

Rules and Regulations

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DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

9 CFR Parts 317 and 381

[Docket No. FSIS-2008-0027]

RIN 0583-AD38

Mandatory Country of Origin Labeling of Muscle Cuts of Beef (Including Veal), Lamb, Chicken, Goat, and Pork; Ground Beef, Ground Lamb, Ground Chicken, Ground Goat, and Ground Pork

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: FSIS is conforming its regulations to the Agricultural Marketing Service (AMS) regulations, entitled, "Mandatory Country of Origin Labeling of Beef, Pork, Lamb, Chicken, Goat Meat, Perishable Agricultural Commodities, Peanuts, Pecans, Ginseng, and Macadamia Nuts." Therefore, FSIS is amending its regulations to require that a country of origin statement on the label of any meat or poultry product that is a covered commodity, as defined in AMS' interim final regulations (73 FR 45106), and is to be sold by a retailer, as also defined in AMS' interim final regulation, must comply with AMS' interim final regulations. FSIS is also amending its regulations to provide that the addition of country of origin statements on labels of meat or poultry product covered commodities that are to be sold by covered retailers and that comply with the country of origin labeling requirements will be considered to be generically approved. FSIS is not amending its regulations or labeling policies for meat or poultry products that are non-covered commodities. The effective date of AMS' interim final rule for country of

origin labeling is September 30, 2008. Therefore, in order to meet the deadline, FSIS is issuing this interim final rule.

DATES: Effective Date: This interim final rule is effective September 30, 2008.

Applicability date: The requirements of this rule do not apply to meat or poultry product covered commodities produced or packaged before September 30, 2008.

Comment date: Comments must be submitted on or before September 29, 2008.

ADDRESSES: FSIS invites interested persons to submit comments on this rule. Comments may be submitted by one of the following methods:

- *Federal eRulemaking Portal:* This Web site provides the ability to type short comments directly into the comment field on this Web page or attach a file for lengthier comments. FSIS prefers to receive comments through the Federal eRulemaking Portal. Go to <http://www.regulations.gov> and, in the "Search for Open Regulations" box, select "Food Safety and Inspection Service" and "Rules" from the agency drop-down menu and then click on "Submit." In the Docket ID column, select the FDMS Docket Number 2008-0027 to submit or view public comments and to view supporting and related materials available electronically. After the close of the comment period, the docket can be viewed using the "Advanced Search" function in *regulations.gov*.

- *Mail, including floppy disks or CD-ROMs, and hand- or courier-delivered items:* Send to Docket Clerk, U.S. Department of Agriculture (USDA), FSIS, 1400 Independence Avenue, SW., Room 2534 South Building, Washington, DC 20250.

All submissions received must include the Agency name and docket number FSIS-2008-0027.

All comments submitted in response to this rule will be posted to Agency's Web site at http://www.fsis.usda.gov/Regulations_&_Policies/2008_Interim_&_Final_Rules_Index/index.asp. Individuals who do not wish FSIS to post their personal contact information—mailing address, e-mail address, telephone number—on the Internet may leave this information off of their comments. Comments will also be available for public inspection in the FSIS Docket Room at the address listed

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above between 8:30 a.m. and 4:30 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT:

Charles Gioglio, Director, Labeling and Program Delivery Division, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250-3700; (202) 205-0010.

SUPPLEMENTARY INFORMATION: The Farm Security and Rural Investment Act of 2002, (Section 10816 of Pub. L. 107-171) and the Food, Conservation and Energy Act of 2008 (Section 11002 of Public Law 110-234) amended the Agricultural Marketing Act of 1946 (7 U.S.C. 1621 *et seq.*) to require retailers to notify their customers of the country of origin of covered commodities. Under the law, covered commodities include muscle cuts of beef (including veal), lamb, chicken, goat, and pork; ground beef, ground lamb, ground chicken, ground goat, ground pork, as well as other non-meat covered commodities. The law defines "retailer" as having the meaning given that term in section 1(b) of the Perishable Agricultural Commodities Act of 1930 (PACA) (7 U.S.C. 499 *et seq.*). In addition, the law states that 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. The law exempts covered commodities from mandatory country of origin labeling if they are an ingredient in a processed food item. The law also prescribes specific criteria that must be met for a covered commodity to bear a "United States country of origin" declaration. Furthermore, the law specifies that the notice of country of origin for ground beef, ground lamb, ground pork, ground goat, and ground chicken shall include a list of all the countries of origin contained therein or reasonably contained therein.

