

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 L. 110-234 were repealed by section 4(a) of Pub.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

2015—Pub. L. 114-113 redesignated pars. (2), (3), (4), (5), (6), (8), and (9) as pars. (1), (2), (3), (4), (5), (6), and (7), respectively, in par. (1)(A)(i) struck out references to beef and pork, in par. (1)(A)(ii) struck out references to ground beef and ground pork, and struck out former pars. (1) and (7), which defined “beef” and “pork”, respectively.

2014—Par. (2)(A)(i). Pub. L. 113-79, § 12104(b)(1)(A), substituted “pork, and venison” for “and pork”.

Par. (2)(A)(ii). Pub. L. 113-79, § 12104(b)(1)(B), substituted “ground pork, and ground venison” for “and ground pork”.

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), 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 lamb, chicken, goat, and venison meat**(A) United States country of origin**

A retailer of a covered commodity that is lamb, chicken, goat, or venison meat may 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 lamb, chicken, goat, or venison 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 lamb, chicken, goat, or venison 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 lamb, chicken, goat, or venison 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 lamb, chicken, goat, and venison

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

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

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

(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, gin-

seng, 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) 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) 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 com-

modity 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 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.)

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 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

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.

(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”.

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