

§ 317.12

product unless it has been inspected and passed in compliance with the regulations in this subchapter, is not adulterated, and is strictly in accordance with the statements on the label, and such filling is done under the supervision of a Program employee.

(c) No person shall remove, or cause to be removed from an official establishment any product bearing a label unless such label is in compliance with the regulations in this subchapter, or any product not bearing a label required by such regulations.

§ 317.12 Relabeling products; requirements.

When it is claimed by an official establishment that any of its products which bore labels bearing official marks has been transported to a location other than an official establishment, and it is desired to relabel the product because the labels have become mutilated or otherwise damaged, a request for relabeling the product shall be sent to the Administrator, accompanied with a statement of the reasons therefor. Labeling material intended for relabeling inspected and passed product shall not be transported from an official establishment until permission has been received from the Administrator. The relabeling of inspected and passed product with labels bearing any official marks shall be done under the supervision of a Program inspector. The official establishment shall reimburse the Program, in accordance with the regulations of the Department, for any cost involved in supervising the relabeling of such product.

§ 317.13 Storage and distribution of labels and containers bearing official marks.

Labels, wrappers, and containers bearing any official marks, with or without the establishment number, may be transported from one official establishment to any other official establishment provided such shipments are made with the prior authorization of the inspector in charge at point of origin, who will notify the inspector in charge at destination concerning the date of shipment, quantity, and type of labeling material involved. No such

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material shall be used at the establishment to which it is shipped unless such use conforms with the requirements of this subchapter.

§§ 317.14–317.15 [Reserved]

§ 317.16 Labeling and containers of custom prepared products.

Products that are custom prepared under § 303.1(a)(2) of this subchapter must be packaged immediately after preparation and must be labeled (in lieu of information otherwise required by this part 317) with the words “Not For Sale” in lettering not less than three-eighth inch in height. Such exempted custom prepared products or their containers may bear additional labeling provided such labeling is not false or misleading.

[37 FR 4071, Feb. 26, 1972]

§ 317.17 Interpretation and statement of labeling policy for cured products; special labeling requirements concerning nitrate and nitrite.

(a) With respect to sections 1(n) (7), (9), and (12) of the Act and § 317.2, any substance mixed with another substance to cure a product must be identified in the ingredients statement on the label of such product. For example, curing mixtures composed of such ingredients as water, salt, sugar, sodium phosphate, sodium nitrate, and sodium nitrite or other permitted substances which are added to any product, must be identified on the label of the product by listing each such ingredient in accordance with the provisions of § 317.2.

(b) Any product, such as bacon and pepperoni, which is required to be labeled by a common or usual name or descriptive name in accordance with § 317.2(c)(1) and to which nitrate or nitrite is permitted or required to be added may be prepared without nitrate or nitrite and labeled with such common or usual name or descriptive name when immediately preceded with the term “Uncured” as part of the product name in the same size and style of lettering as the product name, provided

that the product is found by the Administrator to be similar in size, flavor, consistency, and general appearance to such product as commonly prepared with nitrate or nitrite, or both.

(c)(1) Products described in paragraph (b) of this section or §319.2 of this subchapter, which contain no nitrate or nitrite shall bear the statement "No Nitrate or Nitrite Added." This statement shall be adjacent to the product name in lettering of easily readable style and at least one-half the size of the product name.

(2) Products described in paragraph (b) of this section and §319.2 of this subchapter shall bear, adjacent to the product name in lettering of easily readable style and at least one-half the size of the product name, the statement "Not Preserved—Keep Refrigerated Below 40 °F. At All Times" unless they have been thermally processed to F_0 3 or more; they have been fermented or pickled to pH of 4.6 or less; or they have been dried to a water activity of 0.92 or less.

(3) Products described in paragraph (b) of this section and §319.2 of this subchapter shall not be subject to the labeling requirements of paragraphs (b) and (c) of this section if they contain an amount of salt sufficient to achieve a brine concentration of 10 percent or more.

[37 FR 16863, Aug. 22, 1972, as amended at 44 FR 48961, Aug. 21, 1979]

§317.18 Quantity of contents labeling.

Sections 317.18 through 317.22 of this part prescribe the procedures to be followed for determining net weight compliance and prescribe the reasonable variations from the declared net weight on the labels of immediate containers of products in accordance with §317.2(h) of this part.

[55 FR 49834, Nov. 30, 1990]

§317.19 Definitions and procedures for determining net weight compliance.

(a) For the purpose of §§317.18 through 317.22 of this part, the reasonable variations allowed, definitions, and procedures to be used in determining net weight and net weight compliance are described in the National Institute of Standards and Technology

(NIST) Handbook 133, "Checking the Net Contents of Packaged Goods," Third Edition, September 1988, and Supplements 1, 2, 3, and 4 dated September 1990, October 1991, October 1992, and October 1994, respectively, which are incorporated by reference, with the exception of the NIST Handbook 133 and Supplements 1, 3, and 4 requirements listed in paragraphs (b) and (c) of this section. Those provisions incorporated by reference herein, are considered mandatory requirements. This incorporation was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. (These materials are incorporated as they exist on the date of approval.) A notice of any change in the Handbook cited herein will be published in the FEDERAL REGISTER. Copies may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402. It is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030, or go to: http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.

(b) The following NBS Handbook 133 requirements are not incorporated by reference.

Chapter 2—General Considerations

- 2.13.1 Polyethylene Sheeting and Film
- 2.13.2 Textiles
- 2.13.3 Mulch

Chapter 3—Methods of Test for Packages Labeled by Weight

- 3.11. Aerosol Packages
- 3.14. Glazed Raw Seafood and Fish
- 3.15. Canned Coffee
- 3.16. Borax
- 3.17. Flour

Chapter 4—Methods of Test for Packages Labeled by Volume

- 4.7. Milk
- 4.8. Mayonnaise and Salad Dressing
- 4.9. Paint, Varnish, and Lacquers—Non-aerosol
- 4.11. Peat Moss
- 4.12. Bark Mulch
- 4.15. Ice Cream Novelties