

3717-1-03.5

Food: food identity, presentation, and on premises labeling.

(A) Standards of identity.

Packaged food shall comply with standard of identity requirements in 21 C.F.R. 131-169 and 9 C.F.R. 319 Definitions and Standards of Identity or Composition, and the general requirements in 21 C.F.R. 130 - Food Standards: General and 9 C.F.R. 319 Subpart A - General.

(B) Honestly presented.

- (1) Food shall be offered for human consumption in a way that does not mislead or misinform the consumer.
- (2) Food or color additives, colored overwraps, or lights may not be used to misrepresent the true appearance, color, or quality of a food.
- (3) The sale of kosher foods shall be in accordance with section 1329.29 of the Revised Code.

(C) Food labels.

- (1) Food packaged in a food service operation or retail food establishment, shall be labeled as specified in 21 C.F.R. 101 - Food Labeling, and 9 C.F.R. 317 Labeling, Marking Devices, and Containers.
- (2) Label information shall include:
 - (a) The common name of the food, or absent a common name, an adequately descriptive identity statement;
 - (b) If made from two or more ingredients, a list of ingredients in descending order of predominance by weight, including a declaration of artificial color or flavor and chemical preservatives, if contained in the food;
 - (c) An accurate declaration of the quantity of contents;
 - (d) The name and place of business of the manufacturer, packer, or distributor; and
 - (e) Except as exempted in ~~Section 403(q)(3)-(5)~~ of the Federal Food, Drug, and Cosmetic Act Section 403(Q)(3)-(5), ~~52 Stat. 1047 (1938)~~, 21

~~U.S.C. 343(q)(3) to (5)~~, nutrition labeling as specified in 21 C.F.R. 101 - ~~Food Labeling~~ food labeling and 9 C.F.R. 317 Subpart B ~~Nutrition Labeling~~ nutrition labeling.

(f) For any salmonid fish containing canthaxanthin as a color additive, the labeling of the bulk fish container, including a list of ingredients, displayed on the retail container or by other written means, such as a counter card, that discloses the use of canthaxanthin.

(3) Bulk food that is available for consumer self-dispensing shall be prominently labeled with the following information in plain view of the consumer:

(a) The manufacturer's or processor's label that was provided with the food;
or

(b) A card, sign, or other method of notification that includes the information specified under paragraphs (C)(2)(a), (C)(2)(b), and (C)(2)(e) of this rule.

(4) Bulk, unpackaged foods such as bakery products and unpackaged foods that are portioned to consumer specification need not be labeled if:

(a) A health, nutrient content, or other claim is not made; and

(b) The food is manufactured or prepared on the premises of the food service operation or retail food establishment or at another food service operation or retail food establishment or a food processing plant that is owned by the same person and is regulated by the food regulatory agency that has jurisdiction.

(D) Other forms of information.

(1) Consumer warnings shall be provided as required by this chapter.

(2) Except as permitted in paragraph (D)(3), (D)(4), and (D)(5) of this rule, a ~~Food~~ food service operation, retail food establishment or manufacturers' dating information on foods may not be concealed or altered.

(3) A retail food establishment is permitted to repackage and revise the dating of fresh meat after determining that the meat shows no indications of compromised quality.

(4) A retail food establishment that receives packaged fresh meat from other companies is permitted to repackage the meat under their own label.

(5) The label of meat or product packaged under federal or state meat inspection shall not be modified without removing the federal or state legend.

(E) Consumption of animal foods that are raw, undercooked, or not otherwise processed to eliminate pathogens - consumer advisory.

~~Except as specified in paragraphs (A)(1)(d) and (A)(1)(e)(iii) of rule 3717-1-03.3 of the Administrative Code, or paragraph (C) of rule 3717-1-03.7 of the Administrative Code, if an animal food such as beef, eggs, fish, lamb, milk, pork, poultry, or shellfish that is raw, undercooked, or not otherwise processed to eliminate pathogens is offered in a ready-to-eat form as a deli, menu, vended, or other item; or as a raw ingredient in another ready-to-eat food, the license holder shall inform consumers by brochures, deli case or menu advisories, label statements, table tents, placards, or other effective written means of the significantly increased risk associated with certain especially vulnerable consumers eating such foods in raw or undercooked form.~~

(1) Except as specified in paragraphs (A)(1)(d) and paragraph (A)(1)(e)(iii) of rule 3717-1-03.3 of the Administrative Code, or under paragraph (C) of rule 3717-1-03.7 of the Administrative Code, if an animal food such as beef, eggs, fish, lamb, milk, pork, poultry, or shellfish is served or sold raw, undercooked, or without otherwise being processed to eliminate pathogens, either in ready-to-eat form or as an ingredient in another ready-to-eat food, the license holder shall inform consumers of the significantly increased risk of consuming such foods by way of a disclosure and reminder, as specified in paragraphs (E)(2) and (E)(3) of this rule, using brochures, deli case or menu advisories, label statements, table tents, placards, or other effective written means.

(2) Disclosure shall include:

(a) A description of the animal-derived foods, such as "oysters on the half shell (raw oysters)," "raw-egg Caesar salad," and "hamburgers (can be cooked to order);" or

(b) Identification of the animal-derived foods by asterisking them to a footnote that states that the items are served raw or undercooked, or contain (or may contain) raw or undercooked ingredients.

(3) Reminder shall include asterisking the animal-derived foods requiring disclosure to a footnote that states:

- (a) Regarding the safety of these items, written information is available upon request;
- (b) Consuming raw or undercooked meats, poultry, seafood, shellfish, or eggs may increase your risk of foodborne illness; or
- (c) Consuming raw or undercooked meats , poultry, seafood, shellfish, or eggs may increase your risk of foodborne illness, especially if you have certain medical conditions."

Replaces: 901:3-2-04, 903:3-2-03, 3701-21-04, 3701-21-48

Effective:

R.C. 119.032 review dates: 07/27/2004

Certification

Date

Promulgated Under: 119.03
Statutory Authority: 3717.05
Rule Amplifies: 3717.05
Prior Effective Dates: 3/1/2001