



United States
Department of
Agriculture

Agricultural
Marketing
Service

STOP 0249 – Room 2092-S
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Washington, D.C. 20250-0249

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NOTICE TO THE TRADE

MANDATORY COUNTRY OF ORIGIN LABELING FOR FISH AND SHELLFISH

Purpose: Based upon a number of inquiries and comments from retailers and their suppliers, the Department of Agriculture (USDA) is issuing this Notice to the Trade to clarify the documentation and records that must be maintained to substantiate country of origin and method of production claims.

Background: On April 4, 2005, the provisions of the Interim Final Rule (IFR) for the mandatory country of origin labeling (COOL) of fish and shellfish covered commodities will become effective. The IFR was published in the Federal Register on October 5, 2004, and requires designated retailers to label fish and shellfish covered commodities for country of origin and method of production (i.e., wild or farm raised). The full text of the IFR can be found at: <http://www.ams.usda.gov/cool/index.htm>.

Recordkeeping Requirements: The statutory provisions authorizing the mandatory COOL program are clear that the supply chain must provide information on country of origin and method of production to retailers who merchandise fish and shellfish covered commodities. The statute is equally clear that USDA may require a verifiable recordkeeping audit trail to substantiate label claims. The recordkeeping requirements for both retailers and their suppliers are set forth in Section 60.400 of the IFR. The following clarifies specific recordkeeping and documentation requirements set forth in the IFR.

Question: For covered commodities, what records or documentation must be maintained for compliance purposes?

Response: For compliance purposes at both the retail and supply chain levels, the records used to substantiate claims consist of two separate, but equally important, parts. The first part of the record establishes the chain of custody of the product. Chain of custody information must be maintained for all covered commodities by retailers and their suppliers. We anticipate that, in almost all cases, routine business documents will be sufficient record to document chain of custody information.

The second part of the record establishes country of origin and method of production for the covered commodity. For pre-labeled products, the label itself is sufficient record on which the intermediary supplier and retailer may rely while the product is in their possession. Once the

pre-labeled covered commodity leaves the possession of an intermediary supplier or retailer, no further recordkeeping documenting country of origin and method of production is required. By contrast, the documentation for covered commodities that are not pre-labeled for country of origin or method of production must be maintained at the retail site while the product is on hand and for a period of 1 year by both the retailer and their suppliers.

Question: What records or documentation must suppliers who initiate country of origin and method of production claims maintain?

In all cases, the supplier who is responsible for initiating a country of origin or method of production claim must possess or have legal access to records that are necessary to substantiate the claims for 1 year from the date the product is sold.

Question: Do “pre-labeled” products include those covered commodities repackaged by the retailer?

Response: No. Anytime the term “pre-labeled” is used in the IFR it is referring to covered commodity packaging (i.e., consumer packages or shipping containers), which is labeled for country of origin and/or method of production by the firm or entity responsible for making the initial claim for these attributes or by a further processor or repacker (i.e., firms that receive bulk products and package the products as covered commodities in a form suitable for the retailer).

Question: The IFR states that country of origin and method of production information may be provided to the retailer: 1) on the product itself; 2) on the master container; or, 3) 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. Does this mean that all covered commodities must be assigned and tracked with a lot number or other unique identifier?

Response: The tracking (i.e., unique identifier) for covered commodities which are pre-labeled for country of origin and method of production on the product itself or on the master container will consist of documentation that specifies the immediate previous source, product name, amount, and when the product was received. We anticipate that, in almost all cases, this information will be a component of routine business documents.

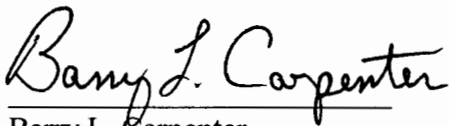
For covered commodities that do not have information on country of origin or method of production on the package or container labels, such information must be provided to the retailer by some document or other verifiable record for each transaction between buyer and seller. In this case, the IFR recordkeeping provisions require this document or record to contain information that specifies: the product, country of origin and method of production, and some form of tracking (i.e., unique identifier) that links the documentation to the covered commodity.

Question: The IFR states that retailers must maintain certain records related to a covered commodity's supplier and country of origin and/or method of production claims for, "...a period of 1 year from the date the declaration is made at retail." What does USDA consider the "date of declaration"?

The date of declaration at retail is the date the covered commodity with appropriate labeling as to country of origin and method of production in accordance with the IFR is first made available for purchase by consumers.

Question: In the case of further processors or repackers, what documentation over and above that required for other suppliers must be maintained?

The same recordkeeping and documentation requirements apply to this group of suppliers with one exception. In addition to chain of custody and country of origin and method of production records or labels, further processors and repackers must maintain internal system records that document the processes used to further process or repackage covered commodities. That is, internal system records that document the transfer of product and country of origin and method of production information from bulk containers to the packaging provided to retailers must be maintained.



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