

Country Of Origin Labeling



Agricultural Marketing Service

Legislation and Related Activities

2002

- 2002 Farm Bill – Enacted Mandatory COOL

2004

- IFR published for Fish & Shellfish Only: 7CFR Part 60
- Implementation for all other commodities delayed until 9/30/08

2008

- 2008 Farm Bill Amended COOL provisions
- IFR published for remaining covered commodities: 7CFR Part 65
- September 30, 2008 – Implementation Date for All Remaining Covered Commodities



COOL Regulations

- **7 CFR Part 60 – Fish and Shellfish Only**
 - Published October 5, 2004
 - Effective April 5, 2005
- **7 C FR Part 65 – All Other Covered Commodities**
 - Published August 1, 2008
 - Effective September 30, 2008



Implementation

- Requirements do not apply to covered commodities produced or packaged before September 30, 2008.
- During the six month period following the effective date of the regulation, AMS will focus its resources on education and outreach or what is being termed, “informed compliance”.



Components of IFR

- Who must label
- What must be labeled
- Determining origin
- Recordkeeping
- Compliance and enforcement



Who Must Label?

Retailers

- A retailer is defined as any person licensed as a retailer under the Perishable Agricultural Commodities Act.
 - The PACA definition of a retailer includes only those retailers handling fresh and frozen fruits and vegetables with an invoice value of at least \$230,000 annually.



Exemptions

- The law exempts food service establishments, including those within retail establishments
 - Restaurants, Cafeterias, Lunch Rooms, Food Stands, Bars, Salad Bars, Delicatessens, and other food enterprises located within retail establishments that provide ready-to-eat foods.



Covered Commodities

Muscle Cuts of Beef, Lamb, Chicken, Goat, and Pork

Ground Beef, Ground Lamb, Ground Chicken, Ground Goat, and Ground Pork

Fish and Shellfish (wild and farm-raised)

Perishable Agricultural Commodities (fresh & frozen fruits and vegetables)

Peanuts, Pecans, and Macadamia Nuts

Ginseng



Processed Food Item - §65.220

- Law excludes processed food items:

Processed Food Item

1. Change of Character

- Cooking (frying, broiling, steaming, baking, roasting)
- Curing (salt curing, sugar curing, drying)
- Smoking (hot or cold)
- Restructuring (emulsifying and extruding)

2. Combined with Another Food Component



Processed Food Item - \$65.220

Processed Food Items are *NOT* Covered Commodities

Examples of Processed Food Items:

- Teriyaki Pork Loin
- Sausage
- Marinated Chicken
- Breaded Okra
- Salad mix that contains lettuce and carrots
- Fruit cup that contains pineapple & strawberries



Produced - §65.225

Produced in the case of perishable agricultural commodities, peanuts, ginseng, pecans, and macadamia nuts means grown.



U.S. Country of Origin

Beef, Pork, Lamb, Chicken, and Goat

Covered commodity may bear a U.S. origin declaration only if it meets the definition of U.S. country of origin.

- From animals born, raised and slaughtered in the U.S.
- From animals born and raised in Alaska or Hawaii, transported through Canada (<60 days) and slaughtered in the U.S.
- From animals present in the U.S. on or before July 15, 2008.



U.S. Country of Origin

Covered commodities further processed or handled in a foreign country after meeting the requirements to be labeled as “U.S. origin” may bear a declaration that identifies the U.S. as the sole country of origin as long as identity of the product is maintained along with necessary records.

(e.g., Loins exported to Canada and sliced into steaks)



Origin of Imported Covered Commodities

Imported covered commodities for which origin has already been established by this law (e.g., born, raised, & slaughtered) and for which no production steps occur in the U.S. retain the origin as declared to U.S. Customs and Border Protection.

(e.g., consumer-ready packages of lamb loins from Australia)



Multiple Countries of Origin

- Labeling meat from animals born, raised, and/or slaughtered in the U.S. and not imported for immediate slaughter:
 - If meat derived from U.S. origin and mixed origin animals are commingled during a production day, the resulting product may carry the mixed origin claim.



Multiple Countries of Origin

Retailers can market meat derived from U.S. origin livestock as having a mixed origin if it is commingled with meat of mixed origin (i.e., the retailer further processes meat at the store and the resulting package includes meat of both U.S. and mixed origin).



Multiple Countries of Origin

Meat from animals imported for immediate slaughter shall be designated as:

-Product of Country X and the United States



Labeling Ground Products

- Declaration shall list countries contained therein or that may be reasonably contained therein.
 - when a raw material from a specific origin is not in a processor's inventory for more than 60 days, that country can no longer be listed on the label.



Notification

- Remotely Purchased Products

Retailer may provide the country of origin on the sales vehicle or at the time the product is delivered.

- Internet Sales
- Home Delivery Sales



Notification / Markings

- Legible
- Conspicuous Location
- Limited Acceptable Abbreviations
- Symbols and Flags Alone NOT Acceptable



Markings - §65.400

Country of Origin Declarations can be made on...

- Placard - Sign
- Label - Sticker
- Band - Twist Tie
- Pin Tag - Or Other Display

Bulk containers may contain covered commodities from multiple origins and must be labeled accordingly.



