

## **Country of Origin Labeling Follow-Up Surveillance Review Procedures for Retail Facilities**

### **1 Purpose**

This document provides the procedures for conducting follow-up 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 Follow-up 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*
- *COOL Training Materials.*
- *COOL Follow-up Retail Surveillance Review Workbook*
- *Gathering Information During Retail Reviews and NC Code Laminated Card*
- [www.ams.usda.gov/cool](http://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 in retail store facilities assigned by the COOL Division. In addition, COOL retail reviews will, on occasion, be assigned to the USDA, AMS, LPS Program, Grading and Verification Division. Taken collectively, these 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) Identify themselves to retail facility officials by using their official identification.
- d) Indicate to facility officials that they are an agent of the USDA conducting an official review to verify compliance with the COOL requirements of the 2002 and 2008 Farm Bills.
- e) Dress appropriately and conduct themselves in a professional manner at all times.
- f) Interact with retail facility personnel in a courteous and diplomatic manner while remaining observant and thorough in conducting the review.
- g) Limit the scope of the review to the covered commodities offered for retail sale and the supporting documentation that verifies COOL compliance at the retail facility.
- h) Conduct an opening and closing meeting with the retail facility officials.
- i) Answer questions and provide information concerning the COOL regulation requirements.
- j) Contact the COOL Program Manager with any questions, and forward all findings as set forth in this document.
- k) Discuss all findings with the retail facility official during the closing meeting.
- l) Consider any information gathered during a review as confidential, not to be shared with officials or employees of other stores or businesses.
- m) Complete the applicable forms in the COOL Retail Surveillance Workbook (COOL Workbook) and submit to USDA at the designated contact point.
- n) Submit review findings to the USDA using Cloud Vault.
- o) Ensure proper expense information is submitted to USDA, when applicable.

## **6 Follow-up Retail Review Frequency**

**6.1** Follow-up retail review locations and frequency will be pre-determined and assigned to reviewers by the USDA depending on the availability of budgeted and appropriated funds.

**6.2** Follow-up store review locations, quantity, and frequency will be pre-determined and assigned to federal and state employees to complete. Each fiscal year, follow-up reviews will be conducted in retail stores with high numbers of violations from the immediate previous review. The total number of assigned follow-up reviews will be based on annual budget constraints.

## **7 Follow-Up Review Procedures**

- 7.1** Prior to conducting the review, read the reference documents, become familiar with all COOL requirements and covered commodities and examine the immediate previous retail review with findings.
- 7.2** Refer to the Store Assignment List provided by the COOL Program Manager to obtain information about the retail facility designated for reviewing by the USDA.  
Note: The Review Number will start with an “F” for all follow-up reviews and the previous review file name will be included on the Store Assignment List. Review files from the immediate previous review and responses to non-compliances from retailers are available on Cloud Vault. The Cloud Vault links will be emailed to the State Manager. COOL Workbook files from the previous review are to be referenced for the purpose of obtaining additional information about the facility and any non-compliance findings that were previously identified.
- 7.3** In the Excel COOL Follow-up Retail Surveillance Review Workbook, also known as the Follow-up Workbook, enter the available retail store information onto the Follow-up Review Checklist tab prior to reviewing the retail store on location. This information will be automatically transferred to the Information Form.
- 7.4** Save the COOL Workbook with the following file naming format (e.g., CA 15 F2356A):  
a) Two letter postal abbreviation of the state that the review is performed in.  
b) The 2 digit fiscal year, (e.g., “15” for 2015).  
c) Pre-assigned Review Number, obtained from the Store Assignment List.
- 7.5** Print the Worksheet to facilitate data collection during the review; print the Information Form to provide to the facility representative during the opening meeting; and print the Checklist to complete and leave with the facility representative at the conclusion of the review.
- 7.6** Adhere to the responsibilities outlined in Section 5 of this document.
- 7.7** Upon arrival at the facility, the reviewer shall introduce themselves as a representative of the USDA; provide the facility representative with official government identification; and request a meeting with the facility manager, counter manager, or other appropriate official. The retail facility representative may invite anyone he/she believes would be involved in COOL compliance requirements to participate in the review.

