

§317.5

9 CFR Ch. III (1-1-05 Edition)

project the final version of the labeling. Indication of final color may be met by: submission of a color sketch, submission of a sketch which indicates by descriptive language the final colors, or submission with the sketch of previously approved final labeling that indicates the final colors.

(e) Inserts, tags, liners, pasters, and like devices containing printed or graphic matter and for use on, or to be placed within, containers and coverings of product shall be submitted for approval in the same manner as provided for labeling in §317.4(a), except that such devices which contain no reference to product and bear no misleading feature shall be used without submission for approval as prescribed in §317.5(b)(7).

(f)(1) Consistent with the requirements of this section, temporary approval for the use of a final label or other final labeling that may otherwise be deemed deficient in some particular may be granted by the Food Labeling Division. Temporary approvals may be granted for a period not to exceed 180 calendar days, under the following conditions:

(i) The proposed labeling would not misrepresent the product;

(ii) The use of the labeling would not present any potential health, safety, or dietary problems to the consumer;

(iii) Denial of the request would create undue economic hardship; and

(iv) An unfair competitive advantage would not result from the granting of the temporary approval.

(2) Extensions of temporary approvals may also be granted by the Food Labeling Division provided that the applicant demonstrates that new circumstances, meeting the above criteria, have developed since the original temporary approval was granted.

(g) The inspector-in-charge shall approve meat carcass ink brands and meat food product ink and burning brands, which comply with parts 312 and 316 of this subchapter.

[60 FR 67454, Dec. 29, 1995]

§317.5 Generically approved labeling.

(a)(1) An official establishment or an establishment certified under a foreign inspection system, in accordance with part 327 of this subchapter, is author-

ized to use generically approved labeling, as defined in paragraph (b) of this section, without such labeling being submitted for approval to the Food Safety and Inspection Service in Washington or the field, provided the labeling is in accordance with this section and shows all mandatory features in a prominent manner as required in §317.2, and is not otherwise false or misleading in any particular.

(2) The Food Safety and Inspection Service shall select samples of generically approved labeling from the records maintained by official establishments and establishments certified under foreign inspection systems, in accordance with part 327 of this subchapter, as required in §317.4, to determine compliance with labeling requirements. Any finding of false or misleading labeling shall institute the proceedings prescribed in §335.12.

(b) Generically approved labeling is labeling which complies with the following:

(1) Labeling for a product which has a product standard as specified in part 319 of this subchapter or the Standards and Labeling Policy Book and which does not contain any special claims, such as quality claims, nutrient content claims, health claims, negative claims, geographical origin claims, or guarantees, or which is not a domestic product labeled in a foreign language;

(2) Labeling for single-ingredient products (such as beef steak or lamb chops) which does not contain any special claims, such as quality claims, nutrient content claims, health claims, negative claims, geographical origin claims, or guarantees, or which is not a domestic product labeled with a foreign language;

(3) Labeling for containers of products sold under contract specifications to Federal Government agencies, when such product is not offered for sale to the general public, provided that the contract specifications include specific requirements with respect to labeling, and are made available to the inspector-in-charge;

(4) Labeling for shipping containers which contain fully labeled immediate containers, provided such labeling complies with §316.13;

(5) Labeling for products not intended for human food, provided they comply with part 325 of this subchapter;

(6) Meat inspection legends, which comply with parts 312 and 316 of this subchapter;

(7) Inserts, tags, liners, pasters, and like devices containing printed or graphic matter and for use on, or to be placed within containers, and coverings of products, provided such devices contain no reference to product and bear no misleading feature;

(8) Labeling for consumer test products not intended for sale; and

(9) Labeling which was previously approved by the Food Labeling Division as sketch labeling, and the final labeling was prepared without modification or with the following modifications:

(i) All features of the labeling are proportionately enlarged or reduced, provided that all minimum size requirements specified in applicable regulations are met and the labeling is legible;

(ii) The substitution of any unit of measurement with its abbreviation or the substitution of any abbreviation with its unit of measurement, e.g., "lb." for "pound," or "oz." for "ounce," or of the word "pound" for "lb." or "ounce" for "oz.";

(iii) A master or stock label has been approved from which the name and address of the distributor are omitted and such name and address are applied before being used (in such case, the words "prepared for" or similar statement must be shown together with the blank space reserved for the insertion of the name and address when such labels are offered for approval);

(iv) Wrappers or other covers bearing pictorial designs, emblematic designs or illustrations, e.g., floral arrangements, illustrations of animals, fireworks, etc. are used with approved labeling (the use of such designs will not make necessary the application of labeling not otherwise required);

(v) A change in the language or the arrangement of directions pertaining to the opening of containers or the serving of the product;

