

Country of Origin Labeling



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Country of Origin Labeling

Principal Points

- Who must label
- What must be labeled
- Determining origin
- Compliance
- Enforcement



Country of Origin Labeling



Legal Authority

- Provision of the 2002 U.S. Farm Bill
- Amended by the Fiscal Year 2002 Supplemental Appropriations Act



Provisions of the Law



Key Components

- §284(b) Directs USDA to publish regulations by September 30, 2004
- §285 Applies to retail sales beginning September 30, 2004
- §283 Provides USDA with enforcement authority
- §282(f) Precludes USDA from using a mandatory identification system to verify country of origin



Provisions of the Law



Consumer Notification

- §282(a) Requires country of origin labeling by **retailers** of covered commodities
- §282(a) Requires labeling by **retailers** of fish and shellfish products as either *wild* or *farm-raised*



Provisions of the Law



Consumer Notification

- §282(c) Required country of origin labeling may be provided by a label, stamp, mark, placard or other clear and visible sign at the final point of sale



Current Thinking for Regulation



Consumer Notification

- Label or notice must:
 - Be legible
 - Be in English
 - Not obscure other required information



Provisions of the Law



Retailer

- §281 Has meaning given in Perishable Agricultural Commodities Act (PACA) – a business engaged in the selling of fresh and frozen fruits and vegetables at retail with an annual invoice value of more than \$230,000
- §282(b) Exempts food service establishments



Current Thinking for Regulation



Retail Labeling

- USDA would identify retailers through PACA licenses
- Approximately 4,200 licensees (31,000 stores)
- PACA definition excludes butcher shops, fish markets, and exporters



Provisions of the Law



Covered Commodities

- §281 Beef – muscle cuts and ground
- §281 Pork – muscle cuts and ground
- §281 Lamb – muscle cuts and ground



Provisions of the Law

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Covered Commodities

- §281 Farm-raised fish and shellfish – includes fillets, steaks, and nuggets
- §281 Wild fish and shellfish – means naturally-born or hatchery-raised and harvested in the wild; includes fillets, steaks, and nuggets; and excludes net-pen aquacultural or other farm-raised fish



Provisions of the Law



Covered Commodities

- §281 A perishable agricultural commodity – fresh and frozen fruits and vegetables as defined in PACA
- §281 Peanuts



Provisions of the Law



Exclusions

- §281 Covered commodities are excluded if an “ingredient in a processed food item”



Current Thinking for Regulation



Excluded Covered Commodity

- Regulations would define “processed food item”
- Definition would use two alternative criteria



Current Thinking for Regulation



Processed Food Item – Change of Identity

- A combination of ingredients that include a **covered commodity** but the **identity** of the processed food item is **different** from that of the covered commodity



Current Thinking for Regulation

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Processed Food Item

- Examples of covered commodities **excluded** because they are an **ingredient** in a processed food item with a different identity:
 - Salmon in sushi
 - Apple slices in a pie crust
 - Tenderloin in a ready-to-cook Beef Wellington
 - Peanuts in a candy bar



Current Thinking for Regulation



Processed Food Item – Materially Changed

- **A covered commodity that is materially changed**



Current Thinking for Regulation



Processed Food Item

- Examples of covered commodities **excluded** because they have been **materially changed**:
 - Cooked, cured, smoked, or restructured meat, fish, or shellfish
 - Ground meat with added ingredients (e.g., sausage)
 - Fruit juice
 - Peanut butter



Current Thinking for Regulation



Covered Commodities Required to be Labeled

● Examples:

- Solution-enhanced and seasoned pork loin
- Bagged frozen shrimp
- Bagged salad
- Frozen peas and carrots
- Canned roasted and salted peanuts



Provisions of the Law



United States Country of Origin

- §282(a) **Beef, Lamb, and Pork**: Must be derived exclusively from animals **born, raised, and slaughtered** in the U.S.
 - Includes **beef** from animals born and raised in Alaska or Hawaii and transported for no more than 60 days through Canada to the U.S. for slaughter



Provisions of the Law



United States Country of Origin

- **§282(a) Wild Fish and Shellfish:** Must be derived exclusively from fish or shellfish:
 - **Harvested** in U.S. waters, or by a U.S. flagged vessel; **and**
 - **Processed** in the U.S., or aboard a U.S. flagged vessel



Provisions of the Law



United States Country of Origin

- **§282(a) Farm-raised Fish and Shellfish:**
Must be derived exclusively from fish or shellfish **hatched, raised, harvested, and processed** in the U.S.



Provisions of the Law



United States Country of Origin

- §282(a) Fresh and Frozen **Fruits and Vegetables**, and **Peanuts**: Must be exclusively produced in the U.S.



