2008—Subsec. (c)(3). Pub. L. 110–246, §1510(b), added par. (3) and struck out former par. (3). Prior to amendment, text read as follows: ''The Secretary shall take such actions as the Secretary considers necessary to verify the accuracy of the information submitted or reported under this subchapter.''

Subsecs. (d), (e). Pub. L. 110–246, §1510(a), added subsec. (d) and redesignated former subsec. (d) as (e).

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110–234 by Pub. L. 110–246 effective May 22, 2008, the date of enactment of Pub. L. 110–234, see section 4 of Pub. L. 110–246, set out as an Effective Date note under section 8701 of this title.

IMPLEMENTATION OF ELECTRONIC REPORTING SYSTEM

Pub. L. 111–239, §3(b), Sept. 27, 2010, 124 Stat. 2502, provided that: ''Not later than one year after the date of enactment of this Act [Sept. 27, 2010], the Secretary of Agriculture shall implement the electronic reporting system required by subsection (d) of section 273 of the Agricultural Marketing Act of 1946 (7 U.S.C. 1637b), as amended by subsection (a). Until the electronic reporting system is implemented, the Secretary shall continue to conduct mandatory dairy product information reporting under the authority of such section, as in effect on the day before the date of enactment of this Act.''

SUBCHAPTER IV—COUNTRY OF ORIGIN LABELING

§ 1638. Definitions

In this subchapter:

(1) Beef

The term ''beef'' means meat produced from cattle (including veal).

(2) Covered commodity

(A) In general

The term ''covered commodity'' means—

(i) muscle cuts of beef, lamb, and pork;

(ii) ground beef, ground lamb, and ground pork;

(iii) farm-raised fish;

(iv) wild fish;

(v) a perishable agricultural commodity;

(vi) peanuts; and[1]

(vii) meat produced from goats;

(viii) chicken, in whole and in part;

(ix) ginseng;

(x) pecans; and

(xi) macadamia nuts.

(B) Exclusions

The term ''covered commodity'' does not include an item described in subparagraph (A) if the item is an ingredient in a processed food item.

(3) Farm-raised fish

The term ''farm-raised fish'' includes—

(A) farm-raised shellfish; and

(B) fillets, steaks, nuggets, and any other flesh from a farm-raised fish or shellfish.

(4) Food service establishment

The term ''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.

(5) Lamb

The term ''lamb'' means meat, other than mutton, produced from sheep.

(6) Perishable agricultural commodity; retailer

The terms ''perishable agricultural commodity'' and ''retailer'' have the meanings given the terms in section 499a(b) of this title.

(7) Pork

The term ''pork'' means meat produced from hogs.

(8) Secretary

The term ''Secretary'' means the Secretary of Agriculture, acting through the Agricultural Marketing Service.

(9) Wild fish

(A) In general

The term ''wild fish'' means naturally-born or hatchery-raised fish and shellfish harvested in the wild.

(B) Inclusions

The term ''wild fish'' includes a fillet, steak, nugget, and any other flesh from wild fish or shellfish.

(C) Exclusions

The term ''wild fish'' excludes net-pen aquacultural or other farm-raised fish.

(Aug. 14, 1946, ch. 966, title II, §281, as added Pub. L. 107–171, title X, §10816, May 13, 2002, 116 Stat. 533; amended Pub. L. 110–234, title XI, §11002(1), May 22, 2008, 112 Stat. 1351; Pub. L. 110–246, §4(a), title XI, §11002(1), June 18, 2008, 122 Stat. 1664, 2113.)

CODIFICATION

Pub. L. 110–234 and Pub. L. 110–246 made identical amendments to this section. The amendments by Pub. L. 110–234 were repealed by section 4(a) of Pub. L. 110–246.

AMENDMENTS

2008—Par. (2)(A)(vii) to (xi). Pub. L. 110–246, §11002(1), added cls. (vii) to (xi).

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110–234 by Pub. L. 110–246 effective May 22, 2008, the date of enactment of Pub. L. 110–234, see section 4 of Pub. L. 110–246, set out as an Effective Date note under section 8701 of this title.

§ 1638a. Notice of country of origin

(a) In general

(1) Requirement

Except as provided in subsection (b) of this section, a retailer of a covered commodity shall inform consumers, at the final point of sale of the covered commodity to consumers, of the country of origin of the covered commodity.

