Country of Origin Labeling

Barry L. Carpenter
Deputy Administrator
Livestock and Seed Program
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

**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

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, \textit{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
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/