

**Agricultural Marketing Service, USDA**

**§ 60.107**

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**PART 60—COUNTRY OF ORIGIN LABELING FOR FISH AND SHELLFISH**

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

SOURCE: 74 FR 2701, Jan. 15, 2009, unless otherwise noted

**Subpart A—General Provisions**

DEFINITIONS

**§ 60.101 Act.**

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

**§ 60.102 AMS.**

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

**§ 60.103 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.

**§ 60.104 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.

**§ 60.105 Covered commodity.**

(a) *Covered commodity* means:

(1)–(2) [Reserved]

(3) Farm-raised fish and shellfish (including fillets, steaks, nuggets, and any other flesh);

(4) Wild fish and shellfish (including fillets, steaks, nuggets, and any other flesh);

(5)–(6) [Reserved]

(b) Covered commodities are excluded from this part if the commodity is an ingredient in a processed food item as defined in § 60.119.

**§ 60.106 Farm-raised fish.**

*Farm-raised fish* means fish or shellfish that have been harvested in controlled environments, including ocean-ranched (e.g., penned) fish and including shellfish harvested from leased beds that have been subjected to production enhancements such as providing protection from predators, the addition of artificial structures, or providing nutrients; and fillets, steaks, nuggets, and any other flesh from a farm-raised fish or shellfish.

**§ 60.107 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,

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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.

**§§ 60.108–60.110 [Reserved]**

**§ 60.111 Hatched.**

*Hatched* means emerged from the egg.

**§ 60.112 Ingredient.**

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

**§ 60.113 [Reserved]**

**§ 60.114 Legible.**

*Legible* means text that can be easily read.

**§ 60.115 [Reserved]**

**§ 60.116 Person.**

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

**§ 60.117 [Reserved]**

**§ 60.118 Pre-labeled.**

*Pre-labeled* means a covered commodity that has the commodity's country of origin and method of production and the name and place of business of the manufacturer, packer, or distributor on the covered commodity itself, on the package in which it is sold to the consumer, or on the master shipping container. The place of business information must include at a minimum the city and state or other acceptable locale designation.

**§ 60.119 Processed food item.**

*Processed food item* means 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 that has been combined with at least one other covered commodity or other substantive food component (e.g., breeding, 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, compressing into blocks and cutting into portions). Examples of items excluded include fish sticks, surimi, mussels in tomato sauce, seafood medley, coconut shrimp, soups, stews, and chowders, sauces, pates, smoked salmon, marinated fish fillets, canned tuna, canned sardines, canned salmon, crab salad, shrimp cocktail, gefilte fish, sushi, and breaded shrimp.

**§§ 60.120–60.121 [Reserved]**

**§ 60.122 Production step.**

*Production step* means in the case of:

(a) [Reserved]

(b) Farm-raised Fish and Shellfish: Hatched, raised, harvested, and processed.

(c) Wild Fish and Shellfish: Harvested and processed.

**§ 60.123 Raised.**

*Raised* means in the case of:

(a) [Reserved]

(b) Farm-raised fish and shellfish as it relates to the production steps defined in § 60.122: The period of time from hatched to harvested.

**§ 60.124 Retailer.**

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

**§ 60.125 Secretary.**

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

**§ 60.126 [Reserved]**

**§ 60.127 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

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other Commonwealth, territory, or possession of the United States, and the waters of the United States as defined in § 60.132.

**§ 60.128 United States country of origin.**

*United States country of origin* means in the case of:

(a)–(b) [Reserved]

(c) *Farm-raised Fish and Shellfish:* From fish or shellfish hatched, raised, harvested, and processed in the United States, and that has not undergone a substantial transformation (as established by U.S. Customs and Border Protection) outside of the United States.

(d) *Wild-fish and Shellfish:* From fish or shellfish harvested in the waters of the United States or by a U.S. flagged vessel and processed in the United States or aboard a U.S. flagged vessel, and that has not undergone a substantial transformation (as established by U.S. Customs and Border Protection) outside of the United States.

(e)–(f) [Reserved]

**§ 60.129 USDA.**

*USDA* means the United States Department of Agriculture.