The Agricultural, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act of 2006 (Pub. L. 109-97) delayed the applicability of mandatory country of origin labeling for all covered commodities except wild and farm-raised fish and shell fish until September 30, 2008.

AMS' interim final regulations on country of origin labeling were published in the **Federal Register** on August 1, 2008 (73 FR 45106). The interim final regulations define the meat

and poultry products that are covered commodities (7 CFR part 65, subpart A). The definitions are consistent with and include references to FSIS' regulations and labeling guidelines. AMS' interim final regulations also define a "processed food item" as a retail item derived from a covered commodity that has undergone specific processing resulting in a change in the character of the covered commodity, or that has been combined with at least one other covered commodity or other substantive food component (7 CFR 65.220). Examples of "processed food items" excluded from mandatory country of origin labeling requirements include meatloaf, meatballs, fabricated steak, breaded veal cutlets, corned beef, sausage, breaded chicken tenders, and teriyaki flavored pork loin (73 FR 45107).

In addition, the interim final regulations define the statement, "United States country of origin," for beef, pork, lamb, chicken, and goat (7 CFR 65.260). According to the definition, the statement means the product is (1) from animals born, raised, and slaughtered in the United States; (2) from animals born and raised in Alaska or Hawaii and transported for not more than 60 days through Canada to the United States and slaughtered in the United States; or (3) from animals present in the United States on or before July 15, 2008, that remained continuously in the United States once in the United States (7 CFR 65.260).

Country of origin regulations in 7 CFR 65.300 include requirements for labeling covered commodities of United States origin (7 CFR 65.300(d)), requirements for labeling muscle cut covered commodities of multiple countries of origin that include the United States (7 CFR 65.300(e)), requirements for labeling imported covered commodities (7 CFR 65.300(f)), and requirements for labeling ground beef, ground pork, ground lamb, ground goat, and ground chicken (7 CFR 65.300(h)).

7 CFR 65.400 provides country of origin marking requirements and allows country of origin declarations to be in the form of a placard, sign, label sticker, band, twist tie, pin tag, or other format that allows consumers to identify the country of origin. Finally, 7 CFR 65.500 provides recordkeeping requirements, including the requirement that any person engaged in the business of supplying a covered commodity to a retailer must make available information to the buyer about the countries of origin of the covered commodity.

In the preamble to its interim final rule, AMS stated that it is reasonable to allow time for covered commodities that

are already in the chain of commerce and for which no origin information is known or been provided to clear the system. Therefore, the requirements in AMS' interim final rule do not apply to covered commodities produced or packed before September 30, 2008 (73 FR 45107).

Changes to Federal Meat and Poultry Products Regulations

To conform its regulations to AMS' interim final regulations, FSIS is amending 9 CFR 317.8(b) and 381.129 to require that a country of origin statement on the label of a meat or poultry product that is a "covered commodity" as defined in 7 CFR Part 65, Subpart A, that is to be sold by a "retailer," as defined in 7 CFR 65.240, comply with the country of origin notification and markings requirements in 7 CFR 65.300 and 65.400.

FSIS is also amending its generic approval labeling regulations (9 CFR 317.5 and 381.133) to specify that the addition of country of origin statements on the labels of meat or poultry product covered commodities that are to be sold by retailers and that comply with country of origin labeling requirements will be considered to be generically approved. FSIS is providing that such country of origin statements will be generically approved to facilitate implementation of country of origin labeling and to meet the September 30, 2008, implementation date. Under the Federal meat and poultry products inspection regulations, country of origin statements on non-covered meat or poultry products generally are not generically approved labeling.