Current Thinking for Regulation



Mixed Origin Product

- Products with an origin that includes processing steps (e.g., born, raised, slaughtered) that occurred in more than one country, including the U.S.



Current Thinking for Regulation



Mixed Origin Product – Examples

- Shrimp **harvested** in Mexico and **processed** in the U.S.
- Pork from animals **born** in Canada and **raised** and **slaughtered** in U.S.



Current Thinking for Regulation



Labeling Mixed Origin Product – Examples

- Pork – Product of Canada, Raised and Slaughtered in United States, *or*
- Pork – Product of Canada, Raised and Processed in U.S.A.
 - Note: The term “Processed” may be used in lieu of “Slaughtered” for labeling



Current Thinking for Regulation



Blended Products

- Different products of different origins that are combined together for retail sales (e.g., salad mix)
- Like products of different origins that are combined together for retail sales (e.g., ground beef)



Current Thinking for Regulation

Labeling Blended Products

- If the constituents can be individually identified (e.g., salad mix), each constituent must be labeled
- If the constituents cannot be individually identified (e.g., a ground beef mixture), constituents must be labeled in order of their prominence by weight



Current Thinking for Regulation



Labeling Blended Products-Examples

- Salad mix – Lettuce, Product of U.S.A.;
Tomatoes, Product of Mexico
- Ground beef – Product of Mexico,
Raised and Slaughtered in U.S.A.;
Product of U.S.A.; Product of Australia



Current Thinking for Regulation



Labeling Imported Covered Commodities

- Origin would be determined by existing Federal law for products entering the U.S.
- Labeled in conformance with origin established at the time the product arrives at the U.S. port of entry



Current Thinking for Regulation



Labeling Imported Covered Commodities – Examples

- Imported salmon in consumer packages would retain the origin of the exporting country
- An imported beef carcass fabricated into retail cuts in the U.S. would retain the origin of the exporting country



Current Thinking for Regulation



State and Regional Labeling

- Country of origin labeling permits labeling for marketing programs such as “*California Grown,*” “*Idaho Potatoes,*” or “*Iowa Pork*”
- But, country of origin labeling is also required



Provisions of the Law



Regulations and Enforcement

- §283 Provides USDA with enforcement authority for retailers and other persons
- §283(b) Incorporates by reference §253, providing enforcement authority for packers or other persons
- §284(b) Delegates USDA with responsibility to promulgate regulations necessary to implement the country of origin labeling law



Current Thinking for Regulation



Credibility of Country Origin Claims

- Information must flow through the marketing chain to establish and ensure credible country of origin claims
- Creation and transfer of auditable records would provide the most effective mechanism to ensure credibility of the country of origin labeling program



Provisions of the Law



Information

- §282(d) Any person supplying a covered commodity to a retailer shall provide information to the retailer indicating the country of origin of the covered commodity



Current Thinking for Regulation



Information

- Records must be created by the person having first-hand knowledge of the country designation for each production step declared in the country of origin claim
- Retailers and their suppliers must maintain records that verify the country of origin of covered commodities



Current Thinking for Regulation



Information

- The covered commodities beef, pork and lamb are produced from cattle, hogs and sheep, which are not covered commodities
- However, records substantiating claims for U.S. born and/or raised livestock would be necessary for the supplier (slaughterer) to provide required country of origin information to the retailer



Provisions of the Law



Audit Verification

- §282(d) USDA may require that any person that prepares, stores, handles, or distributes a covered commodity for retail sale maintain a verifiable recordkeeping audit trail that would permit USDA to verify compliance



Current Thinking for Regulation



Audit Verification

- Recordkeeping audit trail would provide chain of custody information, and
- Validate the country designation for production steps included in the origin claim
 - For example, records documenting where cattle were born, raised, and slaughtered



Current Thinking for Regulation



Compliance

- Cooperative agreements would be sought with each State
- USDA would coordinate scheduling and determine procedures for routine compliance reviews
- Also, compliance reviews may occur as a result of complaints



Current Thinking for Regulation



Compliance Review Process

- Routine compliance reviews would be initiated at the retail establishment
- The country of origin designation for the product under review would be verified back through marketing channels to verify the origin claim



Provisions of the Law



Enforcement

- §284(c) Partner with States for enforcement
- §283(c) Retailers are subject to a fine of up to \$10,000 per offense for willful violations
- §283(a) Suppliers are subject to a fine of up to \$10,000 per offense for violations



Current Thinking for Regulation



Enforcement

- Only USDA can initiate enforcement actions against regulated parties



Closing Remarks



- Regulations must be promulgated by September 30, 2004
- AMS is currently developing proposed regulations



Country of Origin Labeling



For More Information:

<http://www.ams.usda.gov/cool/>

