

Country of Origin Labeling Surveillance Review Procedures for Retail Facilities (Initial Retail Reviews)

1 Purpose

This document provides the procedures for conducting surveillance reviews of retail facilities to determine compliance with the Country of Origin Labeling (COOL) regulations. COOL requires retailers to notify their customers with information regarding the source of certain foods. The 2002 and 2008 Farm Bills amended the Agricultural Marketing Act of 1946 to implement COOL. The statute identifies “covered commodities” subject to the COOL regulation. COOL regulations are found in 7 CFR §60 and §65, published January 15, 2009 and May 23, 2013 (Final Rule).

2 Scope

These surveillance procedures are for Initial Retail Reviews and are applicable to retail facilities subject to licensing under the Perishable Agricultural Commodities Act (PACA) of 1930. The surveillance reviews will be conducted at retail facilities designated by the U.S. Department of Agriculture (USDA), Agricultural Marketing Service (AMS), Livestock, Poultry and Seed (LPS) Program, COOL Division.

3 Reference Documents

- *Federal Register Part II USDA AMS Title 7 CFR Part 60 and 65 Mandatory Country of Origin Labeling of Beef, Pork, Lamb, Chicken, Goat Meat, Wild and Farm-raised Fish and Shellfish, Perishable Agricultural Commodities, Peanuts, Pecans, Ginseng, and Macadamia Nuts; Final Rule.*
- *Country of Origin Labeling Compliance and Enforcement Requirements document.*
- *COOL Training Materials.*
- *COOL Surveillance Review Procedures for Retail Facilities*
- www.ams.usda.gov/cool

4 Responsible Authority (Agency)

- 4.1** The responsible authority for conducting COOL surveillance reviews is the USDA, AMS, LPS Program, COOL Division. The responsible authority will be referred to as USDA in this document.
- 4.2** USDA has entered into cooperative agreements with state agencies to conduct COOL retail surveillance activities in retail store facilities assigned by the COOL Division. State Agency Officials and Federal employees, who conduct COOL retail surveillance reviews, will be referred to as “Reviewers” in this document.

5 Responsibilities

USDA employees and representatives operating under delegated authority from USDA shall:

- a) Conduct retail store reviews during **NORMAL BUSINESS HOURS** on weekdays. Normal business hours are 8:00 a.m. to 5:00 p.m. local time and exclude Federal holidays.
- b) Possess valid official government issued picture identification.
- c) Indicate to the retail store officials that they are an agent of the USDA or State Agency conducting an official review to verify compliance with the COOL requirements of the 2002 and 2008 Farm Bills.
- d) Dress appropriately and conduct themselves in a professional manner at all times.
- e) Interact with retail store personnel in a courteous and diplomatic manner while remaining observant and thorough in conducting the review.
- f) Limit the scope of the review to the covered commodities offered for retail sale.
- g) Conduct an opening and closing meeting with the retail store officials.
- h) Answer questions and provide information concerning the COOL regulation requirements.
- i) Contact your State Manager or the COOL Division with any questions and forward all findings as set forth in this document.
- j) Discuss all findings with the retail store official during the closing meeting.
- k) Consider any information gathered during a review as confidential, not to be shared with officials or employees of other stores or businesses.
- l) Complete the applicable forms in the Workbook provided by the USDA.
- m) Submit review findings to the USDA.
- n) Ensure proper expense information is submitted to USDA, when applicable.

6 COOL Retail Review Assignments

6.1 Retail review locations and frequency will be pre-determined and assigned to the State COOL Program Managers by USDA contingent on the availability of appropriated funds.

- o Review numbers that start with “N” indicate this is the initial COOL review conducted at this store.

6.2 Follow-up retail reviews will also be conducted by State Agency Officials.

- o Review numbers that start with “F” indicate this store was reviewed during the last year and a follow-up will be conducted this year. Refer to the Follow Up Surveillance Review Procedures for Retail Facilities.

