

## QUESTIONS & ANSWERS ON NUTRITION LABELING

**Q1.** When will FSIS start scheduling webinars and meetings?

- A.** FSIS plans to have a webinar within a month or two that discusses the general requirements of the nutrition labeling final rule and some Q&As. Once FSIS has prepared point-of-purchase materials and labels, FSIS also plans to schedule additional webinars and meetings.

**Q2.** When FSIS provides the point-of-purchase materials, will they be different than the current posters and will they take into account the change in the values in the ARS database?

- A.** The format will be similar to the existing posters. FSIS will continue to be in touch with ARS and the posters will include the new ARS values.

**Q3.** Will the point-of-purchase materials be in high resolution quality on FSIS's website, so you can print larger posters?

- A.** Yes, we plan to make the point-of-purchase materials in high resolution quality so that they can be enlarged, similar to the ones on the FDA website.

**Q4.** Does the Agency intend to research the format of the point-of-purchase materials for better readability? The Industry is willing to work with FSIS on improving the format.

- A.** FSIS is looking into and researching consumer readability. FSIS may conduct research on these issues in the future, provided resources are available.

**Q5.** Currently some posters include nutrition information for ground product. Will this nutrition information on posters disqualify businesses from using the small business exemption?

- A.** No.

**Q6.** Who has the burden of complying with the rule, e.g. the packer or the producer?

- A.** Normally, the packer is considered the producer because the packer produces the final product. For ground or chopped product, the producer of the final packaged product is required to provide nutrition labels on the product, unless an exemption applies. The producer of the final packaged product may be a Federal establishment or retail facility. Retailers are required to provide point-of-purchase materials or nutrition labels for major cuts, unless an exemption applies.

**Q7.** Will the inspectors be checking labels at the Federal establishments?

- A.** As part of label verification activities, inspectors at establishments that produce ground or chopped products will periodically review labels to verify that establishments meet labeling February 9, 2011 requirements, including the requirement that the product bears a nutrition label, unless an exemption applies.

**Q8.** If an establishment produces a mixed package of white meat and dark meat and both are major cuts, does the package need to carry 2 nutrition labels (one for white meat and one for dark meat)?

- A.** The nutrition information for each of the major cuts could be provided at point-of purchase. Alternatively, the establishment could composite the nutrition facts panels or include two separate nutrition facts panels on the label for each product in the package.

**Q9.** Is the leeway on values still 20%?

- A.** Yes. The regulations in 9 CFR 317.309(h) and 381.409(h) specify that certain nutrient values are not out of compliance, unless they are more than 20% above the labeled value. That rule applies to the labeled values for calories, sugars, total fat, saturated fat, cholesterol, or sodium. These regulations also specify that certain nutrient values are not out of compliance, unless they are 20% below the labeled value. That rule applies to the labeled values for vitamins, minerals, protein, total carbohydrates, dietary fiber, other carbohydrates, polyunsaturated or monounsaturated fat or potassium.

**Q10.** Will FSIS be doing educational sessions around the country like AMS did for country of origin labeling?

- A.** This final rule is consistent with voluntary labeling regulations that have been in place since 1993. Therefore, FSIS thinks webinars and other meetings should be sufficient.

**Q11.** If a producer is not sure of the lean and fat percentage of a ground or chopped product, could the producer label it with a worse lean and fat percentage? For example, could a producer label a product that is actually 80% lean and 20% fat, with a 70%lean/30% fat label?

- A.** FSIS would not take action against producers estimating that their products are higher in fat than they actually are.

**Q12.** Will State officers be doing any sampling for nutrient analysis?

- A.** States that have their own meat and poultry inspection program are required to have programs at least equal to the Federal inspection program. Therefore, when FSIS begins conducting sampling for nutrient analysis of ground or chopped product, states with their own inspection program will have to conduct “at least equal” sampling and analysis.

**Q13.** How will sampling work at retail? Will it be as complicated as with pathogens (micro-sampling)? How will establishments or retailers be notified?

**A.** The details of the sampling program have not yet been worked out. However, product would not be considered adulterated if nutrition labeling information is inaccurate. Therefore, when February 9, 2011 FSIS begins sampling ground or chopped product at retail for nutrient content, FSIS does not anticipate providing establishments advance notice.

**Q14.** Will the webinars include opportunities to ask questions? Will they be archived on the FSIS Website?

**A.** We plan on having question and answer sessions in the webinars. Webinars are typically posted on FSIS's website for 30 days.

**Q15.** Will there be a label review process for retailers with unique needs?

**A.** FSIS does not anticipate the need for this. LPDD does not pre-approve labels applied at retail unless they are shipped with the product from a Federal establishment. Retailers can submit questions concerning labeling through askFSIS.