*Note: If the facility representative refuses to cooperate with the review, gather as much information as possible and leave the facility. Document the specifics of the incident, including the facility representative’s name, if*

*possible; and contact the COOL Program Manager with the information. Every effort should be made to complete the review; however, do not confront a belligerent or reluctant facility representative.*

- 7.8** Conduct a short opening meeting with the store representative, covering the following areas:
- a) Explain the scope and objective of the follow-up 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 the supporting documentation to verify COOL compliance for all covered commodities available for sale at the retail facility.
    - 2) Objective of the review - To determine if the retail facility has corrected prior non-compliances (NC) findings and developed preventative measures including a COOL compliance plan and standard operating procedures to ensure that the covered commodities they are offering for sale at the time of the follow-up review meet COOL labeling and recordkeeping requirements. The key points to emphasize to retailers through these follow-up reviews are:
      - a) Understanding what corrective actions and preventative measures and how they are different.
      - b) General understanding of COOL requirements, what needs to be labeled, how COOL information can be presented, and some common issues/problems with discrepancies between signs and stickers, multiple country of origin designations, use of "or", and state, local, and regional labeling.
      - c) Understanding that preventative measures involve developing an overall COOL compliance system. A preventative system ensures that somebody is designated as the responsible party for the successful implementation of this compliance system.
      - d) The Retailer's system consists of standard operating procedures;
        - i) Some of these procedures are specific actions that are expected every day to ensure labels are conspicuous, accurate, and get changed or modified as necessary.
        - ii) Other procedures ensure adequate communication between the retailer and its suppliers regarding the receipt and proper documentation of COOL information.
        - iii) Regular employee training procedures are also explained.
        - iv) If this system is effective, it will help to prevent the majority of COOL non-compliance findings.
  - b) Provide the Information Form to the facility representative.
  - c) Provide a short summary of the methods and procedures to be used to conduct the review.
  - d) Inform the facility representative that records will be required for at least three or five randomly selected covered commodities for the purpose of:

- 1) Verifying the accuracy of the country of origin and method of production (as applicable) labeling.
- 2) Providing information about the previous supplier along with identifiers unique to the transaction that will permit traceability to the importer or the supplier that is responsible for initiating the COOL claims. Ascertain what type of records the facility maintains to provide this information. If the records are not maintained at the facility, verify that the records can be submitted within 5 business days of the review. Provide the store representative with the e-mail address or fax number to submit the records to and the due date upon which the records must be received.
- e) Gather additional information about the retail facility. Verify the facility name, number, address, phone number, and representative's name. In addition, obtain the responsible authority and corporate contact's email address where the official review notification and request for corrective actions should be sent.
- f) Inform the facility representative that pictures will be taken of non-complying items during the review.
- g) Answer any questions pertaining to the follow-up review or to the COOL regulations.
- h) Inform the facility representative that they are welcome to accompany you during the review.
- i) Confirm the time and location for a closing meeting at the conclusion of the review if the representative does not accompany you during the follow-up review.

**7.9** Examine all covered commodities available for retail sale at the facility to evaluate if the items are labeled or identified in compliance with COOL regulation requirements, paying particular attention to all items identified on the previous review as being out of compliance. Indicate on the worksheet whether each of these items is now correctly labeled or whether non-compliance findings continue to exist. Observe all locations where covered commodities may be presented for sale, including refrigerated and frozen cases, dry grocery, and promotional display areas. In-store delis and foodservice areas are exempt from COOL regulation requirements.

**7.10** Explain to the facility representative what you are looking for (to the extent possible). If a covered commodity is found to be non-compliant, write the description of the product in the appropriate section of the workbook, and bring the non-compliance to the facility representative's attention. Pay particular attention to the corrective actions the retailer indicated were taken as identified in their response to the earlier review. Note whether there is evidence to support that these corrective actions were taken and were successful.