(2) Designation of country of origin for beef, lamb, pork, chicken, and goat meat

(A) United States country of origin

A retailer of a covered commodity that is beef, lamb, pork, chicken, or goat meat may

[1] So in original. The word ''and'' probably should not appear.

designate the covered commodity as exclusively having a United States country of origin only if the covered commodity is derived from an animal that was—

(i) exclusively born, raised, and slaughtered in the United States;

(ii) 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

(iii) 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) Multiple countries of origin

(i) In general

A retailer of a covered commodity that is beef, lamb, pork, chicken, or goat meat that is derived from an animal that is—

(I) not exclusively born, raised, and slaughtered in the United States,

(II) born, raised, or slaughtered in the United States, and

(III) not imported into the United States for immediate slaughter,

may designate the country of origin of such covered commodity as all of the countries in which the animal may have been born, raised, or slaughtered.

(ii) Relation to general requirement

Nothing in this subparagraph alters the mandatory requirement to inform consumers of the country of origin of covered commodities under paragraph (1).

(C) Imported for immediate slaughter

A retailer of a covered commodity that is beef, lamb, pork, chicken, or goat meat that is derived from an animal that is imported into the United States for immediate slaughter shall designate the origin of such covered commodity as—

(i) the country from which the animal was imported; and

(ii) the United States.

(D) Foreign country of origin

A retailer of a covered commodity that is beef, lamb, pork, chicken, or goat meat that is derived from an animal that is not born, raised, or slaughtered in the United States shall designate a country other than the United States as the country of origin of such commodity.

(E) Ground beef, pork, lamb, chicken, and goat

The notice of country of origin for ground beef, ground pork, ground lamb, ground chicken, or ground goat shall include—

(i) a list of all countries of origin of such ground beef, ground pork, ground lamb, ground chicken, or ground goat; or

(ii) a list of all reasonably possible countries of origin of such ground beef, ground pork, ground lamb, ground chicken, or ground goat.

(3) Designation of country of origin for fish

(A) In general

A retailer of a covered commodity that is farm-raised fish or wild fish may designate the covered commodity as having a United States country of origin only if the covered commodity—

(i) in the case of farm-raised fish, is hatched, raised, harvested, and processed in the United States; and

(ii) in the case of wild fish, is—

(I) harvested in the United States, a territory of the United States, or a State, or by a vessel that is documented under chapter 121 of title 46 or registered in the United States; and

(II) processed in the United States, a territory of the United States, or a State, including the waters thereof, or aboard a vessel that is documented under chapter 121 of title 46 or registered in the United States.

(B) Designation of wild fish and farm-raised fish

The notice of country of origin for wild fish and farm-raised fish shall distinguish between wild fish and farm-raised fish.

(4) Designation of country of origin for perishable agricultural commodities, ginseng, peanuts, pecans, and macadamia nuts

(A) In general

A retailer of a covered commodity that is a perishable agricultural commodity, ginseng, peanut, pecan, or macadamia nut may designate the covered commodity as having a United States country of origin only if the covered commodity is exclusively produced in the United States.

(B) State, region, locality of the United States

With respect to a covered commodity that is a perishable agricultural commodity, ginseng, peanut, pecan, or macadamia nut produced exclusively in the United States, designation by a retailer of the State, region, or locality of the United States where such commodity was produced shall be sufficient to identify the United States as the country of origin.

(b) Exemption for food service establishments

Subsection (a) of this section shall not apply to a covered commodity if the covered commodity is—

(1) prepared or served in a food service establishment; and

(2)(A) offered for sale or sold at the food service establishment in normal retail quantities; or

(B) served to consumers at the food service establishment.

(c) Method of notification

(1) In general

The information required by subsection (a) of this section 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.

(2) Labeled commodities

If the covered commodity is already individually labeled for retail sale regarding country

of origin, the retailer shall not be required to provide any additional information to comply with this section.

(d) Audit verification system

(1) In general

The Secretary may conduct an audit of any person that prepares, stores, handles, or distributes a covered commodity for retail sale to verify compliance with this subchapter (including the regulations promulgated under section 1638c(b) of this title).

(2) Record requirements

(A) In general

A person subject to an audit under paragraph (1) shall provide the Secretary with verification of the country of origin of covered commodities. Records maintained in the course of the normal conduct of the business of such person, including animal health papers, import or customs documents, or producer affidavits, may serve as such verification.

