

Country of Origin Labeling for Food

Introduction and Executive Summary

U.S. producers that compete with importers have long advocated country of origin labeling (COOL) mandates at the retail level to promote domestic food sales. They hope to dissuade consumers from buying imports by suggesting such products are less safe and wholesome. More recently, consumer advocates have argued for such labels as the consumer's right to know.

Strongly opposed to mandatory labeling are food retailers, wholesalers and processors, and major U.S. trading partners, such as Australia, Canada, Mexico and New Zealand. All view such mandates as protectionist trade barriers. The U.S. food industry, including many producers, is also concerned about the multibillion-dollar cost to implement a COOL mandate — a cost that ultimately will be borne by consumers.

The 2002 farm bill (Farm Security and Rural Investment Act) mandates COOL at the retail level for seafood, (wild-caught and farmed-raised) beef, veal, pork, lamb, fresh and frozen fruits and vegetables and for peanuts. Mandatory labeling of seafood is now in effect, while Congress delayed implementation of the law for the other products to September 30, 2008.

The law requires the entire supply chain — from the farm to the retail store — to segregate, track and document the origin of hundreds of foods, including those produced in the U.S. and imported from more than 50 countries. The records must provide proof of the country of origin — certified by a third party — and each company must maintain this information for every shipment for two years. Retailers receive hundreds of shipments each week for the 500 to 1,500 products covered by the law in a typical store. The cost to implement the rule in the first year will be up to \$3.9 billion, according to the U.S. Department of Agriculture (USDA).¹

There is now strong, industrywide support for a cost-effective alternative — the voluntary labeling bill first introduced in 2004 by House Agriculture Committee Chairman Bob Goodlatte (R-VA) and re-introduced in June 2005 by Sen. Rick Santorum (R-PA). Titled the Food Promotion Act, the measure would provide the benefits of country of origin labeling without the prohibitive cost and disruption to the industry. It directs USDA to create a "Made in the USA" label for domestic products. It minimizes record-keeping. It would recognize the hundreds of local, state and brand labels on domestic products without requiring additional U.S. labels.

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More than 350 food industry associations and companies are calling for voluntary labeling legislation to repeal and replace the mandatory labeling law.

¹ USDA Agricultural Marketing Service, "Mandatory Country of Origin Labeling of Beef, Lamb, Pork, Fish, Perishable Agricultural Commodities, and Peanuts," p. 117. <http://www.ams.usda.gov/cool/ls03-04prdoc.pdf>, Oct. 27, 2003.

Food Marketing Institute (FMI) conducts programs in research, education, industry relations and public affairs on behalf of its 1,500 member companies — food retailers and wholesalers — in the United States and around the world. FMI's U.S. members operate approximately 26,000 retail food stores with a combined annual sales volume of \$340 billion — three-quarters of all retail food store sales in the United States. FMI's retail membership is composed of large multi-store chains, regional firms and independent supermarkets. Its international membership includes 200 companies from 50 countries.



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1. Is mandatory country of origin labeling a new issue?

U.S. producers, particularly in Florida and California, have advocated such labeling for decades as a means to protect them from foreign competition, particularly in the winter months. The primary sources for winter vegetables, such as tomatoes, eggplants, bell peppers, squash and cucumbers, are Florida and Mexico. Imports are essential because domestic producers cannot meet the demand, which is increasing as consumers seek to improve their diets.

In 1979, Florida vegetable growers petitioned the U.S. Treasury Department to take action against Mexican producers for flooding the U.S. market with winter vegetables allegedly priced below the cost of production, violating the Anti-Dumping Act. Treasury denied the petition, the U.S. Commerce Department and U.S. Court of Customs concurred, and the issue was dropped. Subsequent actions by California and Florida growers in the mid-1990s found little evidence of unfair competition.