- 7.11** Determine through observation whether the store has implemented effective preventative measures consistent with a sufficient COOL compliance system that assures covered commodities are properly labeled and meet COOL labeling and recordkeeping requirements.
- 7.12** Document information on the Worksheet 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 justification via code describing the nature of the finding 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. See Section 7.14 regarding the requirement to obtain photographic evidence of non-compliance during follow-up retail store reviews. Provide any comments in the *Notes* section next to the codes applied to the non-complying item. Additional comments include the brand name, the pack size, whether the item is fresh or frozen, etc., and any additional information that further describes the non-complaint item. Additional information may be entered on the Worksheet in the *Additional Comments and Information* section at the top of page 4.
- 7.13** Select 3 or 5 covered commodities for in-store recordkeeping review. The total number of commodities and the assigned category will be assigned with your retail review list. The purpose of the recordkeeping is to ascertain whether the retailer is meeting its recordkeeping responsibilities, to verify the accuracy of the COOL information provided at the point of sale, and to obtain information on the previous supplier of the covered commodity.
- a) If the assigned commodity category is not sold at the retail store, choose the next commodity within the same color below. If no covered commodities are sold for that category select a recordkeeping item for the next available category that has not already been assigned. For example, if N was assigned however the Retailer did not sell ground beef, choose veal muscle cuts or ground. If no beef is sold at the retail store go to the top of the table and select the next commodity category that has not been assigned such as fresh fruits. Reviewers should request records from items that are labeled with the country of origin/method of production. If the records are not maintained at the facility, inform the store representative that they will have 5 business days to provide the records. Provide the store representative with the due date upon which records must be received and the e-mail address or fax number to submit the records to. The COOL Division has printed Recordkeeping Request Forms, in tablets, to facilitate the recordkeeping request process (Appendix A).

The commodity categories are:

<b>A</b>	Fresh Fruits
<b>B</b>	Frozen Fruits
<b>C</b>	Peanuts
<b>D</b>	Pecans
<b>E</b>	Macadamia Nuts
<b>F</b>	Ginseng
<b>G</b>	Fresh Vegetables
<b>H</b>	Frozen Vegetables
<b>I</b>	Fresh Fish & Shellfish
<b>J</b>	Frozen Fish & Shellfish
<b>K</b>	Fresh Shellfish
<b>L</b>	Frozen Shellfish
<b>M</b>	Beef Muscle Cuts
<b>N</b>	Ground Beef
<b>O</b>	Veal Muscle Cuts or Ground
<b>P</b>	Pork Muscle Cuts
<b>Q</b>	Ground Pork
<b>R</b>	Chicken Muscle Cuts
<b>S</b>	Ground Chicken
<b>T</b>	Goat Muscle Cuts or Ground Goat
<b>U</b>	Lamb, Mutton Muscle Cuts or Ground Lamb

- b) Retailers are permitted by regulation to have five (5) business days to provide records. If records are not immediately available, issue the store representative the due date upon which records must be received. Enter the due date on the checklist that is left with the store representative. Provide your contact information to the store representative (name, email address, and fax number) using the Recordkeeping Request Forms (Appendix A) for the store representative to submit the records. Advise the retail representative that if records are not received within 5 business days, they will be cited with a non-compliance finding for failure to provide records (NC 10). If no additional records are provided within 5 business days to substantiate the chain of custody for a pre-labeled item, issue NC 16 for that item.
- c) Complete the Records section of the Worksheet.
- 1) *Store's Labeling Information* section: Document the COOL information provided to the customer by the store labels, including brand name.
  - 2) *Record Information* section: Document the COOL information provided by the store's records.
  - 3) *Records Reviewed* section: Document which records were reviewed (e.g., bill of lading, invoice, shipping manifest, master container label, package label, etc.).
  - 4) *Record Transaction ID/Record Details* section: Document any identifying information from the item label or records including:
    - The invoice, bill of lading, or purchase order number;
    - The date from the reviewed document or container;
    - The product's unique identifier, best-by date, or lot number;
    - The package size, brand name, etc.
  - 5) *Immediate Previous Supplier Name (IPS)* section: Document the retailer's immediate previous supplier name. This supplier directly shipped the covered commodity to the store location.
  - 6) *IPS Address* section: Document the retailer's immediate previous supplier address, fax, web site and phone number.
  - 7) *Additional Supplier* section: Document any additional supplier information such as supplier name, address (city and state), fax, web site, and phone number printed on consumer ready pre-labeled package This may also include supplier information found on master container).
- d) Document enough information in the Records section of the Worksheet to enable a traceback to the supplier responsible for importing the item or making the initial claim for country of origin and method of production. In order to ensure that suppliers are in compliance with the COOL regulations, USDA shall randomly select retail surveillance reviews to gather additional information on covered commodities for the purpose of conducting a supply chain traceback to the supplier responsible for importing the item or initiating the country of origin and method of production claims.