7 COOL Retail Review Workbook

The COOL compliance data collection tool will be an Excel Workbook. (*COOL compliance information will not be submitted through the COOL FACTS Portal in 2014.*) The Workbook, along with all other training materials, is available on the COOL website. The Workbook contains 2 tabs: the Information Form and the Checklist.

7.1 The Pre-Assigned Review Number File Naming Format

- a) Two letter State Abbreviation that the review is performed in;
- b) Two-digit Fiscal Year;
- c) Pre-assigned Review Number, generated by the USDA;
- d) File name examples:
 - 1) TX 14 N0011 – “New” COOL retail surveillance review number 0011 assigned to Texas during the Fiscal Year 2014.
 - 2) LA 14 F0133 – “Follow Up” COOL retail surveillance review number 0133 assigned to the state of Louisiana during the Fiscal Year 2014.

8 COOL Retail Review Procedures

8.1 Prior to conducting the review, Reviewers must be COOL-certified (successfully completing COOL training), read the reference documents, and become familiar with all COOL requirements and store information.

- **Call each retail store without identifying your position or purpose and verify the store’s address and open status prior to the COOL visit.**
- This brief phone call will ensure the store is still in business and not closed.
- If a retail store does not answer the call, you may need to consult the internet or the yellow pages to obtain a new phone number.

8.2 Fill in the top portion of the Checklist as follows prior to store arrival:

- ✓ Enter the pre-assigned Review Number on the Checklist tab.
- ✓ From the COOL assignment, enter the Store Information onto the Checklist. (The store information will be automatically transferred to the COOL Information Form.)
- ✓ Print 2 copies of the Checklist, 1 copy of the Information Form, and add a copy of the New Muscle Cuts Information Sheet. (The Information Form and Muscle Cuts Information Sheet are provided to the store representative during the opening meeting.)
- ✓ Use the Checklist to facilitate the data collection during the review.

8.3 Adhere to the responsibilities outlined in Section 5 of this document.

8.4 Meet with a store representative. Upon arrival at the store, the reviewer shall introduce themselves as a representative of the USDA, provide the store representative with official government identification, and request a meeting with the store manager, counter manager, or other appropriate official.

Note: If the store representative refuses to cooperate with the review, gather as much information as possible and leave the store. Document the specifics of the incident, including the store representative’s name, if possible, and contact the COOL Division Director, with the information. Every effort should be made to

complete the review; however, do not confront a belligerent or reluctant store representative.

8.5 Conduct a short opening meeting, covering the following areas:

- a) Explain the scope and objective of the review.
 - 1) Scope of the review - The store's labeling of covered commodities for country of origin and method of production (fish and shellfish only) and recordkeeping practices.
 - 2) Objective of the review - To determine the retail store's compliance to the COOL regulatory requirements.
- b) Provide a short summary of the methods and procedures to be used to conduct the review.
- c) Inform the store representative that you will:
 - 1) Verify that country of origin and method of production information is available to consumers.
 - 2) Ask questions to assess retailer's compliance with COOL recordkeeping requirements.
- d) Gather/verify additional information about the retail store. Verify the store name, store number, address, phone number, representative's name, and the responsible party email address.
- e) Answer any questions pertaining to the review or the COOL regulations.
- f) Inform the store representative that they are welcome to accompany you during the review.
- g) Confirm the time and location for a closing meeting at the conclusion of the review.

8.6 Examine and count all covered commodities available for retail sale at the store to evaluate if the items are labeled or identified in compliance with COOL requirements. Observe all locations where covered commodities may be presented for sale, including refrigerated and frozen sections, display cases, full service counters, self-service departments, sale counters and promotional display areas. *In-store delis and foodservice areas are exempt from COOL requirements.*

8.7 Explain to the store representative what you are looking for. If a covered commodity is found to be non-compliant, write the description of the product in the appropriate section of the Checklist, and bring the non-compliance to the store representative's attention.

