

COUNTRY OF ORIGIN LABELING

Retailer Guidance on COOL Retail Surveillance | May 2009

ANNOTATED BY FMI



✓ WHO MUST LABEL?

Retailers

- Person licensed as a retailer under the Perishable Agricultural Commodities Act (PACA)
 - Retailers selling fresh and frozen fruits and vegetables with an invoice value of at least \$230,000 annually.
 - There are currently approximately 4,000 active PACA licenses (36,000 stores)
- Exempt: “Food Service”



COVERED COMMODITIES

- Fish and shellfish
- Fresh and frozen fruits and vegetables
- Peanuts, pecans, macadamia nuts, ginseng
- Whole muscle cuts and ground beef, pork, lamb, chicken, goat meat



COVERED COMMODITIES: Whole Muscle Cuts of Meat

Muscle Cuts

- Beef (including Veal)
- Lamb (including Mutton)
- Chicken
 - Includes cornish game hens
 - Not turkey
- Goat
- Pork



Ground Meats

- Beef (including Veal)
- Lamb (including Mutton)
- Chicken
- Goat
- Pork



COVERED COMMODITIES

Whole Muscle Cuts of Meat

- Femur bones
- Neck bones
- Organs (i.e., beef heart, veal liver, lamb kidney, pork skins)
- Cheek or head meat
- Tripe
- Tails (i.e. beef oxtails)
- Tongue
- Chitterlings
- Beef feet
 - BUT: pork feet ARE covered commodities

✓ **Cuts of meat removed during the conversion of an animal to a carcass are not viewed to be muscle cuts**

✓ Neither are items sold as bones practically free of meat (e.g., neck bones, femur bones, etc.) or fat practically free of meat (e.g., pork clear plate, chicken skin, etc.) removed from a carcass.

COVERED COMMODITIES: Whole Muscle Cuts of Meat & IMPS

The screenshot shows the USDA Agricultural Marketing Service website. The header includes the USDA logo and the text 'Agricultural Marketing Service'. Below the header is a navigation bar with links for Home, About AMS, Newsroom, Opportunities, Online Forms, Help, and Contact Us. A search bar is located on the left side of the page. The main content area is titled 'Grading, Certification and Verification' and features a section for 'Institutional Meat Purchase Specifications'. This section explains that IMPS are a series of meat product specifications maintained by AMS, developed as voluntary consensus specifications. It lists various IMPS series, each with a corresponding PDF file link. A 'Media Help' sidebar on the right offers a link to 'Download Adobe Acrobat Reader'.

USDA Agricultural Marketing Service

Home About AMS Newsroom Opportunities Online Forms Help Contact Us

You are here: Home / Grading, Certification and Verification / IMPS

Grading, Certification and Verification

Institutional Meat Purchase Specifications

IMPS are a series of meat product specifications maintained by AMS. They are developed as voluntary consensus specifications. Large volume purchasers such as Federal, State and Local Government agencies, schools, restaurants, hotels, and other food service users reference the IMPS for procuring meat products.

The IMPS are composed of the following series:

- General Requirements - PDF file
- Quality Assurance Provisions - PDF file
- 100 Fresh Beef - PDF file
- 100 Fresh Beef with Pictures - PDF file
- 200 Fresh Lamb and Mutton - PDF file
- 300 Fresh Veal and Calf - PDF file
- 400 Fresh Pork - PDF file
- 500 Cured, Cured and Smoked, Cooked Pork Products - PDF file
- 600 Cured, Dried and Smoked Beef Products - PDF file
- 700 Variety Meats and Edible By-Products - PDF file
- 800 Sausage Products - PDF file
- 11 Fresh Goat - PDF file

Media Help

- Download Adobe Acrobat Reader

Institutional Meat Purchase Specifications

www.ams.usda.gov

at

U.S. DEPARTMENT OF AGRICULTURE

AMS

AGRICULTURAL MARKETING SERVICE



FOOD MARKETING INSTITUTE

Covered Commodities

IMPS

Meats listed in the following sections **ARE** covered commodities:



- 100 – Beef Products
- 200 – Lamb and Mutton Products
- 300 – Veal and calf Products
- 400 – Pork Products
- 11 – Goat Products



IMPS

Meats listed in the following sections are NOT covered commodities:



