

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

(C) the origin verification system established to carry out the market access program under section 5623(b) 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; Pub. L. 113-79, title XII, § 12104(b)(2), Feb. 7, 2014, 128 Stat. 979; Pub. L. 114-113, div. A, title VII, § 759(b), Dec. 18, 2015, 129 Stat. 2285; Pub. L. 115-334, title III, § 3201(b)(1)(C), Dec. 20, 2018, 132 Stat. 4616.)

REFERENCES IN TEXT

This Act, referred to in subsec. (f)(2)(A), is act Aug. 14, 1946, ch. 966, 60 Stat. 1082, which enacted this chapter and sections 427h, 427j, and 3105 of this title and amended section 3104 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

2018—Subsec. (f)(2)(C). Pub. L. 115-334 substituted “section 5623(b)” for “section 5623”.

2015—Subsec. (a)(2). Pub. L. 114-113, § 759(b)(1)(A), in heading, struck out “beef,” before “lamb,” and “pork,” before “chicken.”.

Subsec. (a)(2)(A) to (D). Pub. L. 114-113, § 759(b)(1)(B), struck out “beef,” and “pork,” wherever appearing.

Subsec. (a)(2)(E). Pub. L. 114-113, § 759(b)(1)(C), in heading, struck out “beef, pork,” after “Ground” and, in text, struck out “ground beef, ground pork,” wherever appearing.

Subsec. (f)(2)(B) to (E). Pub. L. 114-113, § 759(b)(2), redesignated subpars. (D) and (E) as (B) and (C), respectively, and struck out former subpars. (B) and (C), which read as follows:

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

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

2014—Subsec. (a)(2). Pub. L. 113-79, § 12104(b)(2)(A), substituted “goat, and venison” for “and goat” in heading.

Subsec. (a)(2)(A), (B)(i), (C), (D). Pub. L. 113-79, § 12104(b)(2)(B), substituted “goat, or venison” for “or goat”.

Subsec. (a)(2)(E). Pub. L. 113-79, § 12104(b)(2)(C), substituted “goat, and venison” for “and goat” in heading and “ground goat, or ground venison” for “or ground goat” wherever appearing in text.

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 retailer¹ of the determination of the Secretary; and

(2) provide the retailer¹ a 30-day period, beginning on the date on which the retailer¹ receives the notice under paragraph (1) from the Secretary, during which the retailer¹ 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) not made a good faith effort to comply with section 1638a of this title, and

(2) continues to willfully violate section 1638a of this title with respect to the violation about which the retailer or person received notification under subsection (a)(1),

after providing notice and an opportunity for a hearing before the Secretary with respect to the violation, the Secretary may fine the retailer or person in an amount of not more than \$1,000 for each violation.

(Aug. 14, 1946, ch. 966, title II, § 283, as added Pub. L. 107-171, title X, § 10816, May 13, 2002, 116 Stat. 535; amended Pub. L. 110-234, title XI, § 11002(3), May 22, 2008, 122 Stat. 1354; Pub. L. 110-246, § 4(a), title XI, § 11002(3), June 18, 2008, 122 Stat. 1664, 2116.)

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—Pub. L. 110-246, § 11002(3), redesignated subsec. (b) as (a) and substituted “retailer or person engaged in the business of supplying a covered commodity to a retailer” for “retailer” in introductory provisions, added subsec. (b), and struck out former subsecs. (a) and (c) which related to applicability of section 1636b of this title to a violation of this subchapter and fine for violation of section 1638a of this title. The substitution in subsec. (a) was made for “retailer” the first time appearing to reflect the probable intent of Congress.

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.

§ 1638c. Regulations

(a) Guidelines

Not later than September 30, 2002, the Secretary shall issue guidelines for the voluntary country of origin labeling of covered commodities based on the requirements of section 1638a of this title.

(b) Regulations

Not later than September 30, 2004, the Secretary shall promulgate such regulations as are necessary to implement this subchapter.

¹ So in original. Probably should be “retailer or person”.

(c) Partnerships with States

In promulgating the regulations, the Secretary shall, to the maximum extent practicable, enter into partnerships with States with enforcement infrastructure to assist in the administration of this subchapter.

(Aug. 14, 1946, ch. 966, title II, § 284, as added Pub. L. 107-171, title X, § 10816, May 13, 2002, 116 Stat. 535.)

§ 1638d. Applicability

This subchapter shall apply to the retail sale of a covered commodity beginning September 30, 2008, except for “farm-raised fish” and “wild fish” which shall be September 30, 2004.

(Aug. 14, 1946, ch. 966, title II, § 285, as added Pub. L. 107-171, title X, § 10816, May 13, 2002, 116 Stat. 535; amended Pub. L. 108-199, div. A, title VII, § 749, Jan. 23, 2004, 118 Stat. 37; Pub. L. 109-97, title VII, § 792, Nov. 10, 2005, 119 Stat. 2164.)

AMENDMENTS

2005—Pub. L. 109-97 substituted “2008” for “2006”.

2004—Pub. L. 108-199 substituted “2006, except for ‘farm-raised fish’ and ‘wild fish’ which shall be September 30, 2004” for “2004”.

SUBCHAPTER V—NATIONAL BIOENGINEERED FOOD DISCLOSURE STANDARD

§ 1639. Definitions

In this subchapter:

(1) Bioengineering

The term “bioengineering”, and any similar term, as determined by the Secretary, with respect to a food, refers to a food—

(A) that contains genetic material that has been modified through in vitro recombinant deoxyribonucleic acid (DNA) techniques; and

(B) for which the modification could not otherwise be obtained through conventional breeding or found in nature.

(2) Food

The term “food” means a food (as defined in section 321 of title 21) that is intended for human consumption.

(3) Secretary

The term “Secretary” means the Secretary of Agriculture.

(Aug. 14, 1946, ch. 966, title II, § 291, as added Pub. L. 114-216, § 1, July 29, 2016, 130 Stat. 834.)

§ 1639a. Applicability

(a) In general

This subchapter shall apply to any claim in a disclosure that a food bears that indicates that the food is a bioengineered food.

(b) Application of definition

The definition of the term “bioengineering” under section 1639 of this title shall not affect any other definition, program, rule, or regulation of the Federal Government.

(c) Application to foods

This subchapter shall apply only to a food subject to—