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(b) *Transportation costs.* Applicants are responsible for paying actual travel costs incurred to provide QSVP services including but not limited to: Mileage charges for use of privately owned vehicles, rental vehicles and gas, parking, tolls, and public transportation costs such as airfare, train, and taxi service.

(c) *Per diem costs.* The applicant is responsible for paying per diem costs incurred to provide QSVP services away from the auditor's or USDA officials' official duty station(s). Per diem costs shall be calculated in accordance with existing travel regulations (41 CFR, subtitle F—Federal Travel Regulation System, chapter 301).

(d) *Other costs.* When costs, other than those costs specified in paragraphs (a), (b), and (c) of this section, are involved in providing the QSVP services, the applicant shall be responsible for these costs. The amount of these costs shall be determined administratively by the Chief. However, the applicant will be notified of these costs before the service is rendered.

§ 62.301 **Payment of fees and other charges.**

Fees and other charges for QSVP services shall be paid in accordance with the following provisions. Upon receipt of billing for fees and other charges, the applicant shall remit payment within 10 business days by check, electronic funds transfer, draft, or money order made payable to USDA, AMS, in accordance with directions on the billing. Fees and charges shall be paid in advance if required by the auditor or other authorized USDA official.

MISCELLANEOUS

OMB Control Number

§ 62.400 **OMB control number assigned pursuant to the Paperwork Reduction Act.**

The information collection and recordkeeping requirements of this part have been approved by OMB under 44 U.S.C. Chapter 35 and have been assigned OMB Control Number 0581-0124.

PART 65—COUNTRY OF ORIGIN LABELING OF BEEF, PORK, LAMB, CHICKEN, GOAT MEAT, PERISHABLE AGRICULTURAL COMMODITIES, MACADAMIA NUTS, and PEANUTS

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AUTHORITY: 7 U.S.C. 1621 *et seq.*

SOURCE: 73 FR 45148, Aug. 1, 2008, unless otherwise noted.

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Subpart A—General Provisions

DEFINITIONS

§ 65.100 Act.

Act means the Agricultural Marketing Act of 1946 (7 U.S.C. 1621 *et seq.*).

§ 65.105 AMS.

AMS means the Agricultural Marketing Service, United States Department of Agriculture.

§ 65.110 Beef.

Beef means meat produced from cattle, including veal.

§ 65.115 Born.

Born in the case of chicken means hatched from the egg.

§ 65.120 Chicken.

Chicken has the meaning given the term in 9 CFR 381.170(a)(1).

§ 65.125 Commingled covered commodities.

Commingled covered commodities means covered commodities (of the same type) presented for retail sale in a consumer package that have been prepared from raw material sources having different origins (e.g., bag of frozen strawberries).

§ 65.130 Consumer package.

Consumer package means any container or wrapping in which a covered commodity is enclosed for the delivery and/or display of such commodity to retail purchasers.

§ 65.135 Covered commodity.

(a) *Covered commodity* means:

- (1) Muscle cuts of beef, lamb, chicken, goat, and pork;
- (2) Ground beef, ground lamb, ground chicken, ground goat, and ground pork;
- (3) Perishable agricultural commodities;
- (4) Peanuts;
- (5) Macadamia nuts;
- (6) Pecans; and
- (7) Ginseng.

(b) Covered commodities are excluded from this part if the commodity is an ingredient in a processed food item as defined in § 65.220.

§ 65.140 Food service establishment.

Food service establishment means a restaurant, cafeteria, lunch room, food stand, saloon, tavern, bar, lounge, or other similar facility operated as an enterprise engaged in the business of selling food to the public. Similar food service facilities include salad bars, delicatessens, and other food enterprises located within retail establishments that provide ready-to-eat foods that are consumed either on or outside of the retailer's premises.

§ 65.145 Ginseng.

Ginseng means ginseng root of the genus *Panax*.

§ 65.150 Goat.

Goat means meat produced from goats.

§ 65.155 Ground beef.

Ground beef has the meaning given that term in 9 CFR 319.15(a), i.e., chopped fresh and/or frozen beef with or without seasoning and without the addition of beef fat as such, and containing no more than 30 percent fat, and containing no added water, phosphates, binders, or extenders, and also includes products defined by the terms "hamburger" in 9 CFR 319.15(b) and "beef patties" in 9 CFR 319.15(c).

