

Country of Origin Labeling Guide for Food Manufacturers



INTRODUCTION

The U.S. Department of Agriculture's (USDA) Agricultural Marketing Service's (AMS) country of origin labeling (COOL) regulations are the product of provisions found in the 2002 and 2008 Farm Bills. COOL rules require retailers, such as grocery stores, supermarkets, and club warehouse stores, to provide customers with information regarding the source of certain foods. Food products governed by the COOL regulations—referred to as “covered commodities”—include muscle cut and ground meats (*e.g.*, beef, veal, pork, lamb, goat, and chicken); wild and farm-raised fish and shellfish; fresh and frozen fruits and vegetables; peanuts, pecans, and macadamia nuts; and ginseng. The complete COOL regulation can be found [here](#).

COOL enforcement activities for fish and shellfish commodities began in 2005, and in 2009, USDA began conducting such activities for all COOL covered commodities. In response to the collection of compliance data, these activities, such as retail reviews and supplier traceback audits, have evolved over time. Furthermore, many imported products that are exempt from USDA COOL requirements are still required to be marked with country of origin information under the Tariff Act of 1930, which is enforced by CBP.

Therefore, the purpose of this guide is to provide an up-to-date, convenient reference for members of the American Frozen Food Institute (AFFI) on both USDA and U.S. Customs and Border Protection (CBP) country of origin labeling requirements in one, concise document. For additional AFFI resources on USDA COOL, including prior memoranda detailing the history and other specific requirements of the regulation, please visit the [AFFI COOL webpage](#).

DISCLAIMER

This guidance document is not intended as, and should not substitute for, legal advice. Companies should consult their own legal counsel to ensure compliance with applicable laws and regulations. AFFI does not warrant that use of this document will ensure the products AFFI members manufacture and/or distribute are correctly labeled, and AFFI expressly disclaims any such warranties.

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COUNTRY OF ORIGIN LABELING (COOL) GUIDE FOR FOOD MANUFACTURERS

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Q: Which U.S. federal agencies regulate COOL?

A: The U.S. Department of Agriculture's (USDA) Agricultural Marketing Service (AMS), the U.S. Customs and Border Protection (CBP or "Customs"), and the Federal Trade Commission (FTC) all regulate claims regarding a commodity's origin.

CBP's rules apply to imported products, FTC rules apply to voluntary "Made in the USA claims," and USDA rules apply to both imported and domestically produced products.

Q: Where can I find more information about COOL requirements?

A: Information about USDA's COOL requirements can be found on this [website](#), which contains many helpful resources, including:

[The final rule establishing USDA's COOL regulations](#)
[A questions and answers document](#)
[A summary of labeling options](#)
[Supplier brochure](#)

More information about CBP regulations can be found on the [Customs country of origin marking webpage](#) and in its guidance document, [What Every Member of the Trade Community Should Know About U.S. Rules of Origin](#).

The FTC's guidance on "Made in the USA" claims can be found [here](#).

Q: Which frozen food commodities require country of origin labeling?

A: CBP: Generally, every item imported into the U.S. (or, where permitted, its container) must be conspicuously marked to indicate to the ultimate purchaser its foreign country of origin. CBP does not require marking to indicate U.S. origin.

USDA: Covered commodities include muscle cuts of beef (including veal), lamb (including mutton), pork, goat and chicken; ground beef, ground lamb, ground pork, ground goat and ground chicken; farm-raised fish and shellfish; wild fish

and shellfish; and fruits and vegetables (as well as peanuts; ginseng, pecans and macadamia nuts).

FTC: "Made in the USA" claims are voluntary claims and are not required. If you choose to make such a claim, you must follow FTC rules.

Q: Are there any exemptions?

A: CBP: Once a foreign-origin commodity has undergone processing in the U.S. resulting in a change in name, character or use (also known as "substantial transformation") or a change in the specified tariff classification for those commodities imported from Canada or Mexico, the commodity is considered a U.S. product. The commodity is exempt from CBP COOL requirements *after* processing.

USDA: So called "processed" food items are exempt from COOL. A commodity is considered a processed food item if the processing changes the character of the commodity, or if the commodity is combined with another covered commodity or substantive food component (e.g., chocolate, breadings, tomato sauce), 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 result in a processed food item. 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).

Q. Does cutting or slicing vegetables count as processing?

A. For purposes of USDA COOL rules, a "processed food" item is a retail item derived from a covered commodity that has undergone processing resulting in a change in the character of the commodity or that has been combined with at least one other covered commodity or other substantive food components (e.g. breadings, chocolate, salad dressing and tomato sauce). Trimming, cutting, chopping and slicing are activities that do not change the character of the product.