Markings - \$65.400

Acceptable Declarations for Country of Origin

- “Product of the USA”
- “Produce of the USA”
- “Grown in Mexico”
- “California...” (State and Regional designations OK for everything except meats, fish, and shellfish)
- “U.S.”
- “Canada”
- “☒ China”



Markings - \$65.400



Markings - \$65.400



Recordkeeping Requirements - §65.500

- Records must be legible
- Maintained either electronic or hard copy format
- Various forms of documents acceptable
- May be maintained in any location



Recordkeeping Requirements - §65.500

Retailers and suppliers must provide records maintained in the normal course of business that verify an origin claim within 5 business days of a request by USDA representatives.



Recordkeeping Requirements - §65.500

- *Any person* engaged in the business of supplying a covered commodity to a retailer, directly or indirectly, must make information available to the buyer about the country(ies) or origin of the covered commodity.
- Information can be provided on the product, master shipping container, or in a document that accompanies the product through retail sale.



Recordkeeping for **RETAILERS**

In general, records that identify the covered commodity, retail supplier, and origin information must be maintained for 1 year from the date declaration is made at retail.



Recordkeeping for **RETAILERS**

- For covered commodities sold in pre-labeled consumer-ready packages, the record must identify the covered commodity and the retail supplier.
- For covered commodities that are not pre-labeled, the record must identify the covered commodity, the retail supplier, and the country of origin.



Recordkeeping for **RETAILERS**

For covered commodities pre-labeled with origin information on the shipping container, retailers must either maintain the pre-labeled shipping container at the retail store for as long as the product is on hand or ensure the origin information is included in the record identifying the covered commodity and the retail supplier.



Recordkeeping for **SUPPLIERS**

- “Suppliers” includes growers, slaughter facilities, distributors, handlers, packers, and processors.
- Suppliers initiating claims must possess or have legal access to records necessary to substantiate claims.
- In the case of slaughter facilities, packers may rely upon producer affidavits to initiate claims.
- Affidavits must be made by someone having first-hand knowledge and identify animals unique to transaction.



Recordkeeping for **SUPPLIERS**

- Feedlots or other entities can use affidavits they receive from producers or other entities as first-hand knowledge of the origin of livestock and then complete an affidavit affirming the origin information to a subsequent purchaser.
- The party preparing the consolidated affidavit would retain the original affidavits or other appropriate records to substantiate the claims.



Recordkeeping for SUPPLIERS

- Continuous affidavits (affidavits valid for an indefinite period of time until cancelled by the issuer) are acceptable provided they are linked to some record or other form of documentary evidence that identifies the animals unique to the transaction.
- Affidavits may be prepared by a producer based on visual inspection of their livestock for the period of July 16, 2008, through July 15, 2009.



Recordkeeping for SUPPLIERS

- Packers that slaughter animals that are part of a NAIS or other officially recognized system may also rely on presence of an official ear tag and/or the presence of any accompanying animal markings, as applicable, to base origin claims. Also includes group lots.
- Suppliers must maintain records to establish and identify the immediate previous source and immediate subsequent recipient of a covered commodity for a period of 1 year from the date of the transaction.



Retail Surveillance Activities

- Cooperative Agreements
- Retail Reviews
- Supplier Audits



Cooperative Agreements

- Official partnership established between USDA and State Agencies to assist with COOL Retail Surveillance responsibilities.
- Multi-year agreement; contingent upon the availability of funds.



2007 Retail Reviews

- 1,657 retail stores out of 1,662 assigned were audited in 2007 (99.7%).
- 540 (32.6%) audits showed violations of Country of Origin Labeling requirements.
- Within the 540 audits where violations occurred, there were 1101 violations cited. This is an average of 2 violations per audit conducted.



2007 Retail Reviews

| Violation | Frequency | Percent Frequency |
|---|-----------|-------------------|
| Failure to Label for Country of Origin | 370 | 34% |
| Failure to Label for Method of Production | 382 | 35% |
| Mislabeling for Country of Origin | 114 | 10% |
| Mislabeling for Method of Production | 25 | 2% |
| Failure to meet Record Keeping Requirements | 210 | 19% |



2008 Retail Reviews

- Retail reviews and audits will continue to be performed and conducted for fish and shellfish only.
- Retail reviews and audits will be conducted in all 50 states.
- 2,000 retail establishments will be reviewed for compliance to Country of Origin Labeling requirements



Supplier Audits

- Conducted by USDA auditors
- 2% of Retail Reviews are selected for traceback audits
- Country of Origin declarations are traced back through all suppliers in the chain of custody



Enforcement

- Only USDA can initiate enforcement actions
- Non-conformance with COOL regulations
- Retailers and Suppliers
- 30 day period allowed for violators to comply with regulations
- Civil penalties of up to \$1,000 per violation for all covered commodities



What's Next?

- Fully implement the 2008 Farm Bill, per statute
- Industry education & outreach ("informed compliance") for 6 months
- Continue retail surveillance for fish and shellfish
- Train State cooperators
- Begin retail surveillance for the balance of covered commodities
- Implement web-based retail review submission form



Additional Information



Visit

<http://www.ams.usda.gov/cool>

Submit Questions To

COOL@usda.gov