§ 65.160 Ground chicken.

Ground chicken means comminuted chicken of skeletal origin that is produced in conformance with all applicable Food Safety and Inspection Service labeling guidelines.

§ 65.165 Ground goat.

Ground goat means comminuted goat of skeletal origin that is produced in conformance with all applicable Food Safety and Inspection Service labeling guidelines.

§ 65.170 Ground lamb.

Ground lamb means comminuted lamb of skeletal origin that is produced in conformance with all applicable Food Safety and Inspection Service labeling guidelines.

§ 65.175

§ 65.175 Ground pork.

Ground pork means comminuted pork of skeletal origin that is produced in conformance with all applicable Food Safety and Inspection Service labeling guidelines.

§ 65.180 Imported for immediate slaughter.

Imported for immediate slaughter means imported into the United States for “immediate slaughter” as that term is defined in 9 CFR 93.400, i.e., consignment directly from the port of entry to a recognized slaughtering establishment and slaughtered within 2 weeks from the date of entry.

§ 65.185 Ingredient.

Ingredient means a component either in part or in full, of a finished retail food product.

§ 65.190 Lamb.

Lamb means meat, other than mutton (or yearling mutton), produced from sheep.

§ 65.195 Legible.

Legible means text that can be easily read.

§ 65.200 NAIS-compliant system.

NAIS-compliant system means Animal and Plant Health Inspection Service (APHIS)/Veterinary Services (VS) official animal identification numbers, tags, devices, or protocols, and location identifiers that are consistent with any APHIS/Veterinary Services (VS) official disease program or activity, and animal tracking databases that have been reviewed and approved by APHIS/Veterinary Services Chief Information Officer for utilizing NAIS standards regarding animal movement information.

§ 65.205 Perishable agricultural commodity.

Perishable agricultural commodity means fresh and frozen fruits and vegetables of every kind and character that have not been manufactured into articles of a different kind or character and includes cherries in brine as defined by the Secretary in accordance with trade usages.

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§ 65.210 Person.

Person means any individual, partnership, corporation, association, or other legal entity.

§ 65.215 Pork.

Pork means meat produced from hogs.

§ 65.220 Processed food item.

Processed food item means a retail item derived from a covered commodity that has undergone specific processing resulting in a change in the character of the covered commodity, or that has been combined with at least one other covered commodity or other substantive food component (e.g., chocolate, breading, tomato sauce), except that the addition of a component (such as water, salt, or sugar) that enhances or represents a further step in the preparation of the product for consumption, would not in itself result in a processed food item. Specific processing that results in a change in the character of the covered commodity includes cooking (e.g., frying, broiling, grilling, boiling, steaming, baking, roasting), curing (e.g., salt curing, sugar curing, drying), smoking (hot or cold), and restructuring (e.g., emulsifying and extruding). Examples of items excluded include teriyaki flavored pork loin, roasted peanuts, breaded chicken tenders, and fruit medley.

§ 65.225 Produced.

Produced in the case of a perishable agricultural commodity, peanuts, ginseng, pecans, and macadamia nuts means grown.

§ 65.230 Production step.

Production step means, in the case of beef, pork, goat, chicken, and lamb, born, raised, or slaughtered.

§ 65.235 Raised.

Raised means, in the case of beef, pork, chicken, goat, and lamb, the period of time from birth until slaughter or in the case of animals imported for immediate slaughter as defined in § 65.180, the period of time from birth until date of entry into the United States.

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§ 65.240 Retailer.

Retailer means any person licensed as a retailer under the Perishable Agricultural Commodities Act of 1930 (7 U.S.C. 499a(b)).

§ 65.245 Secretary.

Secretary means the Secretary of Agriculture of the United States or any person to whom the Secretary's authority has been delegated.

§ 65.250 Slaughter.

Slaughter means the point in which a livestock animal (including chicken) is prepared into meat products (covered commodities) for human consumption. For purposes of labeling under this part, the word harvested may be used in lieu of slaughtered.

§ 65.255 United States.

United States means the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, American Samoa, Guam, the Northern Mariana Islands, and any other Commonwealth, territory, or possession of the United States.

§ 65.260 United States country of origin.