**§ 60.130 U.S. flagged vessel.**

*U.S. flagged vessel* means:

(a) Any vessel documented under chapter 121 of title 46, United States Code; or

(b) Any vessel numbered in accordance with chapter 123 of title 46, United States Code.

**§ 60.131 Vessel flag.**

*Vessel flag* means the country of registry for a vessel, ship, or boat.

**§ 60.132 Waters of the United States.**

*Waters of the United States* means those fresh and ocean waters contained within the outer limit of the Exclusive Economic Zone (EEZ) of the United States as described by the Department of State Public Notice 2237 published in the FEDERAL REGISTER volume 60, No. 163, August 23, 1995, pages 43825–43829. The Department of State notice is republished in appendix A to this subpart.

**§ 60.133 Wild fish and shellfish.**

*Wild fish and shellfish* means naturally-born or hatchery-originated fish or shellfish released in the wild, and caught, taken, or harvested from non-controlled waters or beds; and fillets, steaks, nuggets, and any other flesh from a wild fish or shellfish.

**COUNTRY OF ORIGIN NOTIFICATION**

**§ 60.200 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, display case, carton, crate, barrel, cluster, or consumer package must contain country of origin and method of production information (wild and/or farm-raised) as set forth in this regulation.

(b) *Exemptions.* Food service establishments as defined in § 60.107 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 § 60.119.

(d) *Designation of Method of Production (Wild and/or Farm-Raised).* Fish and shellfish covered commodities shall also be labeled to indicate whether they are wild and/or farm-raised as those terms are defined in this regulation.

(e) *Labeling Covered Commodities of United States Origin.* A covered commodity may only bear the declaration of “Product of the U.S.” at retail if it meets the definition of United States Country of Origin as defined in § 60.128.

(f) *Labeling Imported Products That Have Not Undergone Substantial Transformation in the United States.* An imported covered commodity shall retain its origin as declared to U.S. Customs and Border Protection at the time the product entered the United States, through retail sale, provided that it has not undergone a substantial transformation (as established by U.S. Customs and Border Protection) in the United States.

(g) *Labeling Imported Products That Have Subsequently Been Substantially Transformed in the United States.*

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(1) [Reserved]

(2) Wild and Farm-Raised Fish and Shellfish: If a covered commodity was imported from country X and subsequently substantially transformed (as established by U.S. Customs and Border Protection) 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.” Alternatively, the product may be labeled as “Product of country X and the United States”.

(h) *Labeling Commingled Covered Commodities.* (1) For imported covered commodities that have not subsequently been substantially transformed in the United States that are commingled with other imported covered commodities that have not been substantially transformed in the United States, and/or covered commodities of U.S. origin and/or covered commodities as described in § 60.200(g), the declaration shall indicate the countries of origin for covered commodities in accordance with existing Federal legal requirements.

(2) For imported covered commodities that have subsequently undergone substantial transformation in the United States that are commingled with other imported covered commodities that have subsequently undergone substantial transformation in the United States (either prior to or following substantial transformation in the United States) and/or U.S. origin covered commodities, the declaration shall indicate the countries of origin contained therein or that may be contained therein.

(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 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.

### § 60.300 Labeling.

(a) Country of origin declarations and method of production (wild and/or farm-raised) designations can either be

in the form of a placard, sign, label, sticker, band, twist tie, pin tag, or other format that provides country of origin and method of production information. The country of origin declaration and method of production (wild and/or farm-raised) designation may be combined or made separately. Except as provided in § 60.200(g) and 60.200(h) of this regulation, the declaration of the country(ies) of origin of a product shall be listed according to applicable Federal legal requirements. Country of origin declarations may be in the form of a check box provided it is in conformance with other Federal legal requirements. Various forms of the production designation are acceptable, including “wild caught”, “wild”, “farm-raised”, “farmed”, or a combination of these terms for blended products that contain both wild and farm-raised fish or shellfish, provided it can be readily understood by the consumer and is in conformance with other Federal labeling laws. Designations such as “ocean caught”, “caught at sea”, “line caught”, “cultivated”, or “cultured” are not acceptable substitutes. Alternatively, method of production (wild and/or farm-raised) designations may be in the form of a check box.