500 – Cured Pork Products

600 – Cured Beef Products

700 – Variety Meats

800 - Sausage



COVERED COMMODITIES: GROUND MEATS

- **Ground beef and ground beef patties**, 9 CFR 319.15(a): chopped fresh or frozen beef with or without seasoning and without addition of beef fat, containing no more than 30% beef fat
- **Hamburger** (9 CFR 319.15(b)) ground beef with or without addition of beef fat, containing no more than 30% beef fat
- “Beef patties” (9 CFR 319.15(c)) are NOT covered commodities
 - Beef patties may have extenders, binders, etc.
 - Beef patties are NOT 100% beef
- **Ground pork, lamb and goat:** produced in conformance with FSIS labeling guidelines

GROUND PRODUCTS

“ground beef patties”
are covered
commodities.

“hamburgers”
are covered
commodities.

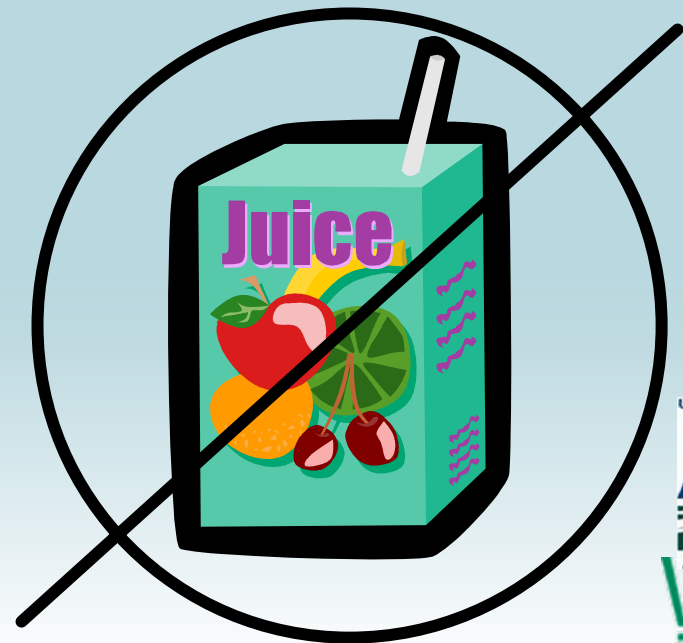


“beef patties”
ARE NOT
covered commodities

Covered Commodities

COVERED COMMODITY: PERISHABLE AGRICULTURAL COMMODITY

- Fresh and frozen fruits and vegetables of every kind and character that have not been manufactured into articles of a different kind or character.



Covered Commodities

COVERED COMMODITY: FISH & SHELLFISH

- Fillets, steaks, nuggets and any other flesh from wild or farm-raised fish or shellfish
 - Consumer notification for these products must also include “method of production”
 - Acceptable MOP
 - Wild or wild-caught
 - Farmed or farm-raised
 - NOT acceptable MOP
 - Cultured
 - “Lovingly tended”
 - Line caught



COVERED COMMODITY: Nuts & Ginseng

- Peanuts
- Pecans
- Macadamia Nuts
- Ginseng



EXCLUSION FROM LABELING: PROCESSED

- **Processed Food Items**

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: Change of Character

As the result of *Change of Character*:

- Cooking: fried chicken, canned tuna, roasted peanuts, crab legs, cooked shrimp, canned vegetables
- Curing: ham, bacon, corned beef brisket
- Smoking: smoked trout
- Restructuring: fish sticks, hash brown patties



PROCESSED: Change of Character

Activities that do NOT change character:

- Blanching (steam or oil)
- Chopping
- Cutting
- Dicing
- Polishing
- Slicing
- Slicing
- Trimming
- Waxing
- Adding ascorbic acid (to retard oxidation)
- Removal of seed, pit, stem, calyx, husk, pod, rind, skin, peel, etc.

PROCESSED: Combined

As the result of being *Combined With Another Food Component*:

- Sausage
- Teriyaki flavored pork loin
- Barbeque beef
- Shish-kabobs
- Stuffed flounder
- Breaded chicken tenders
- Mixed fruit cups
- Peas and carrots
- Garden salad mix

PROCESSED: Combined

Combinations NOT sufficient to render an item “processed”:

- Addition of enhancements such as salt, sugar or water
- Meat products injected with phosphate solution for tenderizing
- Enhancement with enzymatic tenderizers, such as ficin and bromelain
- Further preparation steps would also be meant to include other examples of enhancements that do not fundamentally alter the character of the product

PROCESSED: Combined

PERISHABLE AGRICULTURAL COMMODITIES & GRADE STANDARDS

- Rules for Perishable Agricultural Commodities & Grade Standards
 - COOL program 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”.

