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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 52

[Document No. AMS-FV-08-0075; SC-17-326]

Country of Origin Labeling of Packed Honey

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule; clarification.

SUMMARY: AMS published a final rule in the **Federal Register** on January 4, 2011, amending the Code of Federal Regulations (CFR) governing inspection and certification of processed fruits, vegetables, and miscellaneous products regarding Country of Origin Labeling (COOL) of Packed Honey. This document clarifies obligations for a honey packer regarding country of origin labeling.

DATES: *Effective* July 6, 2018.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION: AMS published a final rule on January 4, 2011 (76 FR 251) for Country of Origin Labeling of Packed Honey based on the 2008 Farm Bill. The rule amended the regulations governing inspection and certification of processed fruits, vegetables, and miscellaneous products, 7 CFR part 52, to include provisions for COOL for packed honey and debarment of services for mislabeling.

On August 8, 2016, the National Honey Packers and Dealers Association (NHPDA), the Western States Honey Packers and Dealers Association

(WSHPDA), the American Honey Producers Association (AHPA), the American Beekeeping Federation (ABF), and Sioux Honey Association (SHA) submitted a request asking the U.S. Department of Agriculture's (USDA) Agricultural Marketing Service (AMS) to address and clarify country of origin labeling as required by U.S. Customs law and AMS regulations. Specifically, the request sought clarification of whether country of origin labeling is required for honey that does not bear official grade marks. A copy of the request is available as a supporting document for this document at <http://www.regulations.gov>.

AMS acknowledges the request of the NHPDA, WSHPDA, AHPA, ABF, and SHA. The Country of Origin Labeling of Packed Honey Final Rule, which appeared on pages 251-253 in the **Federal Register** (76 FR 251-253), was published pursuant to Section 10402 of the 2008 Farm Bill (Pub. L. 110-246), which amended section 1622(h) of the Agricultural Marketing Act of 1946 (7 U.S.C. 1621-1627, 1635-1638) to require that all packed honey bearing any official USDA mark or statement also bear "legibly and permanently in close proximity (such as on the same side(s) or surface(s)) to the certificate, mark, or statement, and in at least a comparable size, the country or countries of origin of the lot or container of honey, preceded by the words 'Product of' or other words of similar meaning."

Section 52.53 provides for the use of approved identification marks, and paragraph (h) describes prohibited uses of approved identification. The statement in the preamble to the rule that is in question, "Conversely, if the honey is not officially grade labeled, the country of origin labeling is not necessary whether the honey is domestic or foreign", is accurate within the context of the rule, which only applies to COOL associated with the use of approved official USDA marks or grade statements. The rule also acknowledged that AMS identified other Federal rules that may be viewed as duplicative or overlapping with this rule.

Under pre-existing Federal laws and regulations, country of origin labeling is required by the Tariff Act of 1930, 19 U.S.C. 1304(a), and is enforced by U.S. Customs and Border Protection (CBP)

under CBP regulations (19 U.S.C. 1304(a) and part 134, Title 19 of the Code of Federal Regulations (19 CFR part 134)). The Tariff Act requires that every imported item be conspicuously and indelibly marked in English to indicate its country of origin to the ultimate purchaser. The Food and Drug Administration provides guidance on COOL on behalf of CBP at www.fda.gov.

AMS concurs that the Customs ruling of 1984 requiring "every article of foreign origin or its container" to be "legibly, permanently and conspicuously marked to indicate the country of origin" is the law, and that this law is in no way invalidated or superseded by the additional marking requirements required by the 2008 Farm Bill. The additional COOL marking required by the Farm Bill applies only to the country of origin labeling statements associated with the existing regulations governing the inspection and grading of processed fruits, vegetables, and miscellaneous products, section 52.53, which provides for the use of approved identification marks, and paragraph (h), which describes prohibited uses of approved identification.

In an effort to promote fair competition in the honey industry, this document clarifies that honey packers must include conspicuous and indelible labeling, in English, naming the country of origin of all imported products, regardless of whether the product labeling uses approved USDA marks or grade statements.

Authority: 7 U.S.C. 1621-1627.

Dated: July 2, 2018.

Bruce Summers,

Administrator, Agricultural Marketing Service.

[FR Doc. 2018-14509 Filed 7-5-18; 8:45 am]

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