

be labeled to indicate that it was derived from wild fish and/or shellfish.

In the case of farm-raised fish, if a covered commodity was hatched in country X, and raised, harvested and/or processed in the United States, the product would be labeled as being imported from country X and for the production step(s) occurring in the United States. For example, if a fish was hatched in country X and processed in the United States, the product would be labeled as "Imported from country X, Processed in the United States."

If a covered commodity was hatched, raised, and harvested in the United States and processed in country X, the product shall be labeled at retail as "Product of country X." Alternatively, the product may also be labeled to include the production step(s) occurring in the United States if the product's identity was maintained along with records to substantiate the origin claims. In the example given above, the product could be labeled as "Product of country X, hatched, raised, and harvested in the United States." In all cases, the covered commodity must also be labeled to indicate that it was derived from farm-raised fish and/or shellfish. Farm-raised fish means fish or shellfish that have been harvested in controlled or selected environments, including ocean-ranched (e.g., penned) fish and shellfish confined in managed beds; and fillets, steaks, nuggets, and any other flesh from a farm-raised fish or shellfish. For example, mussels on rope culture and oysters on leased land would be considered farm-raised.

AMS invites further comment on this approach to the labeling of wild and farm-raised fish and shellfish and requests identification of alternative approaches to labeling such products.

Defining Country of Origin for Blended Products

Many of the covered commodities required to bear a country of origin declaration under the law are commingled or blended products that were prepared from raw material sources having different origins (e.g., bagged lettuce, ground beef, shrimp, etc.). However, the law does not specify how these products should be labeled.

In defining country of origin for blended or mixed products in the voluntary guidelines (67 FR 63367), AMS recognized that it could be misleading to consumers if only a small percentage of a covered commodity mixture met the definition of United States origin and yet the mixture could list the United States first ahead of other countries in the country of origin declaration on the package. As such,

under the voluntary guidelines, the country of origin declaration was to reflect the country of origin for each raw material source of the mixed or blended retail item by order of predominance by weight. In addition, under the voluntary guidelines, containers of mixed or blended products in which the individual constituents could be separately identified, would have to bear a country of origin declaration individually identifying the country of origin of each constituent.

AMS received numerous comments on this issue stating that to require labeling in the order of predominance by weight and for each individual constituent would be cumbersome, impractical, and costly.

In response to these comments, under this proposed rule, the country of origin declaration of blended or mixed retail food items comprised of the same covered commodity (e.g., bag of lettuce or package of ground beef) that are prepared from raw material sources having different origins must list alphabetically the countries of origin for all of the raw materials contained therein. For example, a bag of red and green leaf lettuce from country A and country B would be labeled as "Product of country A, Product of country B." However, under this proposed rule, items such as a salad mix or a fruit cup would not be required to bear a country of origin declaration because these items would be considered processed food items and would be excluded from these regulations.

Method of Notification

The law states that the country of origin declaration may be provided to consumers by means of a label, stamp, mark, placard, or other clear and visible sign on the covered commodity or on the package, display, holding unit, or bin containing the commodity at the final point of sale to consumers.

Under this proposed rule, market participants can utilize a variety of different labeling nomenclatures to denote the country of origin of a covered commodity. For example, "U.K." and "United Kingdom of Great Britain and Northern Ireland" would both be allowed under this proposed rule.

AMS received numerous comments requesting acceptance for labels containing only the name of the country such as "USA" due to the limited amount of space on many retail items. Therefore, under this proposed rule, country of origin declarations may be in the form of a statement such as "Product of USA," "Grown in Mexico," or they may only contain the name of the country such as "USA" or "Mexico"

provided it is in conformance with other existing Federal laws. However, the labeling requirements under this proposed rule do not supercede any existing labeling requirements, unless otherwise specified, and any such country of origin notification must not obscure other labeling information required by existing regulatory requirements.

For those entities that are regulated by FSIS, all country of origin labels must be submitted to FSIS for pre-approval as required by current FSIS regulations.

In order to provide the industry with as much flexibility as possible, this proposed rule does not contain specific requirements as to the exact placement or size of the country of origin declaration. However, such declaration must be conspicuous and allow consumers to determine the country of origin when making their purchases and provided that existing Federal labeling requirements must be followed.

State and Regional Labeling Programs

The law requires retailers to notify consumers of the country of origin of covered commodities. Therefore, State and regional labeling programs such as "Washington apples," "Idaho potatoes," and "California Grown" do not meet this requirement and cannot be accepted in lieu of country of origin labeling.

Existing State-Level Country of Origin Labeling Laws

Several States have implemented mandatory programs for country of origin labeling of certain commodities. For example, Alabama, Arkansas, Mississippi, and Louisiana have origin labeling requirements for certain seafood products. Other States including Wyoming, Idaho, North Dakota, South Dakota, Louisiana, Kansas, and Mississippi have origin labeling requirements for particular meat products. In addition, the State of Florida and the State of Maine have origin labeling requirements for fresh produce items.

AMS received several comments asserting that these State programs, particularly the State of Florida's program, should serve as models for the Federal mandatory COOL program. AMS has reviewed these existing programs and concluded that most of these programs do not meet the requirements of the Act. Accordingly, AMS has determined that, in general, these programs are not suitable models on which to base the regulations for the Federal mandatory COOL program.

With regard to enforcement activities, while some of these States actively enforce their respective origin labeling