United States country of origin means in the case of:

(a) Beef, pork, lamb, chicken, and goat:

(1) From animals exclusively born, raised, and slaughtered in the United States;

(2) From animals born and raised in Alaska or Hawaii and transported for a period of not more than 60 days through Canada to the United States and slaughtered in the United States; or

(3) From animals present in the United States on or before July 15, 2008, and once present in the United States, remained continuously in the United States.

(b) Perishable agricultural commodities, peanuts, ginseng, pecans, and macadamia nuts: From products produced in the United States.

§ 65.265 USDA.

USDA means the United States Department of Agriculture.

COUNTRY OF ORIGIN NOTIFICATION

§ 65.300 Country of origin notification.

In providing notice of the country of origin as required by the Act, the following requirements shall be followed by retailers:

(a) *General*. Labeling of covered commodities offered for sale whether individually, in a bulk bin, carton, crate, barrel, cluster, or consumer package must contain country of origin as set forth in this regulation.

(b) *Exemptions*. Food service establishments as defined in § 65.135 are exempt from labeling under this subpart.

(c) *Exclusions*. A covered commodity is excluded from this subpart if it is an ingredient in a processed food item as defined in § 65.220.

(d) *Labeling covered commodities of United States origin*. (1) A covered commodity may bear a declaration that identifies the United States as the sole country of origin at retail only if it meets the definition of United States country of origin as defined in § 65.260.

(2) Covered commodities further processed or handled in a foreign country after meeting the requirements to be labeled as United States origin as defined in § 65.260 (e.g., born, raised, and slaughtered or produced) may bear a declaration that identifies the United States as the sole country of origin at retail provided the identity of the product is maintained along with records to substantiate the origin claims and the claim is consistent with other applicable Federal legal requirements.

(e) *Labeling muscle cut covered commodities of multiple countries of origin that include the United States*. (1)(i) If an animal was born, raised, and/or slaughtered in the United States and was not imported for immediate slaughter as defined in § 65.180, the origin of the resulting meat products derived from that animal may be designated as Product of the United States, Country X, and/or (as applicable) Country Y where Country X and Country Y represent the actual or possible countries of foreign origin.

(ii) If an animal was imported into the United States for immediate

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slaughter as defined in § 65.180, the origin of the resulting meat products derived from that animal shall be designated as Product of Country X and the United States.

(2) In both cases of paragraph (e)(1)(i) and (e)(1)(ii) of this section, the origin declaration may include more specific information related to production steps provided records to substantiate the claims are maintained and the claim is consistent with other applicable Federal legal requirements.

(f) *Labeling imported covered commodities.* Imported covered commodities for which origin has already been established as defined by this law (e.g., born, raised, slaughtered or grown) and for which no production steps have occurred in the United States, shall retain their origin, as declared to U.S. Customs and Border Protection (CBP) at the time the product entered the United States, through retail sale.

(g) *Labeling commingled covered commodities.* In the case of perishable agricultural commodities; peanuts; pecans; ginseng; and macadamia nuts: For imported covered commodities that have not subsequently been substantially transformed in the United States that are commingled with covered commodities sourced from a different origin that have not been substantially transformed (as established by CBP) in the United States, and/or covered commodities of United States origin, the declaration shall indicate the countries of origin in accordance with existing Federal legal requirements.

(h) *Labeling ground beef, ground pork, ground lamb, ground goat, and ground chicken.* The declaration for ground beef, ground pork, ground lamb, ground goat, and ground chicken covered commodities shall list all countries of origin contained therein or that may be reasonably contained therein. In determining what is considered reasonable, when a raw material from a specific origin is not in a processor's inventory for more than 60 days, that country shall no longer be included as a possible country of origin.

(i) *Remotely purchased products.* For sales of a covered commodity in which the customer purchases a covered commodity prior to having an opportunity to observe the final package (e.g.,

Internet sales, home delivery sales, etc.), the retailer may provide the country of origin notification either on the sales vehicle or at the time the product is delivered to the consumer.

§ 65.400 Markings.

(a) Country of origin declarations can either be in the form of a placard, sign, label, sticker, band, twist tie, pin tag, or other format that allows consumers to identify the country of origin. The declaration of the country of origin of a product may be in the form of a statement such as "Product of USA," "Produce of the USA," or "Grown in Mexico," may only contain the name of the country such as "USA" or "Mexico," or may be in the form of a check box provided it is in conformance with other Federal labeling laws.