Unsuccessful in these federal government forums, U.S. growers pinned their hopes on Florida's country of origin labeling law, which went into effect in 1980. Despite its limited scope — covering only produce — proponents of the 2002 COOL law say the Florida statute served as a model for the federal law (see Appendix A. Federal vs. Florida Country of origin Labeling Laws).

During the 1980s and 1990s, growers in Florida, California and other states lobbied for a federal law requiring retailers to label the country of origin for imported produce. U.S. cattlemen joined the campaign, calling for retailers to label the country of origin for all meat products, fresh and frozen. Georgia growers called for labels on imported peanuts, along with fishermen in other states, seeking protection primarily from imported salmon, shrimp and catfish.

Throughout the 1990s, U.S. producers were unable to convince Congress to pass a country of origin labeling law, stymied by the obvious protectionist motives. Most telling was their demand for a law that required only imports to be labeled and their lack of interest in voluntary programs to promote products “Made in the USA.” After considerable effort, cattle ranchers and retailers agreed to implement a voluntary program, but it was made moot by the 2002 labeling law.

2. Why has mandatory country of origin labeling emerged is a major issue in recent years?

The war on terrorism revived protectionist sentiments, and the vote on the mandatory measure occurred about one year after September 11, 2001. Proponents also advocate labeling as the “consumer’s right to know.” Some contend that the law will contribute to food safety, citing the two 2003 mad cow cases traced to animals born in Canada. Had consumers known about the Canadian origin in a more timely fashion, according to this reasoning, they could have stopped eating beef from that country. This argument overlooks the fact that there are many less publicized cases involving foods from the U.S., along with one confirmed mad cow case, leaving no clear correlation between a country and the safety of its food.

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A truly effective food safety program would track a product's *company* of origin using an animal ID and traceback system. Such a system would enable the industry to quickly and precisely identify the source of a foodborne disease and the products affected. The 2002 country of origin law expressly prohibits the creation of an animal ID system — reflecting that the statute was not designed to be anything more than a marketing measure.

3. Are imported foods less safe?

The National Academy of Sciences (NAS), General Accounting Office (GAO), FMI and others have reported that gaps and weaknesses exist in government efforts to inspect imported food.² A 1998 report by the NAS National Research Council states, however, “It is by no means clear that imported food, as a class, poses greater risks than domestically produced food.”³ None of these groups proposes country of origin labeling as a means to improve the safety of imports.

Government surveillance programs have consistently shown that imports do not have significantly higher levels of pesticide residues than U.S.-grown products. FDA found no residues in 71.8 percent of 4,890 import product samples, compared with 62.7 percent of the 2,101 domestic samples, in its surveillance program in 2003, the most recent year these data are available.⁴ No illegal residues were found in 93.9 percent of the import samples and 97.6 percent of the domestic ones.

4. How are imported foods inspected?

Foods imported into the U.S. are subject to the same safety standards as domestic products. Two federal regulatory agencies are directly involved in inspecting and ensuring the quality of both domestic and imported foods. USDA's Food Safety and Inspection Service (FSIS) has jurisdiction over meat, poultry and egg products, while FDA is responsible for other foods.

The FSIS International Programs (IP) unit ensures the wholesomeness and accurate labeling of imported meat and poultry. These products must satisfy the same standards as domestic products. They also may be subject to additional restrictions because of animal diseases in their country. IP inspectors examine meat and poultry products upon entry into this country — after they have passed inspection in the countries from which they were exported.

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² National Research Council Institute of Medicine, *Insuring Safe Food — From Production to Consumption* (NAS, 1998); GAO, *Food Safety — Weak and Inconsistently Applied Controls Allow Unsafe Food to Enter U.S. Commerce*.

³ National Research Council, *op. cit.*, p. 89.

⁴ *Food and Drug Administration Pesticide Program: Residue Monitoring 2003*.

Only meat and poultry products prepared at certified plants in eligible countries may be imported. To be eligible, a country must have a comparable inspection system and must enforce U.S. food safety requirements. IP determines a country's initial eligibility and monitors the effectiveness of its inspection system, in part through periodic reviews of the plants certified to export to the United States.