NOTE: Grade standards cannot be used as a country of origin declaration.

For example, “U.S. No. 1” does not necessarily indicate “Product of the U.S.”

PROCESSED: Combined

PERISHABLE AGRICULTURAL COMMODITIES & GRADE STANDARDS

- Examples of combined produce that **ARE** covered commodities
 - “Stoplight Peppers” (red, green, and yellow bell peppers)
 - Mixed varieties of Apples (e.g., fuji, pink lady, and rome)
- Examples of combined produce that **ARE NOT** covered commodities
 - Salad mix containing iceberg lettuce and romaine lettuce
 - Container of strawberries, blueberries, and raspberries
 - Container of watermelon, cantaloupe, and honeydew

PERISHABLE AGRICULTURAL COMMODITIES: GRADE STANDARDS

- U.S. Grade Standards - www.ams.usda.gov
 - Click on “Find an AMS Program” in the I Want To... box
 - Click on “Fruit and Vegetable Fresh Product Grading”
 - Click on “U.S. Grade Standards” in the Resource box

The screenshot shows the Agricultural Marketing Service (AMS) website. At the top, there is a navigation bar with links for Home, About AMS, Newsroom, Opportunities, Online Forms, Help, and Contact Us. Below this is a search bar and a sidebar with various navigation options. The main content area is titled 'Grading, Certification and Verification' and features a section for 'Fresh Fruit, Vegetable, Nut and Specialty Crop Grade Standards'. This section includes a brief overview of U.S. Grade Standards, a list of 'Fresh Fruit and Vegetable Grade Standards' (Vegetables for Fresh Market, Fruit for Fresh Market, Vegetables for Processing, Fruit for Processing, and Nuts and Specialty Crops), and information on how to request a copy of the standards. A 'Request Copies of U.S. Grade Standards (PDF)' link is visible in the 'I Want To' box.

Processed Foods - Excluded

PERISHABLE AGRICULTURAL COMMODITIES: POTATO PRODUCTS

- Potato products have special standards under PACA that impact the status of the potato products under COOL
- Some potato products result from processing steps that render the product not subject to COOL.
 - Restructured potatoes (shaped items)
 - hash browns
 - Tater Tots
 - Specific Seasoning



DETERMINING ORIGIN

- **U.S. origin**
 - Complies with statutory standards
- **Multiple countries of origin**
 - “Commingled” in same bin or tray (perishable agricultural commodities)
 - Resulting from production steps of animals for some covered meat products
- **Foreign origin**
 - Declared to US Customs & Border Protection at time of entry
- **Foreign origin, substantially transformed in U.S.**
 - “From country X, processed in US”

******* Retailers should rely on the information provided by their suppliers, unless the retailer knows the information provided is false or inaccurate*******

DETERMINING ORIGIN: MUSCLE CUTS OF MEAT

- **Category A:** livestock born, raised & slaughtered in US
 - “Product of U.S.”
- **Category B:** multiple countries of origin that include the U.S.
 - Examples:
 - “Product of US, Canada, Mexico”
 - “Product of US, Mexico and Canada”
 - Order of countries designated does NOT matter



DETERMINING ORIGIN: MUSCLE CUTS OF MEAT

- **Category C:** livestock imported for slaughter within 14 days of arrival in U.S.
 - Both countries must be listed
 - **Order DOES matter:** Country of import must be listed before U.S. (“Product of Canada, U.S.”)
 - Category C commingled with Category A or Category B during the production day: **C + A = B, or C + B = B**
- **Category D:** imported
 - Use country of origin declared to Customs & Border Protection at time of entry



ORIGIN DECLARATIONS: MUSCLE CUTS OF MEAT

- **“Product of the U.S.”** label only if commodity meets definition of U.S. origin
- **Multiple Country Label:** Retailers can declare multiple countries of origin when muscle cuts from different origins are in same physical package or presented in same physical tray in the meat counter
 - Retailers cannot declare one multiple country of origin designation for all meat products if one tray contains only Category A and a separate tray contains only Category B
- Origin declarations may include more specific information related to production steps provided records substantiate the claim



DETERMINING ORIGIN: GROUND MEATS

- The origin declaration for ground beef, ground pork, ground lamb, ground goat, and ground chicken shall list all of the countries of origin contained therein or that may be reasonably contained therein.
- USDA considers a country of origin to be “reasonably contained therein” if the raw material from a specific origin is in a processor’s [or retailer’s] inventory within the past 60 days.



