

these regulations. Examples include a frozen prepared pie that includes frozen sliced apples, a fruit cup containing cantaloupe, honeydew, and watermelon, or a vegetable tray containing both carrots and celery.

Peanuts

All peanuts, whether raw, roasted, in-shell, shelled, salted, seasoned, or canned are subject to these regulations unless they are an ingredient in a processed food item. Under the law, the term "covered commodity" includes "peanuts." Because the vast majority of peanuts sold at retail are shelled, roasted, and salted, AMS believes these products were intended to be covered by the law. Accordingly, shelled and/or roasted peanuts would be subject to these regulations as these retail items do not have characteristics that are different from that of a covered commodity. Further, peanuts that have been combined with other non-substantive ingredients such as oil, salt, or other flavorings would also be subject to these regulations. However, peanut products such as candy coated peanuts, peanut brittle, and peanut butter would not be subject these regulations as they are processed food items with a character that is different than that of the covered commodity. In addition, in cases where the peanuts are ingredients in other food products (e.g., peanuts in a candy bar), they would also be excluded from these regulations as they are not marketed as a covered commodity.

Wild and Farm-Raised Fish and Shellfish

All fish and shellfish, whether chilled, frozen, raw, cooked, breaded, or canned would be subject to these regulations unless they are an ingredient in a processed food item. This includes fillets, steaks, nuggets, and other flesh from wild or farm-raised fish and shellfish.

In cases where a retail item is derived from fish or shellfish that has undergone a physical or chemical change, causing the character to be different than that of the covered commodity, that item is considered a processed food item and would be excluded from these regulations. For example, items such as restructured shrimp or fish sticks and smoked and cured products would be considered processed food items because they no longer retain the characteristics of the covered commodity and thus consumers would not use them in the same manner as they would the covered commodity.

In cases where a retail item is derived from a fish or shellfish that has been

combined with non-substantive ingredients such as seasonings, preservatives, or breading, that item would not be considered a processed food item as it does not result in a retail item with characteristics that are different from that of the covered commodity and would generally be used by consumers in the same manner as the covered commodity.

In cases where a retail item is derived from a fish or shellfish that has been combined with another covered commodity or other substantive ingredients, that item would be considered a processed food item and would not be subject to these regulations as it results in a distinct retail item that is no longer marketed as a covered commodity. Examples include a bag of seafood medley, stuffed salmon, or surimi.

Labeling Country of Origin for Products Produced Exclusively in the United States

The law prescribes specific criteria that must be met for a covered commodity to bear a "United States country of origin" declaration. The specific requirements for each commodity are as follows:

(a) Beef—covered commodities must be derived exclusively from an animal that was born, raised, and slaughtered in the United States (including from an animal exclusively born and raised in Alaska or Hawaii and transported for a period not to exceed 60 days through Canada to the United States and slaughtered in the United States).

(b) Lamb and Pork—covered commodities must be derived exclusively from an animal that was born, raised, and slaughtered in the United States.

(c) Farm-raised Fish and Shellfish—covered commodities must be derived exclusively from fish or shellfish hatched, raised, harvested, and processed in the United States.

(d) Wild Fish and Shellfish—covered commodities must be derived exclusively from fish or shellfish either 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.

(e) Fresh and Frozen Fruits and Vegetables, and Peanuts—covered commodities must be derived exclusively from perishable agricultural commodities or peanuts grown in the United States.

Products otherwise meeting the requirements of "United States country of origin" may retain that designation after export for further processing in a foreign country and reentry into the

United States for retail sale provided a verifiable recordkeeping audit trail is maintained. However, in the case of meat and meat products, additional labeling information may be required by other Federal agencies.

Labeling Country of Origin for Imported Products (i.e., Produced Entirely Outside of the United States)

Currently, under the Tariff Act of 1930, as amended (19 U.S.C. 1304)(Tariff Act), most imported items, including food items, are required to be marked to indicate the "country of origin" to the "ultimate purchaser." The U.S. Bureau of Customs and Border Protection (CBP), which administers the Tariff Act, generally defines "ultimate purchaser" as the last person in the United States who will receive the article in the form in which it was imported and defines "country of origin" as the country of manufacture, production, or growth of any article of foreign origin entering the United States.

For example, under the Tariff Act, containers (e.g., cartons and boxes) holding imported fresh fruits and vegetables must bear a country of origin declaration (as defined by current CBP regulations) when entering the United States. However, under current law, a retailer may remove loose produce from a labeled container and display it in an open bin, selling each individual piece of produce without a country of origin declaration. In contrast, this proposed rule would require the retailer to notify the consumer as to the country of origin of all covered commodities whether individually packaged or displayed in a bin.

Currently, under the Federal Meat Inspection Act (FMIA) (21 U.S.C. 601 *et seq.*), all meat products imported into the United States are required to bear the country of origin on the labeling of the container in which the products are shipped. If imported meat or meat products are intended to be sold intact to a grocer or household consumer (i.e., consumer-ready packaging), the country of origin is conveyed to those recipients. For example, if a bulk shipping container imported from country X, consists of pre-packaged and labeled meat cuts that are intended to be sold to grocers or at retail to household consumers as they are packaged, each package would bear a country of origin declaration (e.g., product of country X).

Currently, under the Tariff Act, if an article is destined for a U.S. processor or manufacturer in which it will undergo "substantial transformation," that processor or manufacturer is generally considered the "ultimate