

Country-of-Origin Labeling

Overview of the Interim Final Rule

Thursday, September 25th, 2008

Nebraska Grocery Industry Association

Annual Conference

Current Status

- Interim Final Rule published in the Federal Register on August 1st
- 60 day comment period
- Becomes effective on September 30th
- 6 month education and outreach program by AMS

Who's Covered

- Retailers licensed under the Perishable Agricultural Commodities Act (PACA)
 - Business of selling perishable agricultural commodities (fresh and frozen fruits and vegetables at retail)
 - Invoice cost of all purchases of perishable agricultural commodities exceed \$230,000 during a calendar year.
 - Approximately 4,000 PACA licensees that operate roughly 36,000 retail stores
 - Excludes butcher shops and exporters

Who's Exempt

- Foodservice establishments
 - Salad bars and delis located within retail establishments that provide “ready-to-eat” foods are exempt
- Processed food items
 - Processing that changes the character of the covered commodity such as breading, cooking, curing, addition of a sauce

Exempt Commodities

In determining whether similar combined products are covered commodities and are therefore covered by COOL, the USDA will rely on U.S.

Grade Standards for fruits and vegetables to make the distinction of whether the product is exempt.

- *Fruit salads with different melons (watermelon, honeydew and/or cantaloupe): EXEMPT because they have different grade standards*
- *Packages of different colored sweet peppers (green, yellow and/or red): NOT EXEMPT because there is only one grade standard for all*
- *Salad mixes (iceberg lettuce, romaine lettuce): EXEMPT because the various salads all of different grade standards*
- **Exception:** *oranges from CA and FL have different grade standards based on region, but mixing the two does not exempt the product from COOL*

What's Covered

- Covered commodities include:
 - Muscle cuts of beef, veal, lamb, chicken, goat, and pork
 - Ground beef, ground lamb, ground chicken, ground goat, and ground pork
 - Perishable agricultural commodities (fresh and frozen fruits and vegetables)
 - Macadamia nuts, pecans, ginseng, and peanuts
 - Commodities packages after Sept. 30, 2008

Four Labeling Categories

- U.S. Origin
- Multiple Countries of Origin
- Direct to Slaughter
- Imported Product

U.S. Origin

- Beef must be derived *exclusively* from animals that are:
 - *Born, raised, and slaughtered in the United States (including Alaska and Hawaii)*
 - *Present in the U.S. on or before July 15th, 2008, and remain in the U.S.*

Multiple Countries of Origin

- For animals born, raised, and/or slaughtered in the U.S.
- Label represents actual or possible countries of origin
- Label could read “product of the United States, Canada, and Mexico”

Direct for Slaughter

- Live animals imported for immediate slaughter
- Spend less than two weeks in the U.S.
- Label must say “Product of Canada and the United States”

Imported Product

- Case-ready beef coming into the United States
- Remains under origin declarations and labeling as required by U.S. Customs and Border Protection
- Label in the retail case would read “Product of Australia”

Ground Beef

- List all countries of origin contained in that batch of ground beef, OR that may be reasonably contained
- Reasonable determined by 60 day inventory timeframe

Other Provisions

- Remotely Purchased Products
 - In the case of internet sales, the country-of-origin can be provided on the website or on the package when it is delivered
- State and Regional Labeling Programs for Fruits and Vegetables
 - Programs such as “Pennsylvania Proud” can be used in lieu of COOL
 - Only applies to fruits, vegetables and nuts
 - State COOL laws are preempted

How to Label

- The country-of-origin label must be legible and in a conspicuous location.
- Examples include:
 - Placard
 - Label
 - Band
 - Pin Tag
 - Sign
 - Sticker
 - Twist Tie
 - Or Other Display

Recordkeeping for Suppliers

- Must have access to records that verify origin
 - Can be in any location
 - Keep for 1 year from date of transaction
 - Must be able to produce in 5 days if audited by AMS
 - Where it came from and who you sent it to

Recordkeeping for Suppliers

- Supplier making the origin declaration (i.e. – packers)
 - Must possess or have access to the records
 - Producer affidavit is acceptable
 - Have record of where the product went
 - Keep records for 1 year after transaction

Recordkeeping for Retailers

- Maintain records for 1 year after you make the declaration of origin
- Must provide records to verify origin with 5 days if asked by USDA
- Can be in either electronic or paper format

Recordkeeping for pre-labeled products

- Label itself is sufficient to base the origin claim
- Can be on shipping container, immediate container, or case-ready package
- Must also have supplier information for trace back
- All records may be maintained at any location

Recordkeeping - verification

- Producer affidavit
 - Supported by usual business records
- National Animal Identification System (NAIS)
 - Takes the place of paperwork
- Other
 - “CAN” and “M” brands

Enforcement

- USDA will build enforcement infrastructure. Audits will be conducted by the NE Dept. of Ag through a MOU; information will be forwarded to USDA
- Action will only be taken by USDA
- 30 day notice to cure
- Must be a “willful” violation; \$1000 fine
- USDA expects to be in the field in April of 2009

For more information please feel free to contact:

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