✓ NOTIFICATION AND LABELING

Country of Origin Declarations can be made on...

Placard

Sign

Label

Sticker

Band

Twist Tie

Pin Tag

Checkbox

or other display

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



NOTIFICATION AND LABELING

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



NOTIFICATION AND LABELING

- Declaration may be made in multiple forms:
 - Statement (e.g., “Product of...”, “Grown in....”)
 - Country only (e.g., “Mexico,” “US”)
- DO NOT use **“OR”** or **“AND/OR”** in COOL declarations.
 - Example: “Product of Thailand or Vietnam”
 - Example: “Product of U.S., Canada, and/or Mexico”



NOTIFICATION AND LABELING

Adjectival Form of Country Name

- *Not allowed* in relation to the name of a species
 - “Chilean Sea Bass”
- *Allowed* when not related to the name of a species
 - “Australian Lamb”
 - “Brazilian Mangos”



ABBREVIATIONS

- Acceptable Country Abbreviations **(partial list)**
 - “U.S.” or “U.S.A” for United States
 - “U.K.” for United Kingdom including Northern Ireland
 - “P.R. China” or “China” for Peoples Republic of China
 - “Micronesia” for Federal States of Micronesia
 - “Holland” for The Netherlands
 - “Philipnes” for The Republic of the Philippines
 - “Saudi” for the Kingdom of Saudi Arabia



SPECIAL RULES FOR LABELING COVERED PRODUCE, NUTS & GINSENG

- Domestic and imported state, region, and locality labeling is acceptable in lieu of country of origin labeling only for covered produce, peanuts, pecans, macadamia nuts and ginseng
 - Do NOT use state, region or locality for other covered commodities.
- State Marketing Programs ARE ACCEPTABLE for fruits, vegetables, peanuts, pecans, macadamia nuts, and ginseng *so long as* they follow the U.S. origin criteria outlined in the federal COOL regulation.



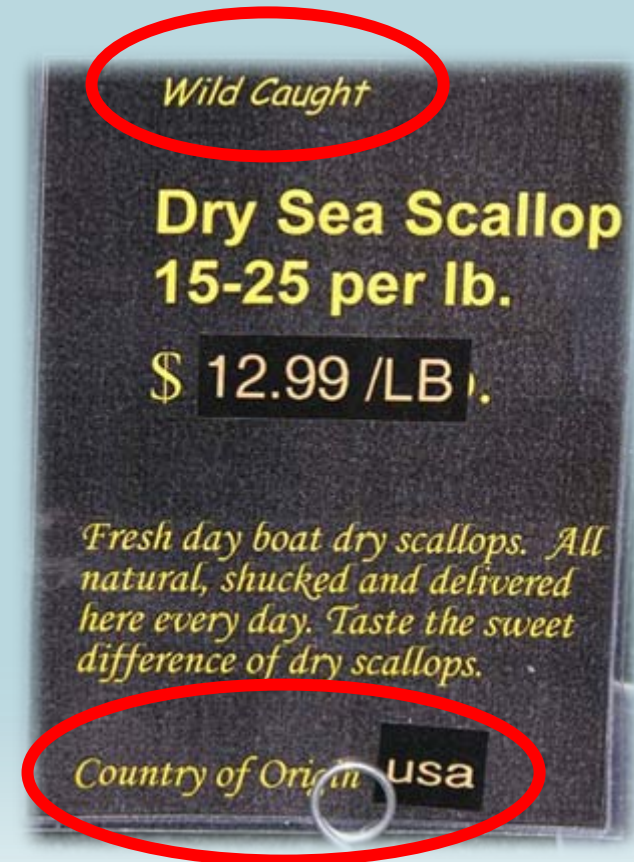
SPECIAL RULES FOR LABELING COVERED PRODUCE, NUTS & GINSENG

- U.S. Post Office abbreviations for states ARE acceptable:
 - “CA Grown”
 - “Florida Oranges”
- Regional declarations must unmistakably indicate country of origin:
 - Unacceptable declarations:
 - “Island Fresh”
 - “Great Lakes Cherries”