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FDA regularly samples and tests food, drugs, medical devices and other regulated imports to certify that they meet U.S. standards. FDA inspectors check food products for filth, decomposition, microbiological contamination and pesticide residues.

If a product is highly perishable and there are no prior violations for the product from a particular importer, the product often is allowed to enter the U.S. distribution system before test results are in. The importer signs an agreement stating that every possible effort will be made to retrieve the product from commerce if FDA's inspection reveals a problem.

The advantage to this system is that it minimizes delays during which a perishable commodity can deteriorate. The disadvantage is that if FDA tests indicate a problem, the product must be recovered from the channels of distribution. The importer must bear the recovery costs.

After an initial violation, subsequent shipments of that product from that importer are held pending analysis, whether the food is perishable or not. If a second shipment is unacceptable, the commodity is placed on certification status, and subsequent shipments are detained automatically unless accompanied by a certificate of analysis from a private laboratory attesting that the shipment complies with current regulations. FDA periodically analyzes samples of food under certification to audit the validity of the certificates.

5. How much of the U.S. food supply is imported, and why?

Food imports comprise a growing portion of the approximately \$850 billion spent on food in the U.S. From the early 1980s to 2002, the average share of imports in U.S.-consumed food rose from 9 percent to 13 percent (measured in weight), according to the most current USDA data available.⁵ The import share of red meats increased from 6.7 percent to 9.5 percent; of fish and shellfish, from 50.9 percent to 78.6 percent; of fruits, juices and nuts, from 21 percent to 31 percent; and of vegetables, from 4.9 percent to 9.6 percent.

The great majority of these products are imported to satisfy consumer demand for fresh fruits and vegetables year-round. The domestic supply of many commodities is not large enough to meet consumer needs. Two-thirds of imported fresh produce arrives between December and April, when U.S. production is low and limited to southern growers.⁶

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Thanks in part to imported produce, retailers can provide consumers with the wide variety they desire, stocking their produce departments with

⁵ USDA Economic Research Service, "The U.S. Ag Trade Balance . . . More Than Just a Number," *Amber Waves*, February 2004.

⁶ GAO, *Fresh Produce — Potential Consequences of Country of origin Labeling* (1999), p. 4.

an average of more than 370 items, both domestic and imported, year-round.

Despite some U.S. growers' fears of foreign competition, some imports are responsible for new successes in domestic agriculture. Kiwi fruit, for example, was unknown in the United States until the first major shipment arrived from New Zealand in 1965. The fruit's popularity spawned a thriving California kiwi business.

6. What impact would mandatory country of origin labeling have on retailers and their customers?

The typical supermarket carries 500 to 1,500 meat and produce items. Displays change constantly due to the perishable nature of fresh fruits and vegetables, and to changes in the popularity of various produce items and cuts of meat. The same display may be used for many different commodities, some of which are imported, in the course of a few weeks.

The 2002 law requires retailers to show the product's country of origin with signs, shelf tags labels on individual items or other means. Because of the rapid turnover in the department, the country information will have to be changed and updated constantly. In addition, it would be difficult for the many part-time produce clerks to keep this information accurate and current.

Retailers also will have to keep domestic items separated from imports — and imports from different countries separated from one another — a difficult task. What would happen when bananas arrive from several countries at the same time? Or when like winter vegetables arrive from Mexico and the United States? What guarantee would retailers purchasing products from a broker have that like items from different countries had not been combined? How could retailers ensure that customers do not unwittingly replace an item in the wrong display?

Mandated country of origin labeling would cause similar problems in the meat department. Would entire displays include country of origin labeling signs, or would individual products bear labels? With meat products wrapped at carcass-breaking houses and at supermarkets, who would be responsible for labeling individual packages? And how would retailers know that a meat package labeled prior to arrival in the supermarket was labeled correctly?