**Q16.** Will FSIS personnel be available to participate at industry conferences that are coming up in the next 90 days?

**A.** Yes.

**Q17.** How will retailers know the lean/fat content of ground products, and how will they determine the other nutrients in the nutrition facts panel?

**A.** Retailers need to know that ground or chopped beef labeled as ground beef or hamburger does not contain more than 30% fat. Typically, they can get information concerning the lean and fat percentage from their suppliers or they can analyze the levels of fat at retail with an anal-ray or other device for measuring the fat content of ground beef.

If the product does not contain AMR or low temperature rendered product, once the fat content is known, retailers can obtain information for the nutrition facts panel from the ground beef calculator available from the Agricultural Research Service at the Nutrient Database for Standard Reference, Release 23. This is available at:

[www.ars.usda.gov/nutrientdata](http://www.ars.usda.gov/nutrientdata).

**Q18.** Which cuts come under this rule?

**A.** The final rule requires that nutrition information for the major cuts of single-ingredient, raw meat and poultry products be provided on the label or at point-of-purchase, unless an exemption applies. All ground or chopped products are also covered by the final rule (e.g., ground beef, ground pork, ground turkey). Nutrition

information for all ground or chopped products must be provided on the label of the products, unless an exemption applies.

The major cuts of single-ingredient, raw meat products covered by the rule are: Beef chuck blade roast, beef loin top loin steak, beef rib roast large end, beef round eye round steak, beef round top round steak, beef round trip roast, beef chuck arm pot roast, beef loin sirloin steak, beef round bottom round steak, beef brisket (whole, flat half, or point half), beef rib steak small February 9, 2011 end, beef loin tenderloin steak, pork loin chop, pork loin country style ribs, pork loin top loin chop boneless, pork loin rib chop, pork spareribs, pork loin tenderloin, pork loin sirloin roast, pork shoulder blade steak, pork loin top roast boneless, lamb shank, lamb shoulder arm chop, lamb shoulder blade chop, lamb rib roast, lamb loin chop, lamb leg (whole, sirloin half, or shank half), veal shoulder arm steak, veal shoulder blade steak, veal rib roast, veal loin chop, and veal cutlets.

The major cuts of single-ingredient, raw poultry products covered by the rule are: Whole chicken (without neck and giblets), chicken breast, chicken wing, chicken drumstick, chicken thigh, whole turkey (without necks and giblets; separate nutrient panels for white and dark meat permitted as an option), turkey breast, turkey wing, turkey drumstick, and turkey thigh.

**Q19.** In light of the new nutritional labeling regulations for ground product, is something like “85/15” still allowed on labels for retail sale with no qualifiers?

- A.** No, under the 1993 nutrition labeling regulations that established the mandatory and voluntary nutrition labeling programs, in order for the term “\_\_percent lean” to be used on the label or in labeling of the product, the product must have met the criteria for “low fat” (9 CFR 317.362(b)(6) and 381.462(b)(6)). Most ground beef and hamburger do not qualify as “low fat.” Therefore, the regulations precluded the use of the term “\_\_percent lean” on these products.

On May 24, 1994 (59 FR 26916) FSIS proposed to amend its regulations to permit a statement of the lean percentage on the labeling of ground beef and hamburger if it were contiguous to a statement of the fat percentage. On August 5, 1994, FSIS published a notice of extension of the date that it would enforce compliance with the nutrition labeling requirements for ground beef and hamburger (59 FR 39941). The Agency extended the compliance enforcement date for these products indefinitely, pending publication of a final rule on percentage labeling for lean and fat on ground beef and hamburger. Since then, the Labeling and Program Delivery Division has approved many different labels, including use of a ratio like “85/15” without any qualifiers or words like “lean” or “fat” on the label, because FSIS did not have a regulation in effect on the nutrition labeling of ground beef.

FSIS has now published the nutrition labeling final rule, which permits a statement of lean percentage on the label or in labeling of ground or chopped meat and poultry products that do not meet the regulatory criteria for “low fat,” provided that a

statement of fat percentage is also displayed on the label or in labeling. The required statement of fat percentage must be contiguous to, in lettering of the same color, size, and type as, and on the same color background as, the statement of lean percentage.

A ratio like “85/15” without the words “percent lean” and “percent fat” or “%lean” and “% fat” is not a statement of the lean and fat percentage. Without a complete statement of the percent fat and percent lean, consumers may not understand the meaning of the ratio. After the effective date of the nutrition labeling final rule, “85/15” and other ratios that are not complete statements should no longer be used on chopped or ground products for retail sale to consumers. Once the nutrition labeling final rule becomes effective on January 1, 2012, the Labeling and Program Delivery Division will no longer approve labels with only a ratio like “85/15” for retail products without the words “percent lean” and “percent fat” or “%lean” and “% fat” also on the label. A statement of percent lean and percent fat (e.g., “85% lean/15% fat”) will be permitted on the label for ground products that do not meet the regulatory criteria for “low fat.”