SEAFOOD: NOTIFICATION AND LABELING

Fish and Shellfish Labeling Must Convey:

- Country of Origin
- and-
- Method of Production
(farm-raised or wild)



NOTIFICATION AND LABELING: SPECIAL CASES

Single Signs (e.g., above meat case)

- Permissible, but must be accurate
- Single signs may state “All Beef is Product of the U.S., unless otherwise noted” provided:
 - Statement is true
 - Retailer can provide substantiation for statement
 - Products that don’t meet the “Product of the US” designation are directly identified with origin
- USDA will apply “reasonable person” standard

NOTIFICATION AND LABELING: SPECIAL CASES

Commingled products

- Like products from different countries may be “commingled” in same package or bulk bin provided that all reasonably possible countries are identified.
- Stickers can identify origin for items in bulk bin, even if from multiple countries, provided that reasonable consumer can determine countries of origin
 - No clear answer on stickering efficacy: use “reasonable person” standard

REMOTELY PURCHASED PRODUCTS

- Internet Sales
- Home Delivery Sales

The retailer must provide country of origin and method of production notification on the sales vehicle (website or catalogue) or at the time the product is delivered to the consumer.

RECORDKEEPING: General

- Records *may* be maintained at store level or at corporate headquarters
- Records *must* be provided to USDA (or the state reviewer) within 5 business days of the request
- Records *may* be:
 - Maintained in electronic or hard copy format
 - In various forms
- Records *must* be legible



RECORDKEEPING AND NOTIFICATION REQUIREMENTS FOR SUPPLIERS

- *Any person* engaged in the business of supplying a covered commodity to a retailer, directly or indirectly has recordkeeping and notification responsibilities
- Recordkeeping
 - Initiating Suppliers
 - Intermediary Suppliers
- Notification: origin information can be provided:
 - On the product itself;
 - On the master shipping container or;



RECORDKEEPING: Retailers

- Retailers are required to maintain records
 - (1) to verify country of origin and
 - (2) to identify supplier
- Different rules apply
 - for verification and supplier identification records AND
 - depending on whether or not the covered commodity is “pre-labeled”



RECORDKEEPING:

When is a covered commodity “pre-labeled”?

- A “pre-labeled” covered commodity has:
 - BOTH
 - Country of origin (and method of production) AND
 - Supplier information
 - Name of the manufacturer, packer, or distributor AND
 - Place of business of manufacturer, packer or distributor
 - » Place of business must identify city and state or other acceptable locale designation
 - ON
 - Covered commodity itself,
 - Package in which it is sold to the consumer, OR
 - Master shipping container.



RECORDKEEPING:

When is a covered commodity “pre-labeled”?

- **Pre-Labeled**



- **Origin**
- **Supplier name**
- **Place of business**

- **Stickered : NOT Pre-Labeled**

- No supplier name and place of business [on sticker or carton]



RECORDKEEPING: Retailers

- Rules for “Pre-Labeled” Covered Commodities:
 - Maintain records to verify origin until product is sold
 - No need to maintain origin verification information for bag of frozen peas identified with country of origin by supplier after product sold
 - Maintain supplier verification records for one year
 - Supplier verification records must have name and contact information for supplier and covered commodity but do NOT have to include country of origin
- Rules for Non-Pre-Labeled Covered Commodities
 - Maintain records to verify country of origin and identify supplier for one year after covered commodity is sold
 - Record must link to covered commodity
 - Ideally, record will include purchase order or lot code number, but USDA will accept date of document compared to date of review if reasonable.
 - For example, an invoice from two days before the inspection from Farmer Jones would be acceptable for bulk strawberries that were not pre-labeled but an invoice dated two days after the inspection would not be acceptable

RECORDKEEPING: Retailers

- Store logs alone are not sufficient
 - Acceptable for store to hand edit shipping document to note correct origin, but should also get corrected information from supplier

