assist members in ordering customized self-inking stamps to simplify the addition of this language to buyer invoices. (Unless otherwise required by your buyers to do so, you also may have your signature printed or stamped on the invoice declaration.)

**Fourth** – Keep your sellers affidavits and declarations on file at your business. The Livestock Seller Continuous Origin Affidavits should be kept on file indefinitely or until the seller revokes the affidavit in writing.

## **2) Who can sign an Origin Affidavit/Declaration?**

Only the individual with firsthand "knowledge, the producer, ranch manager, business representative, etc., of the origin of the livestock being transferred may sign a Country of Origin Affidavit/Declaration". An affidavit signed by the producer/owner/manager with firsthand knowledge can be delivered by a trucker or transporter – **truckers and transporters cannot sign for the origin of livestock.**

## **3) How often do I need to collect a signed affidavit from my sellers?**

If you have collected Livestock Seller Continuous Origin Affidavit from your sellers, that affidavit is kept on file at your marketing business and remains in effect until that seller informs you of any changes to the origin of his/her livestock and revokes that affidavit in writing.

## **4) When should I begin collecting these signed affidavits/declarations?**

You should begin **now**. The Country of Origin Labeling (COOL) law takes effect September 30, 2008.

## **5) What information do I provide my buyers?**

You will provide your buyers with a Marketing Business Buyer Invoice Declaration on the livestock covered by that specific transaction, which is based on the country of origin information provided by your sellers' origin affidavits/declarations. This Marketing Business Buyer Invoice Declaration may be stamped, printed or otherwise attached to your sales documents, invoices, recaps, etc. The origin of the animals must be identified in the space provided and the declaration signed by a representative of your business. LMA can assist members in ordering customized self-inking stamps to simplify the addition of this language to buyer invoices. (Unless you are otherwise required by your buyers to do so, you also may have your signature printed or stamped on the invoice declaration.)

**6) I sell only U.S. born & raised livestock; can I use a Continuous Origin Affidavit for all of my buyers?**

Yes, you can for all buyers willing to accept a Continuous Country of Origin Affidavit. For your packer buyers it is recommended that you file with them a Continuous Affidavit/Declaration for Direct Sales to Packers. The affidavit that you would file with a non packer buyer may not need to include the third paragraph found currently on the Continuous Country of Origin Affidavit for Direct Sales to Packers.

**7) Some buyers in my area have been requiring a statement for a few years regarding the origin of livestock purchased through my auction. Can I just use those forms or language for COOL?**

Perhaps, but many of the statements that have been used in the past include language that has not been agreed upon by the industry and is not legally sufficient for COOL. For example, if the statement you currently use includes the language “To the Best of My Knowledge” it won’t qualify for COOL. To be safe, send a copy of any documents that are in question to LMA to discuss the language and how it would qualify.

**8) I have a Producer, Stocker or Backgrounder customer that has filed a Livestock Seller Continuous Origin Affidavit with my business stating that all of the livestock he sells is of USA origin. What do I do if he arrives at my sale with a load that includes some Mexican animals?**

Your customer can sign a Livestock Seller Single Transaction Declaration for the livestock consigned that day, or if he is likely to consign foreign origin livestock again, he should change his continuous affidavit that is on file with your business. **Don’t forget to also declare the Mexican origin of those cattle on the buyer invoice.**

**9) There has been talk about Visual Inspection to support an origin declaration. How does it work?**

The industry and USDA understand that while all sectors of the industry are ramping up efforts to collect affidavits and declarations of origin, not all livestock sold will have an affidavit/declaration on file. USDA has agreed that, at least for an initial period of time while COOL is being fully implemented and perhaps permanently with publication of the final COOL rules, visual inspection of cattle for domestic foreign brands, tattoos and ear tags, or the absence thereof for USA origin livestock, is allowed to support a declaration of origin. Thus, for the purpose of declaring the origin to your buyers until you have received affidavits of origin from your sellers, you may visually inspect cattle going through your marketing business to establish your declaration of origin to your buyers.

**10) What should I be looking for when visually inspecting livestock to establish origin?**

**Mexican origin cattle** imported to the United States will have a light blue metal clip or bangle ear tag that will have a series of numbers and letters on it and an “M” brand on the right hip near the tail-head.

**Canadian origin cattle** will have a permanent “CAN” brand applied to the animal’s right hip, high on the tail-head, or a tattoo with the “CAN” letters applied to the inside of the left ear. All Canadian imported cattle will also be individually identified with a unique tamper-resistant official ear tag with the Canada country code, “124”, appearing as a prefix to a 15 digit number or as a mark on the tag.

**Sheep & Goats from Canada**, under 12 months of age, can be imported into the United States but may only go under seal to a designated feedlot or direct to a recognized slaughter facility, thus a market would only be receiving sheep of USA origin.

**11) What do I do if I have livestock at my facility to be marketed but I do not have a signed affidavit at sale time?**

In these instances, utilize Visual Inspection to establish the origin of the livestock to be sold and upon which you will establish your declaration of origin to the buyers. After visually inspecting however, it is in your best interests to collect, as soon as possible, a continuous affidavit/declaration from your seller.

**12) I have livestock at my facility and the seller is unwilling to sign an affidavit/declaration of origin.**

**What do I do?**

Visual Inspection will work for some interim time period but, because it is uncertain whether it will be permitted permanently to support a declaration of origin up the chain, you should make every attempt to get them to sign a continuous affidavit. It is important for your sellers to understand that Country of Origin Labeling is Federal Law. Any seller who wishes to send livestock into commerce must declare the origin of his/her livestock either through these affidavits/declarations of origin or by individually identifying USA origin cattle with an NAIS compliant 840 ear tag.

**13) Are these affidavits/declarations standardized documents that LMA or USDA will be sending to us for use or can we reproduce this information in house?**

You should reproduce the language contained in the affidavits/declarations to be used at your facility in the format that you feel best suited to your business. Postcards, business letterhead, check-in slips, sales documents, stamps, etc. You can print or reproduce the affidavit/declaration language in any format, so long as the signed affidavits/declarations can be kept on file at your facility for at least one year from the time of sale.

**14) Do I have to use the language from these origin affidavits/declarations?**

It is highly recommended that you utilize the language contained in these origin affidavits/declarations. The livestock industry sector, specie, food retail organizations and companies that came together to draft this language did so in an effort to develop a simple, universal affidavit/declaration process.

**15) What do I do if I am asked to sign or use an origin affidavit/declaration that differs from what is described here?**

Despite all best efforts to create a universal and unanimously accepted affidavit/declaration process there is still a potential that you will be asked to sign an affidavit/declaration that has been customized by an individual buyer or company. To insure that your liability is protected, it is recommended that you contact LMA to review these documents before signing.

**16) Who can I contact for more information?**

We encourage you to contact Livestock Marketing Association at 800-821-2048 for more information about COOL. It is our goal to assist our members in making the transition into COOL as simple as possible and to protect our members and their customers from any misinformation.