

Food Marketing Institute

Seafood COOL 101

(March 24, 2005)

(Revised: April 1)

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Welcome to ...

Seafood COOL 101

- Purpose

- Basic understanding of operational impact and what to do in your stores to comply on April 4, 2005

- Agenda

- Simple overview (20 minutes)
- Answer questions (as long as you have them)

Some caveats:

- **ONLY seafood**
- **Timing: Signs up April 4**
 - Effective date = April 4, 2005
 - Only applies to frozen fish or shellfish caught or harvested after December 6, 2004
 - *Then, 6 months of "education and outreach"*
 - **BUT: signs should be up by April 4**
- This is an *interim* final rule
 - Some things might change

Seafood COOL 101

- Basic requirement:

Retailers must inform consumers of the country of origin and method of production of covered seafood items

Affected Entities

- **Retailer**

- If you sell \$230,000 worth of produce per calendar year
- “Any person licensed as a retailer under Perishable Agricultural Commodities Act”

- **Food Service Establishments: Exempt**

- Includes “food service” at retail that provides ready-to-eat foods, eg, salad bars, delis

Covered Seafood Products

- Fillets, steaks, nuggets and any other flesh of fish or shellfish

UNLESS it is in a “processed food item”

Processed Seafood Item

- A retail item derived from fish or shellfish that has been:
 - Combined with other ingredients
- OR
- Undergone specific processing

“Processed Food Item”

- Combined with at least one other covered commodity or *substantive* food component
 - Use of certain additives (such as water, salt or sugar) will not qualify

“Processed Food Item”

- Specific processing resulting in a change in the character of the covered commodity
- Examples of “specific processing:”
 - Cooking [which is used for canning some seafood]
 - Curing
 - Smoking
 - Restructuring

"Processed" Seafood: Examples

Fish sticks	Surimi	Mussels in sauce
Seafood medley		Coconut shrimp
Marinated fish fillets		Canned tuna
Canned sardines		Soups, stews
Smoked salmon		Shrimp cocktail
Breaded shrimp		Crab salad
Gefilte fish	Pates	Sushi

Designations: Get info from suppliers

- **Country of Origin (CoO)**
 - U.S.
 - Statutory definitions
 - All other countries
 - Imported + substantial transformation in US
 - Imported + NO substantial trans in US
- **Method of Production (MoP)**
 - Wild
 - Farm-raised

Country of Origin Designation

■ U.S. Designation

– Farm-raised

- Hatched, raised, harvested, and processed in U.S./U.S. waters

AND

- No substantial transformation outside U.S.

– Wild

- Harvested in U.S. waters or by U.S.-flagged vessel
- AND

- No substantial transformation outside U.S.

Country of Origin Designation

- **Other than U.S. Designation**
 - If imported AND **not** substantially transformed in U.S. →
“Product of [country declared to Customs]”
 - If imported AND substantially transformed in U.S. →
“From [country x], processed in U.S.”

Country of Origin Designation

■ Alternative Designations

- State of origin *cannot* be used in lieu of country of origin
 - Conflicting state laws are *preempted*
- Flags: not acceptable
- “Unmistakable” abbreviations: acceptable

Method of Production Designation

■ Wild

– Definition

- Naturally-born or hatchery-originated fish or shellfish released in the wild and caught, taken or harvested from non-controlled water or beds

– Terminology

■ Acceptable

- “Wild caught”
- “Wild”

■ Unacceptable

- “Ocean caught”
- “Caught at sea”

Method of Production Designation

■ Farm-raised

– Definition

- Harvested in controlled environment
 - Ocean-ranched or penned
 - Leased beds with improvements

– Terminology

- Acceptable
 - Farm-raised
 - Farmed
- Unacceptable
 - Cultivated
 - Cultured

Labeling and Retail Display

- Lots of options for labeling
 - Placard, sign, label, sticker, band, twist tie, pin tag or other format
 - Checkboxes are permitted
 - Labels
 - Applied by supplier or retailer
- “Conspicuous location”
 - Likely to be read and understood by customer under normal conditions of purchase

Labeling and Retail Display

- Typed, printed or handwritten
 - No type or font size requirements
 - “Legibly”
 - Text that can be easily read by a consumer

Labeling and Retail Display

- Commingling allowed
 - Bulk container may contain seafood from multiple countries or with different MoP's if all possibilities identified
 - "All possibilities" means available in the store at the time of display

Labeling and Retail Display Issues

- Remote sales (e.g., internet)
 - Information may be provided at time of sale (e.g., on website) OR
 - At time of delivery to consumer

Recordkeeping

- Most challenging aspect
- Our recommendation:
 - First, focus on getting information in stores
 - Second, worry about records

Retailer Recordkeeping

Two sets:

- Record attributable to supplier that travels with product to retail and states CoO/MoP
 - On label of consumer-packaged products or on case label of bulk product
 - Supplier information must be retained at store level but ONLY until product sold

- General business information retained for one year (corporate or store)
 - Information needed
 - Supplier name; type and quantity of fish; date received
 - No CoO, MoP or “unique identifier”
 - Consistent with Bioterrorism Act recordkeeping requirements

Recordkeeping: Supplier Information

- Statute requires suppliers to provide CoO/MoP information to retailers (directly or indirectly)
- Possible methods
 - On product
 - On master shipping container
 - Document that accompanies product to retail provided that it identifies CoO/MoP, lot code or other unique identifier

Recordkeeping: General

- No prescribed format
 - “Legible”
 - Electronic or paper acceptable
- Government access
 - Must be produced “in a timely manner” during normal business hours
 - Location must be reasonable given products and firm under review

Recordkeeping: Supplier Records

- All Suppliers

- Records must identify:

- Immediate previous source AND immediate subsequent recipient
 - Product unique to transaction by lot code number or other unique identifier
 - Probably also need CoO/MoP

- One year

Recordkeeping: Supplier Records

- Suppliers who initiate claims must also possess records necessary to substantiate claims
 - No time period specified
 - Interesting implications for meat industry (“possess”)
- Suppliers who are importers of record also need clear product tracking from port of entry to recipient

Enforcement

- Federal-state cooperative agreements
- USDA will control
 - Set inspection schedule
 - Establish procedures
 - Investigate any non-compliance observations made by state officials

Enforcement

■ Retailer Liability

- Statute: notification + 30 days
- Practical application
 - If non-compliant supplier found after investigation, USDA likely to notify retailer and, if retailer pulls product within 30 days, no fine

■ Supplier Liability

- USDA may apply same standard to suppliers, even though not part of statute

Enforcement

- Affirmative Defense
 - Retailers and intermediary suppliers not liable for violation by reason of conduct of another IF could not have reasonably been expected to have knowledge of violation

Summary

- Make sure you're getting the information that you need from your suppliers
- **Get signs up in stores by April 4**
- Work on systems to document the information

Questions...???

Comments...???

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