7. How much will it cost to implement the mandatory country of origin labeling law?

The cost to implement the rule in the first year will be up to \$3.9 billion, according to a cost-benefit analysis that USDA issued with the proposed regulation on October 27, 2003.⁷ The agency estimates the rule will cost producers as much as \$589 million in the first year; manufacturers, packers and other intermediaries \$1.52 billion; and retailers \$1.79 billion. If the annual cost thereafter is a conservative \$500 million, the rule will cost

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⁷ U.S. Department of Agriculture, Agricultural Marketing Service, "Mandatory Country of Origin Labeling of Beef, Lamb, Pork, Fish, Perishable Agricultural Commodities, and Peanuts," p. 117. A copy is available at the Web link <http://www.ams.usda.gov/cool/ls0304prdoc.pdf>.

consumers and the industry more than \$8 billion in the first decade.

Such labeling and segregation systems will be extremely costly and complex for the large quantities of beef and produce that are multinational in their origin, processing and packaging. Ever since the North American Free Trade Agreement was ratified in 1993, cattle and produce have moved freely among Canada, Mexico and the U.S.

The proposed regulations require that all fresh meat products have labels defining the country of breeding, birth, slaughter and processing for every animal in the product — all tracked and labeled in alphabetical order.

Meat labeling may be the most difficult to manage and most confusing to consumers. A simple package of hamburger combining meat from suppliers in two or more countries could be labeled: beef (born in U.S., raised in Canada, slaughtered in U.S.), beef (born and raised in Mexico, slaughtered in U.S.), beef (product of Australia).

8. How do consumers feel about country of origin labeling?

When asked whether they want country labels on food, a large majority of consumers say yes. Other types of surveys raise questions about how important this information is to them. Each year FMI asks a national sample of shoppers to volunteer suggestions for “improving your primary supermarket,” and it then probes for multiple answers.⁸ The survey results list improvements suggested by at least 1 percent of the respondents. In more than 10 years of asking this open-ended question, shopper requests for country of origin labeling have never reached the 1 percent mark.

Cogent Research received a similar result in a January 2004 survey performed for the International Food Information Council. It asked 1,000 consumers, “Can you think of any information that is not currently on food labels that you would like to see on food labels?” Less than 0.7 percent called for country of origin information.

In a 2005 survey, FMI asked consumers to name the most important attribute they consider when purchasing produce, meat and seafood. The country of origin ranked quite low for all three products — 2 percent for meat and seafood and three percent for produce.⁹ For all three products, quality and price were much more important to consumers.

In 1999, FMI commissioned an independent survey of 785 consumers, asking three questions. The first was: Are you concerned about the safety of imported foods? Among those who expressed concern, they were asked if they preferred a specific country of origin label or if they would simply like domestic foods to be labeled “Grown in the USA.” The results split evenly three ways: One-third (32.5 percent) expressed no concern; another third (32.1 percent) called for country of origin labels; and the final third (31.3 percent) opted for “Grown in the USA”). This research suggests that two-thirds of supermarket shoppers prefer no labeling at all or labels only for U.S. products.

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⁸ *Trends in the United States — Consumer Attitudes and the Supermarket.*

⁹ FMI, *U.S. Grocery Shopper Trends, 2005*, p. 79.

9. Instead of mandating country of origin labeling, has anyone considered a program to label U.S. products?

In 1999, supermarkets and beef producers agreed to develop such a program. FMI suggested the alternative in congressional hearings, and the House and Senate Agriculture Committees agreed. They directed the leading associations representing farmers, ranchers and packers to work with FMI on a voluntary program to display the following message on the labels of beef products from domestic cattle:

Beef: Made in the USA

This beef is processed from cattle raised and fed for at least 100 days in the United States.

Under the proposal, beef producers and processors who want to sell their products with the “Made in the USA” claim would abide by a written certification program administered by USDA. The program would require cattle feeders and beef packers to maintain adequate systems and records, and to make consistent and accurate labels. Packers and cattle producers would be required to reimburse USDA for the cost of the certification program.

