

# Chapter 15

## STATEMENTS OF GEOGRAPHIC ORIGIN—COUNTRY OF ORIGIN MARKING/“MADE IN THE U.S.A.”

Certain geographic representations are required or permitted in food labeling. These include country of origin marking, which must appear on imported foods, and “made in the U.S.A.”-type claims, which are permitted to appear on domestic foods.

### I. COUNTRY OF ORIGIN MARKING

The Tariff Act of 1930, as amended, requires, with certain exceptions, that every article of foreign origin imported into the United States be marked, in a conspicuous place as legibly, indelibly, and permanently as the nature of the article or its container will permit, in such manner as to indicate to an ultimate purchaser in the United States the English name of the country of origin of the article. 19 U.S.C. § 1304(a). This statutory provision imposes country of origin marking requirements on imported foods.

In addition, the Farm Security and Rural Investment Act of 2002 amended the Agricultural Marketing Act of 1946 (7 U.S.C. §§ 1621 *et seq.* ) to require country of origin labeling for both imported *and* domestic meat, perishable agricultural commodities (fresh fruits and vegetables), fish and shellfish, and peanuts. As discussed in greater detail below, the country of origin marking requirements under the Agricultural Marketing Act, as amended, are effective for fish and shellfish as of April 4, 2005. The provisions applicable to the additional commodities listed above are expected to take effect after September 30, 2006.

#### A. Customs Regulations

Regulations (*see generally* 19 C.F.R. Part 134) and rulings issued by the Bureau of Customs and Border Protection (Customs) implement the statutory country of origin marking requirement under the Tariff Act of 1930 and specify how that marking should be presented. While country of origin marking is not a requirement under the FDC Act, FDA advises it is possible that a violation of Customs’ requirements concerning country of origin marking, whether by omission or deviation, may also result in false or misleading labeling that violates the FDC Act and FDA regulations and misbrands the food. *See generally* 21 C.F.R. § 101.18; FDA Compliance Policy Guides § 560.200.