

Country of Origin Labeling



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Marketing and Regulatory Programs

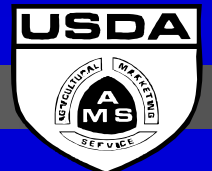


Country of Origin Labeling



Overview of the Interim Final Regulation

Marketing and Regulatory Programs



Country of Origin Labeling



Legal Authority

- Provision of the 2002 U.S. Farm Bill
- Amended by the FY 2002 Supplemental Appropriations Act
- Amended by the FY 2004 Omnibus spending bill



Country of Origin Labeling



Key Components

- **§285** Applies to retail sales beginning September 30, 2004, for Wild and Farm-Raised Fish and Shellfish
- **§285** Applies to retail sales beginning September 30, 2006, for all other commodities



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Effective Date

- Rule effective six months following the date of publication – April 5, 2005
- Requirements do not apply to frozen fish or shellfish caught or harvested before December 6, 2004
 - Will allow existing inventories to clear through channels of commerce
 - During the 6 months after the effective date of April 5, 2005, AMS will focus on industry education and outreach



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Consumer Notification Required at Retail

- Country of Origin
- Wild or Farm-Raised (Fish and Shellfish)
- Label or notice must:
 - Be legible
 - Not obscure or interfere with other required information



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Principal Components of the IFR

- Who must label
- What must be labeled
- Determining origin and method of production
- Recordkeeping
- Compliance and enforcement



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Who Must Label – Retailer

- Retailer is defined as any person licensed as a retailer under the Perishable Agricultural Commodities Act (PACA)
- Exempts food service establishments including those within retail establishments (e.g. delis and salad bars)



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Retailers

- USDA will identify retailers through PACA licenses
- Approximately 4,500 licensees (37,000 stores)
- PACA definition excludes butcher shops, fish markets, and exporters

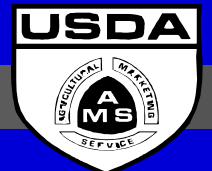


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Covered Commodities

- Farm-Raised Fish and Shellfish
- Wild Fish and Shellfish



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Exclusions

- Covered commodities are excluded if an “ingredient in a processed food item”
- Regulation defines “processed food item”
- Does not exclude covered commodities just because they have been further prepared for consumption



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Processed Food Item

- A retail item derived from fish or shellfish that has:
 - undergone specific processing resulting in a change in the character of the covered commodity; or
 - has been combined with at least one other covered commodity or substantive component



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Processed Food Item – Change of Character

- processes include cooking, canning, curing, smoking, and restructuring;
- and has character that is **different** from that of the covered commodity



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Processed Food Item

- Examples of covered commodities **excluded** because of change of character:
 - Smoked salmon
 - Canned tuna
 - Flesh of fish that have been compressed into a frozen block and sawed into different sizes to make various fish products
 - Pickled herring



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Processed Food Item – Combination of Substantive Food Components

- A covered commodity that has been combined with:
 - Other covered commodities
 - Other substantive food components (e.g., breadings, tomato sauce)
- And has a character different than that of the covered commodity



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Processed Food Item

- Examples of covered commodities **excluded** because they are a combination of substantive food components:
 - Breaded shrimp
 - Seafood Medley
 - Mussels in tomato sauce
 - Stuffed salmon fillet



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Determining Origin

United States Country of Origin

- 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
- And has not undergone a substantial transformation outside of the United States



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Determining Origin

United States Country of Origin

- Farm-raised Fish and Shellfish: Must be derived exclusively from fish or shellfish hatched, raised, harvested, and processed in the U.S.
- And has not undergone a substantial transformation outside of the United States



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Determining Origin

Labeling Imported Covered Commodities With No Substantial Transformation

- Imported covered commodities shall retain the origin as declared to U.S. Customs and Border Protection at the time the product entered the United States.



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Determining Origin

Labeling Imported Covered Commodities *With Substantial Transformation*

- If a covered commodity was imported from country X and subsequently substantially transformed in the United States or aboard a U.S. flagged vessel, such product shall be labeled at retail as:
 - “From country X, processed in the United States”



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Imported Product – Example

Wild shrimp harvested in Mexico and substantially transformed in the U.S.

would be labeled as

“From Mexico, Processed in the United States”



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Determining Origin

Blended Products

- Specific covered commodities of different origins that are combined for retail sales (e.g., shrimp)



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Determining Origin

Labeling Blended Products With No Substantial Transformation

- Declaration shall indicate the countries of origin for covered commodities in accordance with existing Federal legal requirements



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Determining Origin

Labeling Blended Products *With* Substantial Transformation

- Declaration shall indicate the countries of origin contained therein or that may be contained therein



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Determining Origin

Remotely Purchased Products

- For sales in which the customer purchases a covered commodity prior to having the opportunity to observe the final package (e.g., Internet sales, home delivery sales, etc.), the retailer may provide the country of origin notification and method of production (wild and/or farm-raised) designation either:
 - on the sales vehicle,
 - or at the time the product is delivered to the consumer.



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Determining Method of Production

Farm-raised fish and shellfish

- harvested in controlled or selected environments, including ocean-ranched (e.g., penned) fish and including shellfish harvested from leased beds that have been subjected to production enhancements (e.g., protection from predators, providing nutrients, the addition of artificial structures)



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Determining Method of Production

Wild fish and shellfish

- naturally-born or hatchery-originated fish or shellfish released in the wild and caught, taken or harvested from non-controlled waters or beds



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Information

- Any person supplying a covered commodity to a retailer shall provide information to the retailer indicating the country of origin and method of production of the covered commodity



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Information

- This information may be provided on the product itself, on the master shipping container, or in a document that accompanies the product through retail sale provided that it identifies the product unique to that transaction by means of a lot number or other unique identifier.



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Recordkeeping

- Requires documentation to substantiate origin claims and method of production
- Provide chain of custody information



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Recordkeeping - Suppliers

- Must maintain records unique to each transaction for 1 year
- Records must identify previous source and subsequent recipient of product
- Safe Harbor provision



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Recordkeeping - Retailers

- Records relied on at point of sale to make claims must be available for as long as the product is on hand
- For pre-labeled products, label itself is sufficient evidence on which retailer may rely to establish origin and method of production



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Recordkeeping - Retailers

- Must maintain for 1 year from the date of retail sale records that identify the supplier, product unique to the transaction, and the origin and method of production information
- Safe Harbor provision



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Compliance

- USDA will seek to enter into cooperative agreements with each State for retail compliance reviews
- USDA will coordinate the scheduling and determine procedures for reviews



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Enforcement

- AMS will focus its resources on education and outreach for the six months immediately following the effective date of the rule



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Enforcement

- Retailers are subject to a fine of up to \$10,000 per offense for willful violations
- Suppliers are subject to a fine of up to \$10,000 per offense for violations
- Only USDA can initiate enforcement actions against regulated parties



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- Submit comments on or before January 3, 2005
 - Submit via email to cool@usda.gov, or
 - fax to (202) 720-3499, or mail to
 - Country of Origin Labeling Program, Room 2092-
Agricultural Marketing Service, USDA, STOP 0249
1400 Independence Avenue, SW
Washington, DC 20250-0249



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For More Information:

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

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