(vi) The addition, deletion, or amendment of a dated or undated coupon, a cents-off statement, cooking instruc-

tions, packer product code information, or UPC product code information;

(vii) Any change in the name or address of the packer, manufacturer or distributor that appears in the signature line;

(viii) Any change in the net weight, provided the size of the net weight statement complies with § 317.2;

(ix) The addition, deletion, or amendment of recipe suggestions for the product;

(x) Any change in punctuation;

(xi) Newly assigned or revised establishment numbers for a particular establishment for which use of the labeling has been approved by the Food Labeling Division, Regulatory Programs;

(xii) The addition or deletion of open dating information;

(xiii) A change in the type of packaging material on which the label is printed;

(xiv) Brand name changes, provided that there are no design changes, the brand name does not use a term that connotes quality or other product characteristics, the brand name has no geographic significance, and the brand name does not affect the name of the product;

(xv) The deletion of the word "new" on new product labeling;

(xvi) The addition, deletion, or amendment of special handling statements, provided that the change is consistent with § 317.2(k);

(xvii) The addition of safe handling instructions as required by § 317.2(l);

(xviii) Changes reflecting a change in the quantity of an ingredient shown in the formula without a change in the order of predominance shown on the label, provided that the change in quantity of ingredients complies with any minimum or maximum limits for the use of such ingredients prescribed in parts 318 and 319 of this subchapter;

(xix) Changes in the color of the labeling, provided that sufficient contrast and legibility remain;

(xx) A change in the product vignette, provided that the change does not affect mandatory labeling information or misrepresent the content of the package;

(xxi) A change in the establishment number by a corporation or parent

§317.6

company for an establishment under its ownership;

(xxii) Changes in nutrition labeling that only involve quantitative adjustments to the nutrition labeling information, except for serving sizes, provided the nutrition labeling information maintains its accuracy and consistency;

(xxiii) Deletion of any claim, and the deletion of non-mandatory features or non-mandatory information; and

(xxiv) The addition or deletion of a direct translation of the English language into a foreign language for products marked "for export only."

[60 FR 67455, Dec. 29, 1995]

§317.6 Approved labels to be used only on products to which they are applicable.

Labels shall be used only on products for which they are approved, and only if they have been approved for such products in accordance with §317.3: *Provided*, That existing stocks of labels approved prior to the effective date of this section and the quantity of which has been identified to the circuit supervisor as being in storage on said date at the official establishment or other identified warehouse for the account of the operator of the official establishment may be used until such stocks are exhausted, but not later than 1 year after the effective date of this section unless such labels conform to all the requirements of this part and part 319 of this subchapter. The Administrator may upon the show of good cause grant individual extension of time as he deems necessary.

§317.7 Products for foreign commerce; printing labels in foreign language permissible; other deviations.

Labels to be affixed to packages of products for foreign commerce may be printed in a foreign language and may show the statement of the quantity of contents in accordance with the usage of the country to which exported and other deviations from the form of labeling required under this part may be approved for such product by the Administrator in specific cases: *Provided*,

(a) That the proposed labeling accords to the specifications of the foreign purchaser,

9 CFR Ch. III (1-1-05 Edition)

(b) That it is not in conflict with the laws of the country to which the product is intended for export, and

(c) That the outside container is labeled to show that it is intended for export; but if such product is sold or offered for sale in domestic commerce, all the requirements of this subchapter apply. The inspection legend and the establishment number shall in all cases appear in English but in addition, may appear literally translated in a foreign language.

§317.8 False or misleading labeling or practices generally; specific prohibitions and requirements for labels and containers.

(a) No product or any of its wrappers, packaging, or other containers shall bear any false or misleading marking, label, or other labeling and no statement, word, picture, design, or device which conveys any false impression or gives any false indication of origin or quality or is otherwise false or misleading shall appear in any marking or other labeling. No product shall be wholly or partly enclosed in any wrapper, packaging, or other container that is so made, formed, or filled as to be misleading.

(b) The labels and containers of product shall comply with the following provisions, as applicable:

(1) Terms having geographical significance with reference to a locality other than that in which the product is prepared may appear on the label only when qualified by the word "style," "type," or "brand," as the case may be, in the same size and style of lettering as in the geographical term, and accompanied with a prominent qualifying statement identifying the country, State, Territory, or locality in which the product is prepared, using terms appropriate to effect the qualification. When the word "style" or "type" is used, there must be a recognized style or type of product identified with and peculiar to the area represented by the geographical term and the product must possess the characteristics of such style or type, and the word "brand" shall not be used in such a way as to be false or misleading: *Provided*, That a geographical term which has come into general usage as a trade