Q: Would a frozen vegetable medley that is packaged in the United States and contains both foreign and domestic produce have to bear country of origin information since it is a combination of different commodities?

A: Yes. While this product is considered a processed food item and is therefore excluded from USDA COOL labeling requirements, according to CBP rules and regulations, the process of blanching, cutting, freezing, and combining and packaging different vegetables (or fruits) does not result in the item being excluded from Customs marking requirements. Therefore, the product would need to be marked with the appropriate country of origin information. For

example, a medley of broccoli from Mexico and cauliflower and carrots grown in the United States with no additional processing, additives, etc., would need to be labeled on the retail packaging as a product of Mexico; alternatively, it could indicate the origin of each type of vegetable.

Q: Is frozen broccoli that is grown, harvested and packed in the United States subject to country of origin labeling?

A: Yes. This product is required to be marked as a product of the United States under USDA COOL rules. There is no presumption of U.S. origin.

For further illustration, the following table may be helpful:

	Single Ingredient Frozen Fruit or Vegetable (e.g., peas)	Blend of Different Frozen Fruits or Vegetables (e.g, peas and carrots)
Part or all of the product is imported	Follow Customs country of origin determinations (covered by both Customs and USDA COOL rules)	Follow Customs country of origin determinations (covered only by Customs COOL rules)
100 percent grown in the United States	Must be labeled "USA" or "Product of USA" (covered only by USDA COOL rules)	Exempt from both USDA and Customs COOL rules

Q: Are French fries covered by COOL?

A: Because USDA's COOL law defines a perishable agricultural commodity as having the meaning given that term in the *Perishable Agricultural Commodities Act* of 1930, some potato products are required to be labeled with origin information. As is the case with other types of covered commodities, those potato products that result from processing steps that render the product a processed food item as defined by USDA COOL regulations are not required to have COOL. Because most frozen potato products have been processed in some way, they are typically exempt from USDA COOL regulations.

For example, most hash brown potato products are processed food items excluded from COOL because the potato is restructured and shaped into a form. Some types of French fries are also considered processed food items because they are made from restructured potatoes or have been seasoned with a particular flavor, such as "Cajun fries." Potato products that contain other substantive food components (e.g., breading), and for which the ingredient statement lists components in addition to potatoes, are excluded from USDA COOL requirements. Similarly, potato products containing oil and/or phosphates, nitrates, etc., are excluded from USDA COOL requirements. Potato products containing only dextrose (sugar) and/or salt are covered by USDA

COOL requirements, however, because the character of the potato has not been changed.

For purposes of enforcement, USDA has instructed retail store reviewers to review only frozen potato products that list potatoes as the sole ingredient during retail store reviews. Under the agency's current policy, other forms of frozen, processed potato products should not be included or considered in retail reviews or cited for non-compliance.

Q: How do you determine the country of origin for muscle cuts of meat?

A: USDA's COOL regulation for meat can be found at [7 C.F.R. Part 65](#). In particular, see 7 C.F.R. 65.300 and this [guidance from USDA](#). The following table may be helpful to understand the regulation.

Category	Description	Designation	Other Rules
A	Livestock born, raised and slaughtered in the U.S.	"Product of U.S."	If commingled with category B during a production day, use category B designation; Order of countries does NOT matter
B	Multiple countries of origin, including the U.S.	"Product of U.S., Canada, Mexico"	Order of countries does NOT matter; If commingled with category A during a production day, use category B designation
C	Livestock imported for slaughter within 14 days of arrival to the U.S.	"Product of Canada, U.S."	Order DOES Matter; But if commingled with category A or category B during a production day, order does not matter
D	Imported	"Product of Australia"	Use origin declared to CBP at entry

Q: How do you determine origin for ground meats?

A: You must list all countries of origin that may be reasonably contained in the product. In determining what is considered reasonable, when a raw material from a specific origin is not in the processor's inventory for more than 60 days, that country shall no longer be included as a possible country of origin. See USDA's COOL regulations at [7 C.F.R. Part 65](#).

Q: What are the origin declaration rules for fish and shellfish?

A: Under USDA rules, retailers must provide information about the country of origin and method of production (wild and/or farm raised) for fish and shellfish. USDA's COOL requirements for fish and shellfish are found in separate regulations, at 7 C.F.R. Part 60. These regulations can be accessed [here](#). The following guide may facilitate country of origin and method of production labeling options for seafood:

Commodity	Country of Origin	Conditions	Acceptable Labeling Terms	Regulation
Farm raised fish and shellfish	U.S.	Hatched, raised, harvested, and processed in the U.S.; has not undergone any substantial transformation outside the U.S.	Product of the U.S.	7 C.F.R. 60.128(c)
Wild fish and shellfish	U.S.	Harvested in U.S. waters or by a U.S. vessel and processed in the U.S. or aboard a U.S. vessel; has not undergone any substantial transformation outside the U.S.	Product of the U.S.	7 C.F.R. 60.128(d)
Farm raised and wild fish and shellfish	Imported	Imported products that have Not undergone substantial transformation in the U.S.	As declared by U.S. Customs and Border Protection (CBP)	7 C.F.R. 60.200(f)
Farm raised and wild fish and shellfish	Imported	Imported products that HAVE undergone substantial transformation in the U.S.	"From Country X, Processed in the U.S."; "Product of Country X and the U.S."	7 C.F.R. 60.200(g)
Farm raised and wild fish and shellfish	Commingled	Imported products that have Not undergone substantial transformation in the U.S. + Imported products that have Not undergone substantial transformation in the U.S.	Declaration must indicate countries of origin in accordance with existing federal requirements	7 C.F.R. 60.200(h)(1)
Farm raised and wild fish and shellfish	Commingled	Imported products that HAVE undergone substantial transformation in the U.S. + Imported products that HAVE undergone substantial transformation in the U.S.	Declaration must indicate countries contained therein or may be contained therein	7 C.F.R. 60.200(h)(2)

More information on country of origin labeling for seafood can be found [here](#).

Q: Is it permissible to use “or” or “and/or” when connecting a string of two or more countries of origin on a declaration of origin?

A: The terms “or” and “and/or” in the country of origin designation declaration may not be used under either USDA COOL or Customs COOL rules. The country of origin information must be specific, and if the package contains product from multiple countries, all such countries are normally required to be listed.

Q: What if my finished product may contain product from multiple countries in some cases but not always?

A: Again, country of origin information must be specific. The term “may contain” is not allowed under USDA COOL or Customs rules. It is also not permissible to label a product as containing covered commodities from multiple countries in such cases when product from the listed countries is included in some, but not all production runs. During USDA COOL Supplier Traceback audits, one must be able to demonstrate that the labeled product was produced using covered commodities from all countries listed.

Q: What terminology to identify the country of origin is acceptable? May I simply list the name of the country of origin?

A: Under USDA COOL rules, the declaration of the country of origin may be in the form of a statement such as: “Product of USA,” “Grown in USA,” or “Produce of USA,” may only include the name of the country (e.g., “USA”) or may be in the form of a checkbox, provided it conforms with other federal labeling regulations (i.e., CBP, FDA).

For imported products, under Customs rules it is normally acceptable to use the words “Made in Country X,” “Product of Country X,” or simply “Country X.” However, if the name of any foreign country or locality other than the country or locality in which the article was manufactured or produced appears on the imported article or its container (e.g., “distributed by ABC Frozen Foods, Frozen City, CA”), and those words, letters or names may mislead or deceive the ultimate purchaser as to the actual country of origin of the article, then “product of country X” or “made in country X” is required. In addition, the declaration of origin should be in close proximity (same panel), in comparable size font, and just as conspicuous and legible as the other reference to location.

Q: Our current packaging and our invoices identify our business address. Do we need to provide any further information?

A: A manufacturer’s/distributor’s business location is insufficient to provide the country of origin of the products they sell. The country of origin of each

commodity needs to be declared. See above question and answer regarding additional Customs marking requirements when the presence of such address may mislead or deceive the ultimate purchaser.

Q: Are we required to declare the country of origin on the label of our packages?

A: Under USDA COOL rules, suppliers are required to make country of origin information available to their buyers. Such notification can be provided either on the product itself, on the master shipping container or in a document that accompanies the product through retail sale. Suppliers do not have to individually label packages with country of origin information. However, under Customs COOL rules, the articles themselves or their retail packages must normally be labeled with country of origin information such that the ultimate purchaser will be able to know the country of origin. In addition, many retailers prefer that each product be labeled. Therefore, it is recommended that you provide country of origin information on the label of your packages.

Q: Do the rules specify font size, typeface, color or location of country of origin claims?

A: No. The USDA COOL rules do not contain prescriptions for font size, typeface, color or location of country of origin claims. However, under both USDA COOL and Customs rules, declarations must be legible and must be placed in a conspicuous location, which makes it likely to be read and understood by a customer under normal conditions of purchase.

Under Customs rules, if the name of any foreign country or locality other than the country or locality in which the article was manufactured or produced appear on an imported article or its container, and those words, letters or names may mislead or deceive the ultimate purchaser as to the actual country of origin of the article, then "product of country X" or "made in country X" is required. In addition, the declaration of origin should be in close proximity and just as conspicuous and legible as the other reference to location (e.g., a distributor's address).

Q: Are abbreviations for country names acceptable?

