

Country of Origin Labeling of Agricultural Products

Rules, Examples, Requirements, Recordkeeping



More consumers are checking product and food labels after recent imported product issues and continued health education and awareness campaigns. This growing consumer interest along with other food production issues prompted the federal government to devise laws requiring suppliers to state the origin of specific covered commodities.

Country of Origin Labeling, better known as “COOL,” took effect March 16, 2009. The Farm Security and Rural Investment Act of 2002 and the 2002 Supplemental Appropriations Act established COOL. Specifically, Section 10816 of the 2008 Farm Bill (7 U.S.C. 1638–1638d) amended the Agricultural Marketing Act of 1946 to require retailers to notify their customers of the origin of certain covered commodities.

Covered commodities include muscle cuts and ground products of beef (including veal), lamb, chicken, goat, and pork; farm-raised fish and shellfish; wild fish and shellfish; perishable agricultural commodities (fresh and frozen fruits and vegetables); ginseng; and pecans, macadamia nuts, and peanuts.

The following information details the requirements of COOL as stated by the United States Department of Agriculture – Agricultural Marketing Service (AMS) Code of Federal Regulations (7 CFR Part 65).

Documentation and Declaration

Anyone involved in supplying covered commodities, directly or indirectly, to a retailer must provide information about the country or countries of origin for that specific commodity. There are a number of different ways to declare the country of origin on covered commodities:

- on the product itself
- on the master shipping container
- in a document that accompanies the product through retail sale
- with a stamp, label, mark, placard, sign, twist tie, or other clear and visible sign on the covered commodity or on the package, display, holding unit, or bin containing the commodity at the final point of sale for consumers

There are no rules for font size, typeface, color, or location of country of origin claims. But the declaration must be legible and placed in a highly visible location that allows it to be read and easily understood by the consumer.

Covered Establishments

Most grocery stores, supermarkets, and retail stores are required to comply with COOL, while restaurants and other food service establishments (cafeterias, lunchrooms, food stands) are exempt.

The Perishable Agricultural

Commodities Act of 1930 (PACA) defines “retailer” as any person engaged in the business of selling any perishable agricultural commodity (fresh and frozen fruits and vegetables) at retail. If the invoice cost of all purchases of perishable agricultural commodities exceeds \$230,000 during the calendar year, retailers are required to be licensed and comply with COOL for all specified commodities.

Perishable agricultural commodities include fresh fruits and fresh vegetables of every kind and character, whether frozen, not frozen, or packed in ice. This also includes cherries in brine. Items such as fresh herbs, apples, strawberries, raspberries, blackberries, and other items covered under PACA regulations are subject to COOL labeling.

Country of Origin Labeling

The law allows for commingling of products in retail bins, so producers are allowed to list multiple countries as potential origins. The origin designation must be specific.

Products that were grown in the United States, exported to another country for processing, and returned to the United States for retail sale may be labeled “Product of the U.S.,” provided a verifiable audit trail is maintained. Without an audit trail, the product’s origin will be declared by U.S. Customs and Border Protection (CBP).

Appropriate labeling for imported perishable agricultural commodities can be in the form of a statement such as “Product of Country X,” “Grown in Country X,” or

“Produce of Country X.” The country of origin declaration may include only the name of the country, or it may be in the form of a checkbox provided it conforms to other federal labeling regulations (i.e., CBP, FDA, USDA).

Listing the state, region, or locality of the United States where the perishable agricultural commodity or nut was produced is sufficient to identify the United States as the country of origin. Some examples are Jersey Fresh, Pride of Georgia, and Virginia Grown.

Processed Food Items

Covered commodities that are ingredients in a processed food item are exempt. AMS has defined a processed food item as “a retail item derived from a covered commodity that has undergone specific processing resulting in a change in the character of the covered commodity, or that has been combined with at least one other covered commodity or other substantive food components.” Examples include chocolate, breadings, salad dressing, or tomato sauce.