(b) The declaration of the country of origin (e.g., placard, sign, label, sticker, band, twist tie, pin tag, or other display) must be legible and placed in a conspicuous location, so as to render it likely to be read and understood by a customer under normal conditions of purchase.

(c) The declaration of country of origin may be typed, printed, or handwritten provided it is in conformance with other Federal labeling laws and does not obscure other labeling information required by other Federal regulations.

(d) A bulk container (e.g., display case, shipper, bin, carton, and barrel), used at the retail level to present product to consumers, may contain a covered commodity from more than one country of origin provided all possible origins are listed.

(e) In general, abbreviations are not acceptable. Only those abbreviations approved for use under CBP rules, regulations, and policies, such as "U.K." for "The United Kingdom of Great Britain and Northern Ireland", "Luxemb" for Luxembourg, and "U.S." for the "United States" are acceptable. The adjectival form of the name of a country may be used as proper notification of the country of origin of imported commodities provided the adjectival form of the name does not appear with other words so as to refer to a kind or species of product. Symbols or flags

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alone may not be used to denote country of origin.

(f) With the exception of perishable agricultural commodities, peanuts, pecans, and ginseng, State or regional label designations are not acceptable in lieu of country of origin labeling.

RECORDKEEPING

§ 65.500 Recordkeeping requirements.

(a) *General.* (1) All records must be legible and may be maintained in either electronic or hard copy formats. Due to the variation in inventory and accounting documentary systems, various forms of documentation and records will be acceptable.

(2) Upon request by USDA representatives, suppliers and retailers subject to this subpart shall make available to USDA representatives, records maintained in the normal course of business that verify an origin claim. Such records shall be provided within 5 business days of the request and may be maintained in any location.

(b) *Responsibilities of suppliers.* (1) Any person engaged in the business of supplying a covered commodity to a retailer, whether directly or indirectly, must make available information to the buyer about the country(ies) of origin of the covered commodity. This information may be provided either on the product itself, on the master shipping container, or in a document that accompanies the product through retail sale. In addition, the supplier of a covered commodity that is responsible for initiating a country(ies) of origin claim, which in the case of beef, lamb, chicken, goat, and pork is the slaughter facility, must possess or have legal access to records that are necessary to substantiate that claim. For that purpose, in the case of beef, lamb, chicken, goat, and pork, a producer affidavit shall be considered acceptable evidence on which the slaughter facility may rely to initiate the origin claim, provided it is made by someone having first-hand knowledge of the origin of the animal(s) and identifies the animal(s) unique to the transaction. Packers that slaughter animals that are part of a NAIS compliant system or other recognized official identification system (e.g., Canadian official system,

Mexico official system) may also rely on the presence of an official ear tag and/or the presence of any accompanying animal markings (i.e., "Can", "M"), as applicable, on which to base their origin claims. This provision also applies to such animals officially identified as a group lot.

(2) Any person engaged in the business of supplying a covered commodity to a retailer, whether directly or indirectly (i.e., including but not limited to growers, distributors, handlers, packers, and processors), must maintain records to establish and identify the immediate previous source (if applicable) and immediate subsequent recipient of a covered commodity for a period of 1 year from the date of the transaction.

(3) For an imported covered commodity (as defined in §65.300(f)), the importer of record as determined by CBP, must ensure that records: Provide clear product tracking from the port of entry into the United States to the immediate subsequent recipient and accurately reflect the country of origin of the item as identified in relevant CBP entry documents and information systems; and must maintain such records for a period of 1 year from the date of the transaction.

(c) *Responsibilities of retailers.* (1) Records and other documentary evidence relied upon at the point of sale to establish a covered commodity's country(ies) of origin must be provided to any duly authorized representative of USDA in accordance with §65.500(a)(2), and maintained for a period of 1 year from the date the origin declaration is made at retail. For pre-labeled products, the label itself is sufficient evidence on which the retailer may rely to establish the product's origin.

(2) Records that identify the covered commodity, the retail supplier, and for products that are not pre-labeled, the country of origin information, must be maintained for a period of 1 year from the date the origin declaration is made at retail.

Subpart B [Reserved]