(B) Prohibition on requirement of additional records

The Secretary may not require a person that prepares, stores, handles, or distributes a covered commodity to maintain a record of the country of origin of a covered commodity other than those maintained in the course of the normal conduct of the business of such person.

(e) Information

Any person engaged in the business of supplying a covered commodity to a retailer shall provide information to the retailer indicating the country of origin of the covered commodity.

(f) Certification of origin

(1) Mandatory identification

The Secretary shall not use a mandatory identification system to verify the country of origin of a covered commodity.

(2) Existing certification programs

To certify the country of origin of a covered commodity, the Secretary may use as a model certification programs in existence on May 13, 2002, including—

(A) the carcass grading and certification system carried out under this Act;

(B) the voluntary country of origin beef labeling system carried out under this Act;

(C) voluntary programs established to certify certain premium beef cuts;

(D) the origin verification system established to carry out the child and adult care food program established under section 1766 of title 42; or

(E) the origin verification system established to carry out the market access program under section 5623 of this title.

(Aug. 14, 1946, ch. 966, title II, § 282, as added Pub. L. 107–171, title X, § 10816, May 13, 2002, 116 Stat. 533; amended Pub. L. 107–206, title I, § 208, Aug. 2, 2002, 116 Stat. 833; Pub. L. 110–234, title XI, § 11002(2), May 22, 2008, 122 Stat. 1352; Pub. L. 110–246, § 4(a), title XI, § 11002(2), June 18, 2008, 122 Stat. 1664, 2113.)

REFERENCES IN TEXT

This Act, referred to in subsec. (f)(2)(A), (B), is act Aug. 14, 1946, ch. 966, 60 Stat. 1082, which enacted this chapter and sections 427h to 427j of this title and amended section 427 of this title. For complete classification of this Act to the Code, see Tables.

CODIFICATION

May 13, 2002, referred to in subsec. (f)(2), was in the original ''the date of enactment of this Act'', which was translated as meaning the date of enactment of Pub. L. 107–171, which enacted this subchapter, to reflect the probable intent of Congress.

Pub. L. 110–234 and Pub. L. 110–246 made identical amendments to this section. The amendments by Pub. L. 110–234 were repealed by section 4(a) of Pub. L. 110–246.

AMENDMENTS

2008—Subsec. (a)(2) to (4). Pub. L. 110–246, § 11002(2)(A), added pars. (2) to (4) and struck out former pars. (2) and (3) which related to designation of United States as country of origin for beef, lamb, pork, fish, perishable agricultural commodities, and peanuts, and requirement that notice of country of origin for fish shall distinguish between wild and farm-raised fish.

Subsec. (d). Pub. L. 110–246, § 11002(2)(B), added subsec. (d) and struck out former subsec. (d). Prior to amendment, text read as follows: ''The Secretary may require that any person that prepares, stores, handles, or distributes a covered commodity for retail sale maintain a verifiable recordkeeping audit trail that will permit the Secretary to verify compliance with this subchapter (including the regulations promulgated under section 1638c(b) of this title).''

2002—Subsec. (a)(2)(D). Pub. L. 107–206 amended subpar. (D) generally. Prior to amendment, subpar. (D) read as follows: ''in the case of wild fish, is—

''(i) harvested in waters of the United States, a territory of the United States, or a State; and

''(ii) processed in the United States, a territory of the United States, or a State, including the waters thereof; and''.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110–234 by Pub. L. 110–246 effective May 22, 2008, the date of enactment of Pub. L. 110–234, see section 4 of Pub. L. 110–246, set out as an Effective Date note under section 8701 of this title.

§ 1638b. Enforcement

(a) Warnings

If the Secretary determines that a retailer or person engaged in the business of supplying a covered commodity to a retailer is in violation of section 1638a of this title, the Secretary shall—

(1) notify the retailer[1] of the determination of the Secretary; and

(2) provide the retailer[1] a 30-day period, beginning on the date on which the retailer[1] receives the notice under paragraph (1) from the Secretary, during which the retailer[1] may take necessary steps to comply with section 1638a of this title.

(b) Fines

If, on completion of the 30-day period described in subsection (a)(2), the Secretary determines that the retailer or person engaged in the business of supplying a covered commodity to a retailer has—

[1] So in original. Probably should be ''retailer or person''.