Specific processing that results in a change in the character of the covered commodity includes cooking (e.g., frying, broiling, grilling, boiling, steaming, baking, roasting), curing (e.g., salt curing, sugar curing, drying), smoking (hot or cold), and restructuring (e.g., emulsifying and extruding). Some examples of processed products that would be excluded from COOL are roasted peanuts, marinated chicken, breaded chicken, a salad mix with lettuce and carrots, and fruit cups with melons, pineapples, and strawberries.

USDA will rely on U.S. Grade Standards for fruits and vegetables to make the distinction of whether or not the retail item is a combination of “other covered commodities.” For example, a fruit cup with peaches, oranges, and tangerines is exempt from COOL labeling if each constituent has a different grade standard.

Another example would be different-colored sweet peppers combined in one package. Because peppers have the same grade standard, this product would fall under COOL legislation. The USDA Grade Standards for fruits and vegetables can be found online at www.ams.usda.gov/AMSv1.0.

Trimming, cutting, chopping, and slicing are activities that do not change the character of the product, so these are covered under COOL. Dried fruits and vegetables, however, are not subject to COOL labeling requirements because these have undergone a change in character.

While the COOL law contains an expressed exclusion for an ingredient in a processed food item, many imported items still must be labeled with country of origin information under the Tariff Act of 1930. Items that are

imported in consumer-ready packages also are required to be labeled with country of origin information.

Country of Origin Labeling Qualifications

To be considered a product of the United States, beef (including veal), pork, lamb, chicken, and goat must be derived from animals that meet these criteria:

- exclusively born, raised, and slaughtered in the United States, and
- born and raised in Alaska or Hawaii and transported for a period of no more than 60 days through Canada to the United States; once present in the United States, these animals must remain continuously in the country.

Perishable agricultural commodities, peanuts, ginseng, pecans, and macadamia nuts must be grown in the United States to be labeled as products of the United States.

Country of Origin Labeling for Meat Products

Meat from animals imported for immediate slaughter in the United States must be designated as “Product of Country X and the United States.” Imported muscle cuts of meat for which no production steps occur in the United States retain the origin as declared to U.S. Customs and Border Protection.

If meat covered commodities derived from the United States and mixed-origin animals are commingled during production, the resulting product may carry the mixed-origin claim (e.g., Product of U.S., Canada, and Mexico). It is not allowable to label meat derived from livestock of U.S. origin with a mixed-origin label if only U.S. meat was produced during the production day.

For labeling consistencies, labels may not use “or” and “and/or” when declaring the origin. (e.g., Product of the U.S., Canada, or Mexico; or Product of the U.S., Canada, and/or Mexico). More specific labels can be used (e.g., Product of the U.S. and Canada; From hogs born in Canada; Product of U.S. and Canada; Processed in the U.S.)

Retailers that further process, similar to packers and intermediary suppliers, are permitted to mark U.S.-produced meat products under a mixed-origin label if they are commingled with meat of mixed origin. Any time whole muscle cuts are mixed from different countries, all countries must be listed.

If mixed-origin meat covered commodities and direct for slaughter animals are commingled, the resulting product may carry the direct for slaughter origin claim as applicable (e.g., Product of U.S. and X). For ground meat, all actual and reasonably possible countries of origin must

be listed. As a rule for determining what is reasonably possible, when a raw material from a specific origin is not in the processor's inventory for more than 60 days, that country must no longer be included as a possible country of origin.

Muscle cuts of meat stated in the Institutional Meat Purchase Specifications (IMPS) Series 100 (beef), 200 (lamb), 300 (veal), 400 (pork), and 11 (goat) are all covered commodities. Products derived from Series 700 Variety Meats and Edible By-Products are excluded from COOL labeling requirements if sold at retail as a variety meat.

However, if a packer is using imported ("D" category) variety meats in the manufacture of ground beef, that imported origin must be claimed in the final product's COOL declaration (e.g., origin declaration for ground beef that contains cheek meat imported from Canada must include Canada).