Working with FMI on the initiative were the American Farm Bureau Federation, American Meat Institute (AMI), National Cattleman’s Beef Association (NCBA) and National Meat Association (NMA). Participating parties at the time believed that this labeling initiative could be a model for the settlement of other issues, such as labeling fruits and vegetables. The initiative was abandoned when the mandatory labeling law was enacted in 2002.

10. What is the food industry’s position on voluntary country of origin labeling?

More than 350 industry associations and companies across the U.S. support the voluntary labeling program in the proposed Food Promotion Act. First introduced in 2004 by House Agriculture Committee Chairman Bob Goodlatte and re-introduced in 2005 by Senate Republican Conference Chair Rick Santorum (PA), this measure would establish a voluntary labeling program for red meat, fish and produce. It would repeal the mandatory law and replace it with a voluntary program codified by legislation. This associations involved include FMI, NCBA, AMI, NMA, the United Fresh Fruit and Vegetable Association, Produce Marketing Association, National Pork Producers Council, National Fisheries Institute, National Grocers Association (N.G.A.) and National Food Processors Association. The legislation reflects the following principles endorsed by the associations:

America’s producers of cattle, pork, seafood, fruits and vegetables, packers, shippers, processors, wholesalers and retailers are united behind a voluntary program that:

Is market-driven — Consumer demand and industry promotional needs should shape the program.

Recognizes existing labeling programs — Products that identify the farm, state or region of origin or certified U.S.

In 1999, supermarkets and beef producers agreed to develop a voluntary program to label beef products from domestic cattle “Made in the USA.”

More than 350 industry associations and companies across the U.S. support the voluntary labeling program in the proposed Food Promotion Act of 2004.

brands, such as Black Angus Beef, should not require additional country labels. The U.S. Department of Agriculture already recognizes hundreds of voluntary programs for beef, pork, seafood, fruits and vegetables.

Minimizes record-keeping — To the extent possible, country records made for other laws should suffice to verify where products originate. Only those companies that produce or directly import products should have to keep those records.

Allows flexibility — More than 75 percent of produce items already have some medium for providing country information, such as packaging, stickers and twist-ties. Allow the industry to use these mediums.

Is cost-effective — Labeling must be performed at the point in the supply chain where it is most efficient to do so. This may vary by product depending on the company that produces or imports the food and has firsthand knowledge of its origin.

Why will voluntary country-of-origin labeling work now when recent programs have not? The entire industry is committed to making it work.

Products that identify the farm, state or region of origin or certified U.S. brands, such as Black Angus Beef, should not require additional country labels.

11. How do food retailers and wholesalers view country of origin labeling?

The industry supports labeling as long as it's done on a voluntary basis. Mandatory country of origin labeling of all imported and domestically grown produce would be a huge burden for food wholesalers and retailers. Consumers demand variety. In response to this, the average supermarket's fresh produce department carries more than 370 items year-round. Including frozen produce, beef, pork, lamb and, fish and peanuts, a retail store will have to label 500 to 1,500 products by country in some manner. Displays change constantly due to changes in the sources of supplies and the perishable nature of the products covered. As a result, the signs and labels will have to be changed and updated constantly since it is quite common to have multiple sources of supply.

Such a mandate could fuel trade wars that increase the cost and availability of food. U.S. trading partners could view labeling as a trade barrier and retaliate by imposing barriers against imports of U.S. products into their own countries.

12. How could such labeling affect international trade?

Such a mandate could have serious repercussions on trade, fueling trade wars that increase the cost and availability of food. U.S. trading partners could view labeling as a trade barrier and retaliate by imposing barriers against imports of U.S. products into their own countries. Trade officials from Canada, Mexico, Australia and New Zealand have charged that such a mandate would violate international trade laws and have suggested they would take action with the World Trade Organization when the mandate is implemented.