(b) The declaration of the country(ies) of origin and method(s) of production (wild and/or farm-raised) (e.g., placard, sign, label, sticker, band, twist tie, pin tag, or other display) must be 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 the country(ies) of origin and the method(s) of production (wild and/or farm-raised) 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 and/or more than one method of production (wild and farm-raised) provided all possible origins and/or methods of production are listed.

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(e) In general, country 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. or USA" for the "United States" are acceptable. The adjectival form of the name of a country may be used as proper notification of the country(ies) 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 alone may not be used to denote country of origin.

(f) State or regional label designations are not acceptable in lieu of country of origin labeling.

### RECORDKEEPING

#### § 60.400 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 and method of production (wild and/or farm-raised). 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 and method(s) of production (wild and/or farm-raised), 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 provided that it identifies the product and its country(ies) of origin and method(s) of production. In addition, the supplier of a covered commodity that is responsible for initiating a country(ies) of origin

and method(s) of production (wild and/or farm-raised) claim must possess records that are necessary to substantiate that claim for a period of 1 year from the date of the transaction. Producer affidavits shall also be considered acceptable records that suppliers may utilize to initiate origin claims, provided it is made by someone having first-hand knowledge of the origin of the covered commodity and identifies the covered commodity unique to the transaction.

(2) Any intermediary supplier handling a covered commodity that is found to be designated incorrectly as to the country of origin and/or method of production (wild and/or farm-raised) shall not be held liable for a violation of the Act by reason of the conduct of another if the intermediary supplier relied on the designation provided by the initiating supplier or other intermediary supplier, unless the intermediary supplier willfully disregarded information establishing that the country of origin and/or method of production (wild and/or farm-raised) declaration was false.

(3) 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 harvesters, producers, distributors, handlers, 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.

(4) For an imported covered commodity (as defined in §60.200(f)), the importer of record as determined by U.S. Customs and Border Protection, 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 and method of production (wild and/or farm-raised) 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) In providing the country of origin and method of production (wild and/or

farm-raised) notification for a covered commodity, in general, retailers are to convey the origin and method of production information provided to them by their suppliers. Only if the retailer physically commingles a covered commodity of different origins and/or methods of production in preparation for retail sale, whether in a consumer-ready package or in a bulk display (and not discretely packaged) (i.e., full service fish case), can the retailer initiate a multiple country of origin and/or method of production designation that reflects the actual countries of origin and method of production for the resulting covered commodity.

(2) Records and other documentary evidence relied upon at the point of sale to establish a covered commodity's country(ies) of origin and designation of wild and/or farm-raised must either be maintained at the retail facility or at another location for as long as the product is on hand and provided to any duly authorized representative of USDA in accordance with §60.400(a)(2). For pre-labeled products, the label itself is sufficient information on which the retailer may rely to establish the product's origin and method(s) of production (wild and/or farm-raised) and no additional records documenting origin and method of production information are necessary.

(3) Records that identify the covered commodity, the retail supplier, and for products that are not pre-labeled, the country of origin information and the method(s) of production (wild and/or farm-raised) must be maintained for a period of 1 year from the date the declaration is made at retail.

(4) Any retailer handling a covered commodity that is found to be designated incorrectly as to the country of origin and/or the method of production (wild and/or farm-raised) shall not be held liable for a violation of the Act by reason of the conduct of another if the retailer relied on the designation provided by the supplier, unless the retailer willfully disregarded information establishing that the country of origin and/or method of production declaration was false.

### Subpart B [Reserved]

## PART 61—COTTONSEED SOLD OR OFFERED FOR SALE FOR CRUSHING PURPOSES (INSPECTION, SAMPLING AND CERTIFICATION)

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SOURCE: 22 FR 10948, Dec. 28, 1957, unless otherwise noted.

### Subpart A—Regulations

AUTHORITY: Sec. 205, 60 Stat. 1090, as amended, (7 U.S.C. 1624).