If packers producing ground meats intend to market ground meat as "Product of the United States" ("A" category), the supplier of that ground meat must ensure that all meat components in the ground meat are from livestock exclusively born, raised, and slaughtered in the United States.

Retail Recordkeeping

Retailers are required to maintain records or other documented evidence that verifies the origin of claims made at retail. These records may be maintained in any location and, unless specified, must be maintained for a period of 1 year from the date of declaration made at retail.

If requested, these records must be provided to any authorized representatives of the USDA within 5 business days of the request. Records for covered commodities sold in pre-labeled, consumer-ready packages must identify the covered commodity and the retail supplier.

For products in pre-labeled packages with the origin information on the shipping container (or other type of outer container), the label itself is sufficient evidence to establish the product's origin at the point of sale. However, retailers must still maintain a record identifying the covered commodity and the retail supplier. Additionally, the retailer must either keep 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.

For products that are not pre-labeled, the retailer must maintain records that identify the covered commodity, the retail supplier, and the origin information.

Supplier Recordkeeping

Retail suppliers must maintain records to identify the immediate previous source (if applicable) and immediate subsequent recipient of a covered commodity for a period of 1 year from the date of transaction. Upon request, these records must be provided to any authorized representatives of the USDA within 5 business days of the request and may be maintained in any location.

The supplier of a covered commodity that is responsible for initiating a country of origin declaration must possess or have legal access to records that are necessary to substantiate that claim. In the case of beef (including veal), lamb, pork, chicken, and goat, this is the slaughter facility. A producer affidavit is acceptable evidence to initiate the origin claim, but it must be made by someone having firsthand knowledge of the origin of the animals and identify the animals unique to the transaction.

For imported covered commodities, the importer of record as determined by CBP must ensure that records provide clear product tracking from the United States port of entry to the immediate subsequent recipient. These records must accurately reflect the country or countries of origin of the item as identified in relevant CBP entry documents and information systems. Importers must maintain such records for a period of 1 year from the date of transaction.

Producers and feedlots with animals that are part of a national animal identification system (NAIS) or other recognized official identification system (Canadian or Mexican official system) may rely on official ear tags and/or any accompanying animal markings on which origin claims can be based.

Affidavits

Producer affidavits are considered acceptable evidence for the slaughter facility or the livestock supply chain to use to initiate or transmit an origin claim. To write an affidavit, the producer must have firsthand knowledge of the origin of the animals.

The affidavit must identify the animals unique to the transaction. Evidence that identifies animals unique to a transaction can include a tag ID system, the type and sex of the animals, the number of head involved, the date of the transaction, and the name of the buyer. A backgrounder, feedlot, or other producer (after ownership has transferred from the farm or ranch of birth) can use affidavits as firsthand knowledge of the origin information to then complete an affidavit affirming origin information to a subsequent purchaser of the livestock.

Also, continuous affidavits can be used as an acceptable means to transmit origin information for livestock. These continuous affidavits must be linked to some record or other form of documented evidence that identifies the animals unique to a transaction.

For cattle, producer and owner affidavits may be based on a visual inspection of the animal to verify its origin for all sales before and including sales of livestock for slaughter. If no markings are found that would indicate that the animal could be of foreign origin, then the animal may be considered to be of United States origin. However, meat packers are not allowed to use visual inspection for origin verification.

For More Information

United States Department of Agriculture – Agricultural Marketing Service
www.ams.usda.gov/AMSV1.0/COOL

United States Department of Agriculture – Food Safety and Inspection Service
www.fsis.usda.gov

United States Customs and Border Protection
www.cbp.gov

Institutional Meat Purchase Specifications
<https://www.ams.usda.gov/grades-standards/imps>

Code of Federal Regulations
7 CFR Part 65

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United States Department of Agriculture – Agricultural Marketing Service. 2009. "Perishable Agricultural Commodities Act of 1930 (PACA)." 7 CFR Vol. 2, Part 46, page 254–290.

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