The Federal meat and poultry product inspection regulations require country of origin statements on the immediate containers of imported products (9 CFR 327.14 and 381.205). These regulations require that the country of origin statement be immediately under the name or descriptive designation of the product. AMS' interim final regulations do not affect these requirements.

Because FSIS is conforming its regulations to AMS' regulations, FSIS' interim final regulations do not apply to meat or poultry product covered commodities produced or packaged before September 30, 2008.

Pursuant to 5 U.S.C. 553, the Administrator has found and determined that it is impractical, unnecessary, and contrary to the public interest to provide an opportunity to comment prior to putting this rule into effect. This action is authorized under the Federal Meat Inspection Act and the Poultry Products Inspection Act and is consistent with the Agriculture

Marketing Act. Because of the short time between the passage of Public Law 110-234 and the effective date of AMS' country of origin labeling provisions, it is impracticable to provide for notice and comment prior to putting this rule into effect. Because it is important that AMS and FSIS have consistent regulations on September 30, 2008, it would be contrary to the public interest not to make this interim final rule effective simultaneously with AMS' interim rule. Interested persons have 30 days from the date of publication of this interim final rule to comment on it.

Executive Order 12988

This interim final rule has been reviewed under the Executive Order 12988, Civil Justice Reform. Under this interim final rule: (1) All State and local laws and regulations that are inconsistent with this rule will be preempted; (2) no retroactive effect will be given to this rule; and (3) no retroactive proceedings will be required before parties may file suit in court challenging this rule.

Executive Order 12866 and the Regulatory Flexibility Act

This interim final rule has been reviewed under Executive Order 12866. The rule has been determined to be not significant for the purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget (OMB). All costs and benefits associated with this rule are accounted for in AMS' interim final rule economic analysis (see 73 FR 45126).

Effect on Small Entities

AMS' interim final rule includes an interim final regulatory flexibility analysis (73 FR 45140). AMS believes that its interim final regulations will have a significant economic impact on a substantial number of small entities. FSIS' conforming regulations will not have any additional impact on small entities.

Paperwork Reduction Act

AMS' interim final rule includes an estimate of the annual recordkeeping burden associated with country of origin labeling requirements (73 FR 45143). FSIS' interim final rule has been reviewed under the Paperwork Reduction Act and imposes no additional paperwork or recordkeeping requirements.

Government Paperwork Elimination Act (GPEA)

FSIS is committed to compliance with the GPEA, which requires Government

agencies, in general, to provide the public the option of communicating electronically with the government to the maximum extent possible. The Agency will ensure that all forms used by the establishments are made available electronically.

Additional Public Notification

Public awareness of all segments of rulemaking and policy development is important. Consequently, in an effort to ensure that minorities, women, and persons with disabilities are aware of this final rule, FSIS will announce it online through the FSIS Web page located at http://www.fsis.usda.gov/Regulations_and_Policies/2008_Interim_and_Final_Rules_Index/index.asp. FSIS will also make copies of this **Federal Register** publication available through the FSIS Constituent Update, which is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, and other types of information that could affect or would be of interest to constituents and stakeholders. The Update is communicated via Listserv, a free electronic mail subscription service for industry, trade groups, consumer interest groups, health professionals, and other individuals who have asked to be included. The Update is also available on the FSIS Web page. Through the Listserv and Web page, FSIS is able to provide information to a much broader and more diverse audience. In addition, FSIS offers an e-mail subscription service which provides automatic and customized access to selected food safety news and information. This service is available at http://www.fsis.usda.gov/news_and_events/email_subscription/. Options range from recalls to export information to regulations, directives and notices. Customers can add or delete subscriptions themselves, and have the option to password protect their accounts.