RECORDKEEPING: DEGREE OF SPECIFICITY NEEDED BY RETAILERS

- Provide record to indicate country of origin was available
 - Supplier provides pallet of cases of bananas to warehouse
 - Some cases labeled Honduras and others labeled Guatemala
 - Bill of lading to warehouse states “Product of Honduras and Guatemala”
 - Bananas from Honduras get shipped to store
 - Bananas in store should be labeled “Honduras.”
 - Bill of lading that identifies Honduras and Guatemala would be acceptable record to verify country of origin of bananas labeled Honduras

RECORDKEEPING: DEGREE OF SPECIFICITY NEEDED BY RETAILERS

- In general, retailers are to convey the origin information provided by their suppliers.
 - Only if the retailer physically commingles a covered commodity of different origins in preparation for retail sale (consumer-ready or bulk display) can the retailer initiate a multiple country designation.
- Example
 - Supplier provides separate cases of beef primals to store.
 - Some cases labeled as “Product of US;” others labeled as “Product of Canada, US.”
 - Retailer discards empty cases.
 - Retailer physically commingles beef cuts and labels packages “Product of US. and Canada.”
 - Invoice states “Product of US; Product of Canada, US.”
 - Invoice is acceptable to verify “Product of US, Canada” designation.

✓ COMPLIANCE AND ENFORCEMENT

Retail Surveillance Activities

1. Cooperative Agreements
2. Retail Reviews
3. Supplier Audits

Only USDA can initiate enforcement actions

ENFORCEMENT OF COOL

- All enforcement activities are centralized at the USDA Agricultural Marketing Service, COOL Program
 - Designation of stores to review for compliance
 - Compliance forms
 - Establish review procedures for states
 - Verification of all “findings” from reviews conducted by state officials
- USDA partnering with states to conduct the physical retail surveillance reviews

THE COOL PROGRAM



Compliance & Enforcement

PROCESS FOR STATE REVIEWS

- AMS COOL program “trained trainers” for all 50 states to review retail stores for COOL compliance for all covered commodities (May 2009)
 - **Good training materials for retailers/wholesalers to use will be on-line soon**
- State attendees will train additional officials in their departments on COOL surveillance
 - Must score at least 75% on exam in order to conduct reviews on USDA’s behalf
- State retail reviews expected to begin May 2009

USDA COOPERATIVE AGREEMENTS WITH STATES

USDA will...

1. Supervise COOL enforcement;
2. Pay travel expenses for state employees to attend training;
3. Provide instructions for conducting retail reviews;
4. Specify the frequency and locations to be reviewed;
5. Reimburse states per completed review;
6. Reserve the right to make further investigations and audits.

USDA COOPERATIVE AGREEMENTS WITH STATES

The State will...

1. Provide transportation and necessary supplies to conduct retail reviews;
2. Provide IT to successfully exchange data with USDA;
3. Conduct retail reviews in accordance with instructions provided by USDA;
4. Pay salaries and other expenses of state employees conducting retail reviews;
5. Bill USDA for work performed;
* \$600 per review
6. Ensure retail reviews are submitted promptly;
7. Ensure that only trained personnel perform reviews.

USDA COOPERATIVE AGREEMENTS WITH STATES

- May 2009: completed three 2-day training sessions with state cooperators from all 50 states
 - 2 in Chicago
 - 1 in Dallas
- Ensure knowledgeable and trained staff performing retail surveillance
- Ensure consistency in conduct of review processes

COMPLIANCE AND ENFORCEMENT

Retail Reviews

2006-2008

(fish and shellfish only)

- 4,816 retail reviews have been conducted in the last 3 years
- An average of 2 violations per review were documented

COMPLIANCE AND ENFORCEMENT

2008 Retail Reviews

(fish and shellfish only)

- 2,000 retail reviews conducted
- 71% of retail stores in compliance
 - 7% of reviews are rated “Critical”
 - > 70% of the covered commodities not labeled; no records
 - 8% of reviews rated “Major”
 - 31-69% of covered commodities not labeled; issues with records
 - 14% of reviews rated “Minor”
 - < 30% of the covered commodities not labeled

COMPLIANCE AND ENFORCEMENT

2007 Supplier Audits

(fish and shellfish only)

- Supply chain information – Initiator of the claim through retail
- Conducted by USDA auditors
- 47 items audited in 2007
 - 119 total suppliers
 - Average of 2.4 suppliers per item
 - 82% compliance

COMPLIANCE AND ENFORCEMENT

2008 Supplier Audits, *in progress*

(fish and shellfish only)

(Expected to be completed by August 2009)

