

§ 101.3

all of this information to appear on a single panel, it may be divided between these two panels, except that the information required under any given section or part shall all appear on the same panel. A food whose label is required to bear the ingredient statement on the principal display panel may bear all other information specified in paragraph (b) of this section on the information panel.

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(f) If the label of any package of food is too small to accommodate all of the information required by §§101.4, 101.5, 101.8, 101.9, 101.13, 101.17, 101.36, subpart D of part 101, and part 105 of this chapter, the Commissioner may establish by regulation an acceptable alternative method of disseminating such information to the public, e.g., a type size smaller than one-sixteenth inch in height, or labeling attached to or inserted in the package or available at the point of purchase. A petition requesting such a regulation, as an amendment to this paragraph, shall be submitted under part 10 of this chapter.

§101.3 Identity labeling of food in packaged form.

(a) The principal display panel of a food in package form shall bear as one of its principal features a statement of the identity of the commodity.

(b) Such statement of identity shall be in terms of:

(1) The name now or hereafter specified in or required by any applicable Federal law or regulation; or, in the absence thereof,

(2) The common or usual name of the food; or, in the absence thereof,

(3) An appropriately descriptive term, or when the nature of the food is obvious, a fanciful name commonly used by the public for such food.

(c) Where a food is marketed in various optional forms (whole, slices, diced, etc.), the particular form shall be considered to be a necessary part of the statement of identity and shall be declared in letters of a type size bearing a reasonable relation to the size of the letters forming the other components of the statement of identity; except that if the optional form is visible through the container or is depicted by an appropriate vignette, the particular form need not be included in the statement. This specification does not affect the required declarations of identity under definitions and standards for

foods promulgated pursuant to section 401 of the act.

(d) This statement of identity shall be presented in bold type on the principal display panel, shall be in a size reasonably related to the most prominent printed matter on such panel, and shall be in lines generally parallel to the base on which the package rests as it is designed to be displayed.

(e) Under the provisions of section 403(c) of the Federal Food, Drug, and Cosmetic Act, a food shall be deemed to be misbranded if it is an imitation of another food unless its label bears, in type of uniform size and prominence, the word "imitation" and, immediately thereafter, the name of the food imitated.

(1) A food shall be deemed to be an imitation and thus subject to the requirements of section 403(c) of the act if it is a substitute for and resembles another food but is nutritionally inferior to that food.

(2) A food that is a substitute for and resembles another food shall not be deemed to be an imitation provided it meets each of the following requirements:

(i) It is not nutritionally inferior to the food for which it substitutes and which it resembles.

(ii) Its label bears a common or usual name that complies with the provisions of § 102.5 of this chapter and that is not false or misleading, or in the absence of an existing common or usual name, an appropriately descriptive term that is not false or misleading. The label may, in addition, bear a fanciful name which is not false or misleading.

(3) A food for which a common or usual name is established by regulation (e.g., in a standard of identity pursuant to section 401 of the act, in a common or usual name regulation pursuant to part 102 of this chapter, or in a regulation establishing a nutritional quality guideline pursuant to part 104 of this chapter), and which complies with all of the applicable requirements of such regulation(s), shall not be deemed to be an imitation.

(4) Nutritional inferiority includes: (i) Any reduction in the content of an essential nutrient that is present in a measurable amount, but does not include a reduction in the caloric or fat

content provided the food is labeled pursuant to the provisions of § 101.9, and provided the labeling with respect to any reduction in caloric content complies with the provisions applicable to caloric content in part 105 of this chapter.

(ii) For the purpose of this section, a measurable amount of an essential nutrient in a food shall be considered to be 2 percent or more of the Daily Reference Value (DRV) of protein listed under § 101.9(c)(7)(iii) and of potassium listed under § 101.9(c)(9) per reference amount customarily consumed and 2 percent or more of the Reference Daily Intake (RDI) of any vitamin or mineral listed under § 101.9(c)(8)(iv) per reference amount customarily consumed, except that selenium, molybdenum, chromium, and chloride need not be considered.

(iii) If the Commissioner concludes that a food is a substitute for and resembles another food but is inferior to the food imitated for reasons other than those set forth in this paragraph, he may propose appropriate revisions to this regulation or he may propose a separate regulation governing the particular food.

(f) A label may be required to bear the percentage(s) of a characterizing ingredient(s) or information concerning the presence or absence of an ingredient(s) or the need to add an ingredient(s) as part of the common or usual name of the food pursuant to subpart B of part 102 of this chapter.

(g) Dietary supplements shall be identified by the term "dietary supplement" as a part of the statement of identity, except that the word "dietary" may be deleted and replaced by the name of the dietary ingredients in the product (e.g., calcium supplement) or an appropriately descriptive term indicating the type of dietary ingredients that are in the product (e.g., herbal supplement with vitamins).

[42 FR 14308, Mar. 15, 1977, as amended at 48 FR 10811, Mar. 15, 1983; 58 FR 2227, Jan. 6, 1993; 60 FR 67174, Dec. 28, 1995; 62 FR 49847, Sept. 23, 1997]

EFFECTIVE DATE NOTE: At 62 FR 49847, Sept. 23, 1997, § 101.3 was amended by adding paragraph (g), effective Mar. 23, 1999.

§ 101.4 Food; designation of ingredients.

(a)(1) Ingredients required to be declared on the label or labeling of a food, including foods that comply with standards of identity, except those ingredients exempted by § 101.100, shall be listed by common or usual name in descending order of predominance by weight on either the principal display panel or the information panel in accordance with the provisions of § 101.2.

(2) The descending order of predominance requirements of paragraph (a)(1) of this section do not apply to ingredients present in amounts of 2 percent or less by weight when a listing of these ingredients is placed at the end of the ingredient statement following an appropriate quantifying statement, e.g., "Contains _ percent or less of ____," or "Less than _ percent of ____." The blank percentage within the quantifying statement shall be filled in with a threshold level of 2 percent, or, if desired, 1.5 percent, 1.0 percent, or 0.5 percent, as appropriate. No ingredient to which the quantifying phrase applies may be present in an amount greater than the stated threshold.

(b) The name of an ingredient shall be a specific name and not a collective (generic) name, except that:

(1) Spices, flavorings, colorings and chemical preservatives shall be declared according to the provisions of § 101.22.

(2) An ingredient which itself contains two or more ingredients and which has an established common or usual name, conforms to a standard established pursuant to the Meat Inspection or Poultry Products Inspection Acts by the U.S. Department of Agriculture, or conforms to a definition and standard of identity established pursuant to section 401 of the Federal Food, Drug, and Cosmetic Act, shall be designated in the statement of ingredients on the label of such food by either of the following alternatives:

(i) By declaring the established common or usual name of the ingredient followed by a parenthetical listing of all ingredients contained therein in descending order of predominance except that, if the ingredient is a food subject to a definition and standard of identity established in subchapter B of this