8.8 Document information on the Checklist for any covered commodities that are not identified in accordance with the COOL regulation requirements. Record the name(s) of the non-complying item(s), and apply the appropriate non-compliance code(s) describing the nature of the finding(s) adjacent to the applicable non-complying item. Non-compliance codes are provided on the worksheet. There may be more than one non-compliance code for each non-complying item. Provide any comments and/or further description of the non-complying product in the "Notes" section next to the NC code. If the store does not sell any items in a particular

covered commodity category, select the “Not Sold In Store” box in the commodity section.

Note: All COOL non-compliance observations made by the reviewer must be reported to the USDA even if they are corrected by the store personnel during the review. The Reviewer may include a note in the “Additional Comments and Information” section on the Checklist. Example: “All fruit items with NC 1 findings were corrected while conducting the review.”

- 8.9** Conduct a closing meeting with the store representative. The store representative may invite other store personnel that are involved in the COOL regulation requirements to attend the closing meeting. During the closing meeting:
- a) Interview the store representative by asking 5 questions (provided on the laminated NC card) to assess the retailer’s compliance with COOL recordkeeping. Enter the answers to the questions in the appropriate section of the Checklist. (No records will be requested or collected for “Initial Retail Reviews.” However, the recordkeeping responsibilities for retailers have not changed. Retailers are still required to maintain records for 1 year.)
 - b) Write the retailer’s answers to the 5 questions in the space provided on the last page of the Checklist.
 - c) Provide the completed Checklist to the store representative. Discuss the results of the review and any findings that have been identified.
 - d) Verify that the name of the Responsible Authority, email address, mailing address, and phone number. This information is required for the issuance of the Review Notification Letter and request for corrective actions.
 - e) **Inform the store representative that the findings are not official until they are reviewed by the USDA and that they will receive an official letter and official checklist from USDA requesting corrective actions and preventative measures in the event there are findings.**
 - f) Answer all questions pertaining to the review or the findings.
 - g) Thank the store officials for their time and cooperation.

9 Post Review Procedures

9.1 Enter all of the compliance data into the Checklist from the retail review. (Scanned, hand-written Workbooks will not be accepted.)

- a) Use proper spelling, grammar, and punctuation.
- b) Do not use all capital letters; use upper and lower cases as appropriate.
- c) After the Checklist has been reviewed by USDA, the Checklist becomes the “official findings” of the retail review and will be provided to the retailer with a notification to take action. The Checklist must be formatted correctly for official correspondence.

9.2 Include any additional comments in the Comments section of the Checklist.

9.3 Submit the Workbook to USDA via email to coolaudit@ams.usda.gov. In the subject line, indicate the state and number of reviews. Example: “California – 12 reviews”. Include the file name(s) in the body of the email. A sentence such as

“Attached are the files for reviews CA 14 N0123, CA 14 N0124, and CA 14 N0125” will suffice.

10 Findings of Non-Compliance

Code	Non-Compliance Findings for Initial Retail Reviews
1	The covered commodity is not identified with the country of origin.
2	The country of origin declaration is not legible and/or is not placed in a conspicuous location.
3	The country of origin declaration is not accurate at the point of sale.
4a	The country of origin is not stated in an acceptable form. The use of "or" and "and/or" and "may contain" is not acceptable.
4b	The country of origin is not stated in an acceptable form. The regional designation or the term, "locally grown" does not provide sufficient origin declaration.
4c	Production steps for meat muscle cuts are not present or not stated in an acceptable form.
5	Abbreviations and variant spellings do not unmistakably indicate the country of origin.
6	The covered commodity is not identified with the method of production.
7	The method of production declaration is not legible or is not placed in a conspicuous location.
8	The method of production declaration is not accurate at the point of sale.
9	The method of production is not stated in an acceptable form.

11 General Information

If any questions arise or problems are encountered during the review, immediately contact your State COOL Manager or the COOL Division at **(202) 720-4486**.

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Approved by:

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