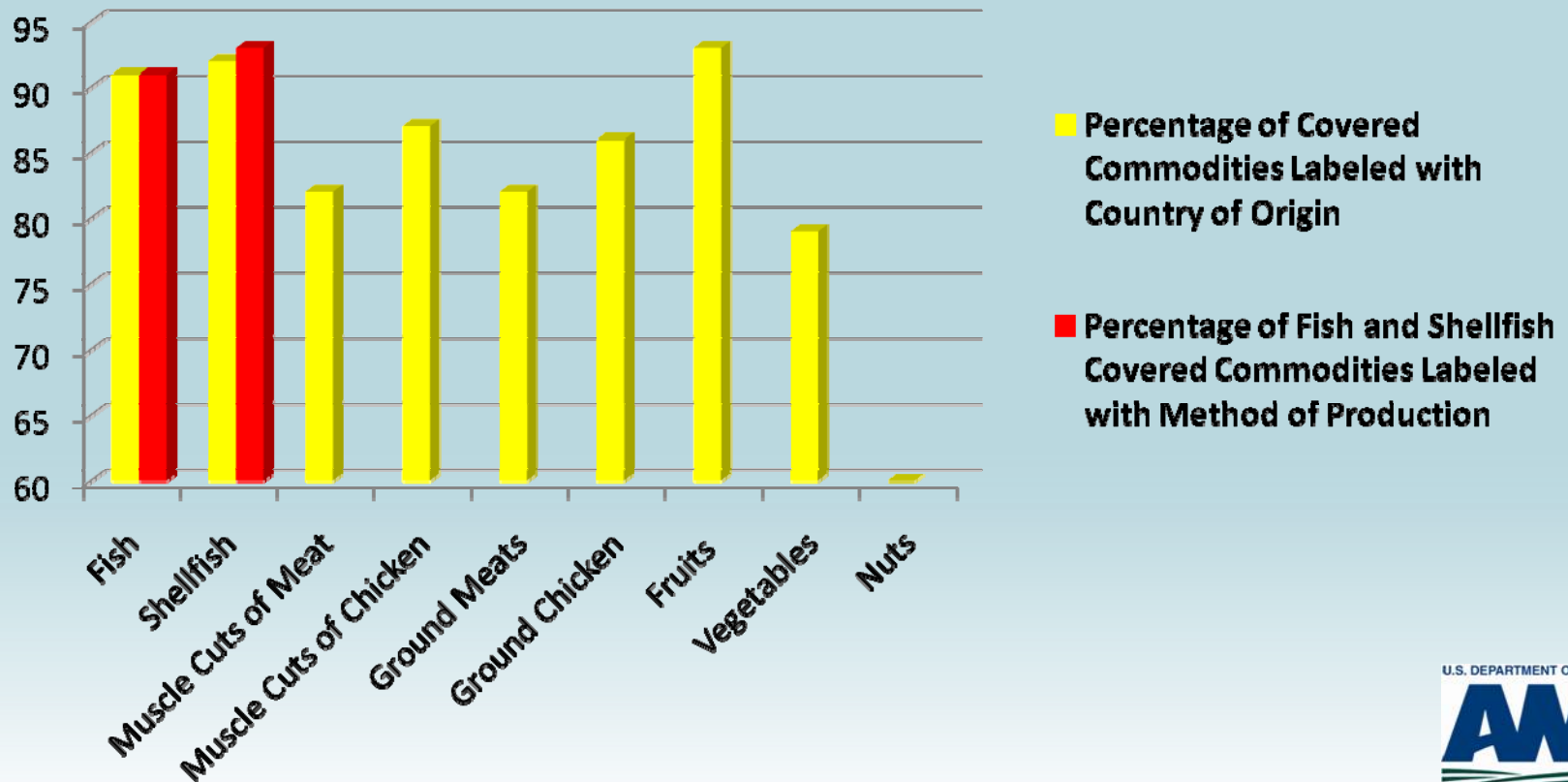
- Supply chain information – Initiator of the claim through retail
- Conducted by USDA auditors
- 30 out of 50 COOL Supplier Tracebacks have been conducted for FY 2008
 - 76 total suppliers
 - Average of 2.5 suppliers per item
 - 94.7% compliance

