

Labeling Related askFSIS Questions

2010 Nutrition Labeling Final Rule – small business exemption

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What is the small business exemption?

The small business exemption is in §§317.400 and 381.500. The small business exemption applies to any establishment (or retail facility) that has 500 or fewer employees. Any product they produce at less than 100,000 lbs per year is exempt from nutrition labeling as long as the product includes no nutrition information or claims. Ground "Product" would be designated by different formulas/different nutrient profiles. For example, 10% fat ground beef is a different product and has a different nutrient profile than 20% fat ground beef. Therefore, each would be counted separately toward 100,000 lbs of product. Different forms of the same product are counted together toward the 100,000 lbs. For example, 10% fat ground beef sold to hotels, restaurants, and similar institutions (HRI), 10% fat ground beef sold in 1 lb chubs, 10% fat ground beef sold as 4-ounce patties, and 10% fat ground beef sold in bulk, would all be counted together, since they all have the same nutrient profile.

Multiple Legends

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Can more than one of the official inspection legends (i.e., meat legend, poultry legend, or exotic animal legend) be printed on the same product container?

Yes. A container of product intended for distribution to ***other than the retail trade*** may bear one or more official inspection legends. A container of product ***intended for sale to household consumers*** may only bear one official mark of inspection.

Many official establishments operate under Federal Grants of Inspection for meat products, poultry products, and exotic animal products. Considerable economic savings can be realized by these establishments when certain containers can be utilized for multiple types of inspected/passed products.

Note: A "container" is either (a) a shipping container that holds fully labeled immediate containers or (b) a shipping container that doubles as an immediate container. ***In either situation, the shipping containers are not meant for retail sale.*** Processors can print up to three inspection legends on one container and use it for either meat, poultry, exotic animal products, or a mixture thereof. The container is required to contain inspected product. The establishment using the tri-legend cartons must have a Grant of Inspection that allows production of all three types of product.

All legends must be removed from the container if it is used for non- inspected product, for example tomato sauce or vegetables.

Validated cooking instructions on labels of mechanically tenderized beef: use of tables or grids

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To meet requirements for validated cooking instructions on the labels of mechanically tenderized raw beef products in 9 CFR 317.2(e)(3)(iii), effective May 17, 2016 , can producers use a grid or table format to display cooking times and temperatures based on product thickness? See the example below.

Yes. Below is an example of how a chart could be used on labels of mechanically tenderized product to meet these requirements.

Cook the following size steaks on a grill for the time indicated until the cooked steak reaches 145 as measured with a meat thermometer. Then allow the product to rest for 3 minutes.

Size (Thickness)	Cooking time
0.5"	1 ½ min, flip and cook for 1 ½ min
1.0"	1 ½ min, flip and cook for 2 min
1.5"	2 min, flip and cook for 2 min
2.0"	2 ½ min, flip and cook for 2 ½ min
2.5"	2 ½ min, flip and cook for 3 min
3.0"	3 min, flip and cook for 3 min
3.5"	3 min, flip and cook for 4 min

Marking required on shipping containers

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What are the markings required on a shipping container?

An official inspection legend (including establishment number) and a handling statement (if product inside is perishable) are required on all shipping containers filled with immediate containers. Refer to 9 CFR 316.13 or 381.127.

Further, if retail sale products are random weight and shipped without their net weight statements, the shipping container is also required to bear a net weight statement per 9 CFR 317.2(h) (9) (i) or 381.121(a). Further, the poultry shipping containers need to bear the following statements: "Tare weight of consumer package ___ oz." weighed to nearest 1/8 ounce or less and "Net wt. to be marked on consumer packages prior to display and sale."

Any other information is optional but must be truthful and not misleading.

Refer to 9 CFR 301.2 or 381.1 for the definitions of "immediate container" and "shipping container."

Can a "use-by" or "sell-by" date be used in lieu of the slaughter date required on "dressed" poultry?

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Can a "use-by" or "sell-by" date be used in lieu of the slaughter date required on "dressed" poultry as described in 9 CFR 381.126(b). "Dressed poultry," for the application of this section of the regulations, means slaughtered, defeathered, eviscerated whole birds with the head and feet removed, i.e., a ready-to-cook whole bird.

No, a "use-by" or "sell-by" date may not be used in lieu of the slaughter date. However, the regulations do permit the use of a code to identify the slaughter date.