

# Country Of Origin Labeling



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# 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



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# COOL Regulations

- **7 CFR Part 60 – Fish and Shellfish Only**
  - Published October 5, 2004
  - Effective April 5, 2005
  
- **7 CFR 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.



# 2008 Farm Bill – Sec. 11002

- Amended COOL provisions of the Act by...
  - 1. Adding Covered Commodities
  - 2. Specifying Labeling Requirements for Multiple Countries of Origin
  - 3. Providing that Covered Commodities from Animals in the U.S. on or before 07/15/08 may bear U.S. Origin declaration
  - 4. Reducing civil penalties from \$10,000 to \$1,000
  - 5. Allowing State, Regional, or Locality Labeling for Perishable Agricultural Commodities, Peanuts, Pecans, Macadamia Nuts, and Ginseng
  - 6. Modifications to Recordkeeping Requirements



# Components of IFR

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



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# 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.



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# 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**



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# Exclusions

- **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



# Regulation

## Pertinent Definitions



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# Imported for Immediate Slaughter - §65.180

Imported into the United States for “immediate slaughter” as that term is defined in 9 CFR 93.400, i.e., consignment directly from the port of entry to a recognized slaughtering establishment and slaughtered within 2 weeks from the date of entry.



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# Processed Food Item - §65.220

A retail item derived from a covered commodity that has undergone specific processing resulting in a **change of character** of the covered commodity, or that has been **combined with** at least one other covered commodity or **substantive food component** except that the addition of a component (such as water, salt, or sugar) that enhances or represents a further step in the preparation of the product for consumption would not in itself be a processed food item.



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# Processed Food Item - \$65.220

## Processed Food Items are *NOT* Covered Commodities

*Examples of Processed Food Items:*

Teriyaki Pork Loin

Sausage

Marinated Steak

Skewer of pork &

Cajun-rubbed chops

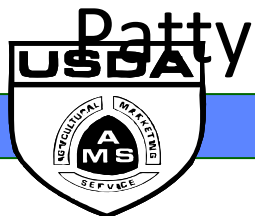
onions

Ham and Bacon

Meatballs

Fabricated Steak

Breaded Beef



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# 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)



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# 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)



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# Multiple Countries of Origin

Meat from animals born, raised, and/or slaughtered in the U.S. and not imported for immediate slaughter may be designated as:

-Product of the U.S., Country X, and/or (as applicable) Country Y, where Country X and Country Y represent actual or possible countries of foreign origin.



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# Multiple Countries of Origin

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

-Product of Country X and the United States



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# 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
- Acceptable Abbreviations
- Symbols and Flags Alone NOT Acceptable



# Markings - §65.400

Country of Origin Declarations can be made on...

- Placard
- Label
- Band
- Pin Tag
- Sign
- Sticker
- Twist Tie
- 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”





# 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.



# Examples of Records

Invoices

Health Records

Affidavits

Bill of Lading

Production Records

Sales Records

Purchase Records

Shipping Manifest

Inspection Certificates

Receiving Records

Carcass ID

UPC Codes



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# 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.



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# 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.



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# Recordkeeping for **SUPPLIERS**

- “Suppliers” includes but not limited to 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**

- Packers that slaughter animals that are part of a NAIS compliant system 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.



# 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



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# 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



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# What's Next?

- Fully implement the 2008 Farm Bill, per statute
- Industry education and outreach for 6 months following implementation date
- 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](mailto:COOL@usda.gov)

Submit Comments To

<http://www.regulations.gov>



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