COOL SURVEYS

- March 2009
- 56 stores in 7 states
- Purpose
 - Assess the relative degree of implementation;
 - Collect information about retail operations relative to the volume and varieties of covered commodities offered for sale to consumers;
 - Collect data concerning the notification (labeling) section of the interim final rules

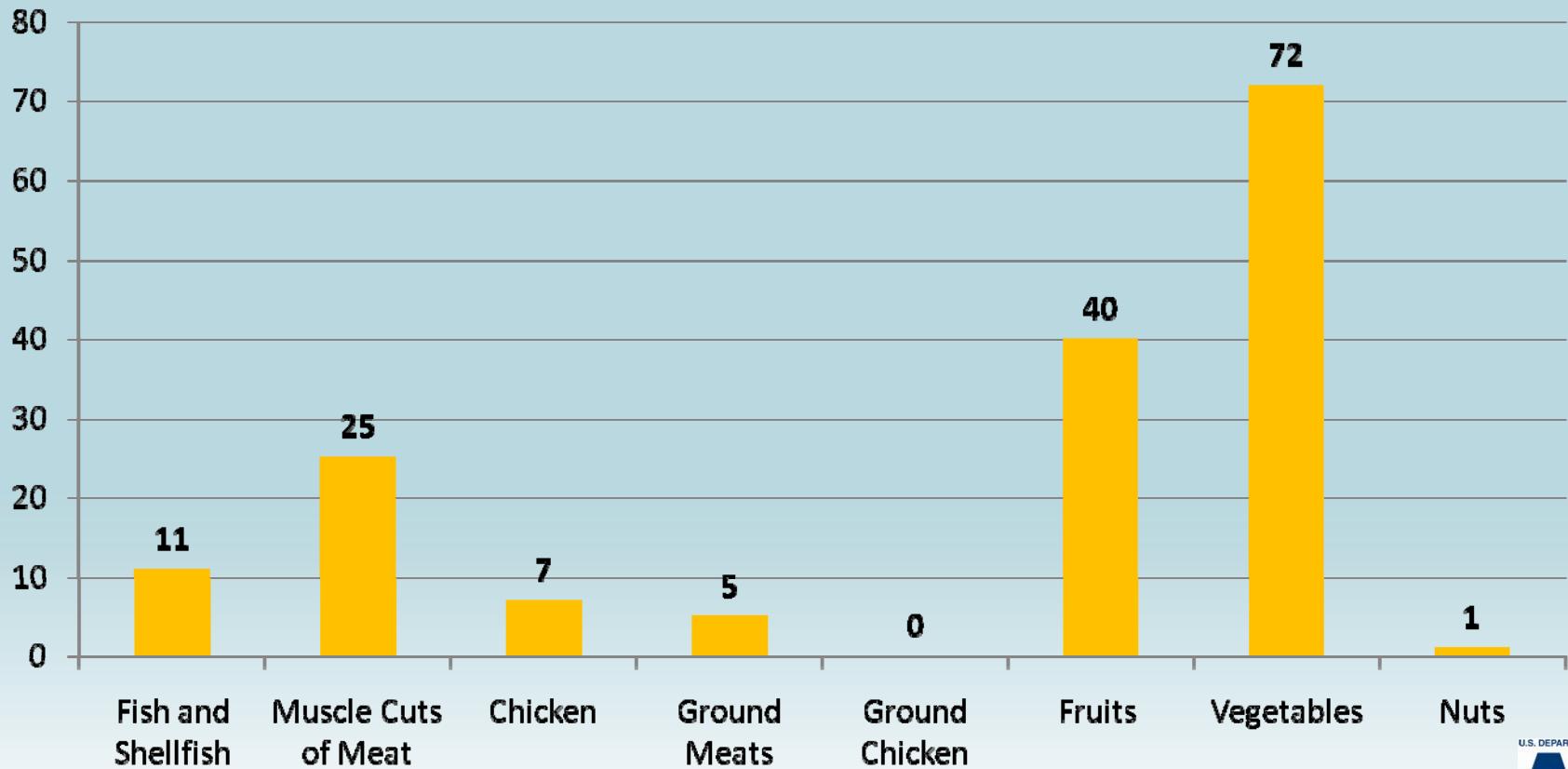
COOL SURVEYS

Labeling Implementation



COOL SURVEYS

Average Number of Covered Commodities Sold Per Store



COOL SURVEYS

Methods of Origin Notification (%)