- e) For any covered commodity that is “pre-labeled” as defined in the COOL regulation definition, the label is sufficient evidence to establish the product’s country of origin and method of production. The supplier’s or packer’s name, address, and/or phone number on the pre-labeled package is not sufficient supplier information for the records section. Retailers are required by regulation to retain records from their immediate previous supplier for one year from the date of transaction for all covered commodities. In the case of items that meet the definition of “pre-labeled,” request one additional record to confirm the transaction between the immediate previous supplier and the retailer for the item selected. Neither country of origin nor method of production information is required on this additional record because this information should be printed directly on the pre-labeled item as defined by the COOL final rule. Document any transaction ID (e.g., lbs. per bag, due date, sales code) that may be found on the pre-labeled package and additional record provided.
- f) If the covered commodity is pre-labeled for country of origin and method of production on the retail package or on the shipping container, and subsequently is re-labeled at the retail facility, the original label from the retail package or shipping container may be observed to verify compliance with the COOL regulatory requirements. If the container with the COOL information is not available for review, examine bills of lading, shipping manifests, receiving documents, product labels, or any other documents that will verify the country of origination declaration and method of production designation as conveyed by the supplier for the selected item. *Store logs may only be used to verify COOL claims if used in conjunction with other official documentation.*
- g) If the COOL information is not provided on the retail package or shipping container, the documentation must contain information that identifies the retail supplier, the product, the country(ies) of origin and method(s) of production, and some form of tracking (e.g., identifier unique to the transaction) that links the documentation to the covered commodity. Sometimes documentation from a corporate distribution center uses company-derived location codes rather than actual city and state locations. For such documents the COOL Division permits the retailer to define these location codes on a separate reference list provided to the COOL Division Director.
- h) Records relied upon at the point of sale to establish a covered commodity’s country of origin and method of production must be available within 5 business days to any duly authorized representative of USDA for as long as the product is on hand.
- i) If findings are identified when requesting records, record all applicable information in the *Non-Complying Items* section of Worksheet.

- 7.14** During follow-up retail store reviews only, provide photographic evidence of each finding of non-compliance with the COOL regulation.
- a) For all NC citations listed on the retail review workbook, provide photographic evidence of covered commodities that are not identified with country of origin/method of production; illegible, inconspicuous, inaccurate or unacceptable labeling declarations; the use of abbreviations that do not unmistakably indicate the country of origin; records documents that do not provide one or more of the following essential pieces of information: country of origin, method of production, or supplier's name, city and state; and circumstances in which records information for country of origin as provided by the supplier is not accurately conveyed to the point of sale label.
  - b) If an entire department or numerous NC codes are observed, take a picture of the group of commodities and gather a total count. Submit the finding as one citation (for example, 20 whole muscle cut beef items were missing production steps).
  - c) Picture files will be submitted to the COOL Division along with the Excel Workbook file using Cloud Vault.
  - d) Combine all pictures into a Word or PDF document. Do not include more than 4 pictures per page to confirm each picture will appear clearly. When naming the individual picture file, use the file name for the store, followed by the word "Pictures" (for example, AL 15 F0201A Pictures). Organize the pictures so they are viewed in the order they are recorded on the follow-up workbook.
  - e) The first picture must include the store's banner name and the entrance of the store.
- 7.15** When all covered commodities have been reviewed and the records sections have been completed, finalize the Follow-up Review Checklist by documenting each *Non-Complying Items* and appropriate NC code.
- 7.16** Conduct a closing meeting with the facility representative. The facility representative may invite other store personnel that are involved in the COOL regulation requirements to attend the closing meeting. During the closing meeting:
- a) Provide the completed Checklist to the facility representative with the non-compliance findings summarized. Discuss the results of the review and any findings that have been identified.
  - b) Verify that the name of the Responsible Authority, phone number, and the retail store mailing address are recorded on the Follow-up Review Checklist. Obtain the responsible authority's and corporate contact email. This information is required for the issuance of the Review Notification Letter and request for corrective actions.
  - c) *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 checklist from USDA requesting corrective actions and*

*preventative measures in the event there are findings regardless of whether the non-compliances were corrected during the review.*

- d) Answer all questions pertaining to the review or the findings.
- e) Thank the store officials for their time and cooperation.