*Appendix A. Federal and Florida
Country of origin Labeling Laws*

	Federal	Florida
Title (cite)	Agricultural Marketing Act of 1946 as amended in 2002 (7 USC 1621 et seq.)	Produce Labeling Act of 1979 (Florida State. Title XXXIII §§ 504.011-504.014)
What's Covered	<p>Domestic and imported products</p> <ul style="list-style-type: none"> ▪ Fresh fruits and vegetables ▪ Frozen fruits and vegetables ▪ Beef (muscle cut and ground) ▪ Pork (muscle cut and ground) ▪ Lamb (muscle cut and ground) ▪ Fresh seafood (must also be labeled "fresh-raised" or "wild caught") ▪ Frozen seafood (must also be labeled "farm-raised" or "wild caught") ▪ Peanuts 	<p>Imports only</p> <ul style="list-style-type: none"> ▪ Fresh fruits and vegetables ▪ Bee pollen ▪ Honey
Standards for Country of Origin Declaration	<p>U.S.</p> <ul style="list-style-type: none"> ▪ Beef, pork, lamb: Born, raised and slaughtered in U.S. ▪ Farm-raised fish: Hatched, raised, harvested and processed in U.S. ▪ Wild fish: Harvested in U.S. waters or on-board U.S. flagged vessel and processed in U.S. or on board U.S. flagged vessel. ▪ Fresh and frozen fruits and vegetables and peanuts: "Exclusively produced," <i>i.e.</i>, grown, packed and processed in U.S. <p>Imported</p> <ul style="list-style-type: none"> ▪ Identify country of export in accordance with existing federal laws. ▪ If the covered commodity undergoes different phases of production in multiple countries, the label may also include additional country of origin information if the product's identity is maintained. <p>"Mixed" Origin, Including U.S.</p> <ul style="list-style-type: none"> ▪ Identify country or countries in which production occurred, <i>e.g.</i>, "Born in Canada; raised and slaughtered in U.S." or "Grown and packed in Costa Rica; processed in U.S." or "Harvested in Thailand and processed on U.S. vessel." 	<p>None given</p>

	Federal	Florida
	<p>“Blended” Products For mixtures of covered commodities that have not been materially changed, such as hamburger, fruit salad or bagged lettuce: Identify complete country of origin of each ingredient in descending order of predominance.</p> <p>Examples: Hamburger Label: “Beef (born in Canada, raised and slaughtered in U.S.); beef (born and raised in Canada; slaughtered in U.S.); beef (born in Mexico, raised and slaughtered in U.S.); beef (product of New Zealand)”</p> <p>Fruit Salad Label: “Fruit salad (cantaloupe (grown in Country A, packed and processed in U.S.); pineapple (product of Country B); Watermelon (product of Country B, processed in U.S.); blueberries ...)”</p>	
Who Must Comply	<p>Suppliers required to provide country of origin information to retailers.</p> <p>Retailers required to inform consumers of country of origin.</p>	<p>Florida producers allowed to mark fresh product from Florida to indicate state of origin.</p> <p>Fresh imported produce sold at retail “shall be marked” with country of origin.</p>
Violations	<p>Violation of any requirement of subtitle, including retailer obligation to inform consumers of country of origin and supplier obligation to provide retailer with country of origin information.</p>	<p>Willful and knowing retailer removal of any labels or identifying marks on fresh produce.</p>
Penalties	<p>Retailers: \$10,000 penalties for willful violation.</p> <p>Suppliers: \$10,000 penalties per day for <i>per se</i> violations plus:</p> <ul style="list-style-type: none"> ▪ Cease and desist orders ▪ Injunctions ▪ Restraining orders 	<p>\$500 civil fine</p>
Enforcement	<p>U.S. Department of Agriculture States “with enforcement infrastructure”</p>	<p>Florida Department of Agriculture and Consumer Services</p>
Applicability	<p>All 50 States, plus District of Columbia and territories</p>	<p>Florida</p>