List of Subjects

9 CFR Part 317

Food labeling, Meat inspection.

9 CFR Part 381

Food labeling, Poultry and poultry products.

■ For the reasons discussed in the preamble, FSIS is amending 9 CFR Chapter III as follows:

PART 317—LABELING, MARKING DEVICES, AND CONTAINERS

■ 1. The authority citation for part 317 continues to read as follows:

Authority: 21 U.S.C. 601–695; 7 CFR 2.18, 2.53.

- 2. Section 317.5(b) is amended as follows:
 - a. In paragraph (b)(1) after “geographical origin claims” add the following parenthetical phrase: “(except as provided by paragraph (b)(9)(xxv) of this section),”
 - b. In paragraph (b)(2) after “geographical origin claims” add the following parenthetical phrase: “(except as provided by paragraph (b)(9)(xxv) of this section),”
 - c. A new paragraph (b)(9)(xxv) is added to read as follows:

§ 317.5 Generically approved labeling.

* * * * *

(b) * * *

(9) * * *

(xxv) A country of origin statement on any product label described in § 317.8(b)(40) that complies with the requirements in that paragraph.

- 3. In § 317.8, a new paragraph (b)(40) is added to read as follows:

§ 317.8 False or misleading labeling or practices generally; specific prohibitions and requirements for labels and containers.

* * * * *

(b) * * *

(40) A country of origin statement on the label of any meat “covered commodity” as defined in 7 CFR Part 65, Subpart A, that is to be sold by a “retailer,” as defined in 7 CFR 65.240, must comply with the requirements in 7 CFR 65.300 and 65.400.

PART 381—POULTRY PRODUCTS INSPECTION REGULATIONS

- 4. The authority citation for part 381 continues to read as follows:

Authority: 7 U.S.C. 138f, 450; 21 U.S.C. 451–470; 7 CFR 2.18, 2.53.

- 5. In § 381.129, a new paragraph (f) is added to read as follows:

§ 381.129 False or misleading labeling or containers.

* * * * *

(f) A country of origin statement on the label of any poultry product “covered commodity” as defined in 7 CFR Part 65, Subpart A, that is to be sold by a “retailer,” as defined in 7 CFR 65.240, must comply with the requirements in 7 CFR 65.300 and 65.400.

- 6. § 381.133(b) is amended as follows:
 - a. In paragraph (b)(1) after “geographical origin claims” add the following parenthetical phrase: “(except as provided by paragraph (b)(9)(xxvii) of this section),”
 - b. In paragraph (b)(2) after “geographical origin claims” add the

following parenthetical phrase: “(except as provided by paragraph (b)(9)(xxviii) of this section),”

- c. A new paragraph (b)(9)(xxviii) is added to read as follows:

§ 381.133 Generically approved labeling.

* * * * *

(b) * * *

(9) * * *

(xxviii) A country of origin statement on any product label described in § 381.129(f) that complies with the requirements in that paragraph.

Done in Washington, DC, on August 22, 2008.

Alfred V. Almanza,
Administrator.

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2008-0523; Directorate Identifier 2008-NM-049-AD; Amendment 39-15648; AD 2008-17-10]

RIN 2120-AA64

Airworthiness Directives; Boeing Model 707 Airplanes, and Model 720 and 720B Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain Boeing Model 707 airplanes, and Model 720 and 720B series airplanes. This AD requires repetitive detailed inspections to detect cracks and corrosion on any existing repairs and at certain body stations of the visible surfaces of the wing to body terminal fittings including the web, flanges, and ribs; and applicable related investigative and corrective actions. This AD results from reports of cracks found in the wing to body terminal fittings during routine inspections. We are issuing this AD to prevent cracks and corrosion in the body terminal fittings, which could cause loss of support for the wing and could adversely affect the structural integrity of the airplane.

DATES: This AD is effective October 2, 2008.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of October 2, 2008.

ADDRESSES: For service information identified in this AD, contact Boeing