## **8 Submitting Workbook**

- 8.1** After the conclusion of the review, enter all of the information from the written Checklist onto the Excel COOL Follow-up Retail Surveillance Review Workbook.
- 8.2** Enter the applicable Non-Compliance codes in the *Code* section on the Worksheet.
- 8.3** Complete the *Records* section with the applicable information.
- 8.4** Include any additional information in the *Additional Comments and Information* section of the Excel Worksheet.
- 8.5** Submit the Workbook and supporting pictures to the USDA via Cloud Vault as outlined in the training materials. The Workbook (e.g., CA 14 N02846A) and pictures (e.g., CA 14 N02846A-Pictures) must be named with the appropriate file reference name and uploaded into Cloud Vault.

## **9 Types of Violations (Appendix B)**

- 9.1** *Failure to Label Product.* It is a violation for a retailer to fail to identify the country of origin and method of production (fish and shellfish only) of a covered commodity at the final point of sale to consumers. (Non-Compliance codes 1, 2 and 6, 7).
- 9.2** *Mislabeled Product – Point of Sale.* It is a violation for a retailer to incorrectly identify the country of origin and method of production of a covered commodity. Retailers are required to provide consistent and accurate notification to consumers at the point of sale about the country of origin and method of production of covered commodities. Mislabeled products at the point of sale often occur when an origin designation on a sticker differs from the origin designation on an adjacent sign. (Non-Compliance codes 3, 4, 5, 8, and 9).
- 9.3** *Mislabeled Product – Records.* It is a violation for a retailer to incorrectly identify the country of origin and method of production of a covered commodity. Retailers are required to provide consistent and accurate notification to consumers at the point of sale based on information provided to them in the records from their suppliers. Country of origin and method of production inaccuracies are determined by record(s) verification. (Non-Compliance codes 14 and 15).


**9.4** *Failure to Maintain Records.* It is a violation for retailers and their suppliers to fail to maintain records that will: (1) permit substantiation of country of origin and method of production claims, and (2) provide supplier or chain of custody information that will allow traceability to the firm or entity responsible for initiating the country of origin and method of production claims (Non-Compliance codes 10 and 16).

**9.5** *Failure to Include Required Information.* It is a violation for retailers and their suppliers to fail to maintain records that provide: (1) the country of origin information, (2) the method of production information, and (3) the supplier information (supplier's name and city and state location). (Non-Compliance codes 11, 12, and 13).

## **10 General Information**

If any questions arise or problems are encountered during the review, immediately contact the COOL Program Manager using designated procedures or at **(202) 720-4486**.

These procedures are effective immediately.



Leslie R. Shavers  
Acting Director  
Country of Origin Labeling Division  
Livestock, Poultry, and Seed Program

**Appendix A**

**Country of Origin Labeling  
 Retail Surveillance Activities  
 Recordkeeping Responsibilities**

Please provide records for each of the items marked. Records must contain country of origin (unless item is pre-labeled), method of production (for fish and shellfish items only), and your supplier's name and location (minimum of city and state).

	A	Fresh Fruit	
	B	Frozen Fruit	
	C	Peanuts	
	D	Pecans	
	E	Macadamia Nuts	
	F	Ginseng	
	G	Fresh Vegetables	
	H	Frozen Vegetables	
	I	Fresh Fish	
	J	Frozen Fish	
	K	Fresh Shellfish	
	L	Frozen Shellfish	
	M	Beef Muscle Cuts	
	N	Ground Beef	
	O	Veal, Muscle Cuts or Ground	
	P	Pork Muscle Cuts	
	Q	Ground Pork	
	R	Chicken Muscle Cuts	
	S	Ground Chicken	
	T	Goat, Muscle Cuts or Ground	
	U	Lamb, Muscle Cuts or Ground	

*Records not available the day of inspection must be provided within 5 business days.*

<b>File Name:</b>	
<b>Due Date:</b>	
<b>Reviewer's Name:</b>	
<b>Fax Number:</b>	
<b>E-mail Address:</b>	

## Appendix B

Code	Non-Compliance Findings for 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.
10	Records were not provided within 5 business days.
11	Records do not provide the country of origin information.
12	Records do not provide the method of production information.
13	Records do not provide the Supplier information. (Supplier records are required for all Traceback Items)
14	Records information for country of origin as provided by supplier is not accurately conveyed to point of sale label.
15	Records information for method of production as provided by supplier is not accurately conveyed to point of sale label.
16	Records that identify the chain of custody for the pre-labeled item were not provided within 5 business days.