A: In general, abbreviations are not acceptable. Only those abbreviations approved for use under Customs rules are acceptable for both USDA and Customs COOL, such as "UK" for "United Kingdom." A list of approved abbreviations can be found [here](#).

Q: What are the recordkeeping requirements for COOL?

A: Retail suppliers must maintain records to establish and identify the immediate previous source (if applicable) and immediate subsequent recipient and the

product unique to that transaction for a period of one year from the date of transaction. Upon request, these records must be provided to any duly authorized representatives of USDA within five business days of the request and may be maintained in any location.

The supplier of a covered product that is responsible for initiating a country of origin declaration must possess records that are necessary to substantiate that claim and maintain them for one year. Producer affidavits are considered acceptable records that suppliers may use to initiate origin claims, provided it is made by someone having first-hand knowledge of the origin of the product and identifies the product unique to the transaction.

For an imported product, the importer of record, as determined by Customs, must ensure that records: provide clear product tracking from the United States port of entry to the immediate subsequent recipient and accurately reflect the country(ies) of origin of the item as identified in relevant CBP entry documents and information systems; and maintain such records for a period of one year from the date of the transaction. However, support of the origin of an imported product may be required to be kept longer under Customs rules (usually five years from the date of import).

Suppliers who are further processors or re-packers must also maintain chain of custody records. They must maintain and provide internal system records that document the transfer of the country of origin claims through the processes used to further process or repackage the covered commodities.

Intermediary suppliers handling pre-labeled product must maintain and provide chain of custody records; however, once a pre-labeled product leaves the possession of an intermediary supplier, no further recordkeeping documenting the country of origin for that product is required. Intermediary suppliers handling an item that is found to be designated with the incorrect country of origin will not be held liable for a violation, unless that supplier willfully disregarded information establishing that the country of origin declaration was false.

Q: What happens during a supplier traceback audit?

A: If a USDA representative is conducting a traceback audit, he or she will identify him or herself as such and will give the supplier a Supplier Information Request Form (SIRF). The SIRF identifies all of the available information about the traceback item and requests the submission of certain records. The required records must be provided in five days. If you have any questions, need additional information or need additional time, you should contact the USDA auditor. When the audit is concluded, the auditor will notify each supplier of the results as soon as its portion is completed. The findings of the audit are not final until they have been reviewed by the USDA COOL Program Manager.

If a non-compliance finding is identified and confirmed by the Program Manager, the supplier will receive a non-compliance notification letter, if appropriate. Suppliers must submit corrective and preventive actions to address the findings within 30 days of receipt of a non-compliance notification letter.

Q: Do Customs COOL rules only apply when the imported product crosses the border into the United States?

A: Customs has jurisdiction over an imported product and requires COOL for the product until it reaches the “ultimate purchaser.” The ultimate purchaser is generally defined as the last person in the United States who will receive the article in the form in which it was imported. Depending on the processing that takes place in the United States, the ultimate purchaser may be the consumer at the retail level or the institutional customer who receives the product in bulk and intends to repackage it or use it for commercial food service purposes. Under Customs rules, freezing and blanching are not considered sufficient processing to change the character of the imported product. That is why imported frozen fruits and vegetables must be labeled on the retail package with the country of origin as declared to Customs at the time the product entered the U.S. This is true even if the product is repacked from large totes into consumer sized packages. Likewise, for example, imported frozen blueberries shipped to a muffin manufacturer also would normally need to be marked with the country of origin (although once the blueberries are in the muffins their origin would no longer need to be identified as the muffin manufacturer would be considered the “ultimate purchaser” in this instance).

Although Customs does have jurisdiction over products sold at retail, the agency does not frequently enforce requirements at that level. Customs generally enforces its COOL labeling requirements at the border. Because of this, where an imported article is intended to be repacked in retail containers after its release from Customs custody, or where Customs has reason to believe it will be so repacked, the importer is required under the Customs regulations to provide (at the time the Customs entry summary is filed) a written certification that if the importer does the repacking he will ensure that the marking will not be obscured or the retail packing will be marked with the country of origin or, if the article will be sold or transferred to a subsequent purchaser or repacker, the importer will notify the subsequent purchaser or repacker that any repacking of the article must conform to these requirements (for which there is established notification language). Copies of such certificates and notices to repackers should be maintained for a period of five years.

Q: My vegetable medley is packaged in the United States and contains only U.S.-grown produce. May I state that my product is “made in the USA?”

A: Yes. Your product is exempt from both CBP and USDA COOL labeling requirements. However, you may voluntarily state that your product is “Made in

the USA" if you comply with the FTC's requirements for such claims. For a product to be called "Made in the USA," or claimed to be of domestic origin without qualifications or limits on the claim, the product must be "all or virtually all" made in the U.S. More information is available [here](#).