**Q20.** If a Federal establishment is producing ground beef for distribution to another Federal establishment for further processing or to hotels, restaurants, and similar institutions (HRI) where it will be consumed on the premises, and the ground beef will not be distributed for sale to consumers at retail, can the establishment continue to label non-retail ground beef product with ratios or codes such as, “90/10,” “70/30” and “80/up” which are commonly used as ratios or codes by industry and food service establishments?

**A.** Yes, ground meat and poultry products that are not for sale to consumers may continue to be labeled with ratios or codes such as, “80/20” and “70/up,” provided: (1) the labels bear no nutrient content claims and (2) a statement of limited use is displayed on the label (e.g., “for further processing,” “not for retail sale”). FSIS believes that ratios or codes of this type are commonly used and understood by industry and food service establishments for ground meat and poultry products. Ratios or codes are not full statements, so their use doesn’t violate the nutrition labeling final rule if they are only used by businesses for further processing. However, FSIS does not believe that consumers may always understand the meaning of ratios of this type without a complete statement of the percent fat and percent lean. Therefore, once the final rule titled, “Nutrition Labeling of Single-Ingredient Products and Ground or Chopped Meat and Poultry Products” becomes effective on January 1, 2012, the Labeling and Program Delivery Division (LPDD) will not approve labels for ground meat and poultry products for retail sale with a ratio or code (e.g., “85/15”); such codes will no longer be acceptable on product for sale to consumers. Labels for retail sale to consumers with this type of information without the words “percent lean” and “percent fat” or “%lean” and “% fat” should not be used and will not be approved after December 31, 2011. Labeling for retail sale to consumers may instead include a statement of the percent fat and percent lean as provided for in the regulation (e.g., “85%lean/15%fat”).

**Q21:** Will a small retail business, like a butcher shop, be exempt from the rule?

**A.** Probably, it is likely that a small retail business, like a butcher shop, will qualify for the small business exemption for ground or chopped products under §§317.400(a)(1) and 381.500(a)(1). There is no small business exemption for the “major cuts” of single-ingredient, raw meat and poultry products. Therefore, a small retail business will be required to provide nutrition information for the major cuts of single-ingredient, raw meat and poultry products on labels or on point-of-purchase materials (e.g., signs, posters, or pamphlets). Nutrition information for the major cuts of single-ingredient, raw meat and poultry products are currently available at or [www.fmi.org/consumer/nutrifacts/](http://www.fmi.org/consumer/nutrifacts/) or [www.ars.usda.gov/nutrientdata](http://www.ars.usda.gov/nutrientdata).

FSIS is also going to make point-of-purchase materials for the major cuts of single-ingredient, raw meat and poultry products available on the FSIS website.

**Q22:** Will farmers that slaughter beef at small plants be exempt from this rule for products sold at farmers’ markets?

**A.** No, for major cuts, probably for ground beef products. If they sell major cuts of single-ingredient, raw meat and poultry products at farmers’ markets, they will be required to provide nutrition information for these products on labels or on point-of-purchase materials (e.g., signs, posters, or pamphlets). There is no small business exemption for the major cuts of single-ingredient, raw meat and poultry products. It is likely that a farmer that slaughters beef at a small plant will qualify for the small business exemption under §317.400(a)(1) from the nutrition labeling requirements for ground or chopped products. However, the small business exemption applies to the facility that slaughters, fabricates, packages and labels the product.

**Q23:** Is a branded beef program (e.g., Angus Beef) that sells whole carcasses directly to approximately 20 independent retailers exempt from the nutrition labeling final rule? Is a supplier that only sells whole carcasses, not case-ready cuts, required to provide its retail customers with nutrition information?

**A.** Yes, if the producer does not package products, this rule does not affect it. Additionally, the supplier who sells whole carcasses is not required to provide nutrition information to retail customers based on this regulation.

**Q24:** Does a plant under USDA inspection that sells directly to consumers have to test each product so that it can be labeled with nutrition information?

**A.** No, there is no requirement that an establishment has to test each product. The plant can obtain nutrition information and materials for the major cuts of single-ingredient, raw meat and poultry products that can be used at point-of-purchase from The Food Marketing Institute at [www.fmi.org/consumer/nutrifacts/](http://www.fmi.org/consumer/nutrifacts/). FSIS will also be making point-of-purchase (POP) materials available on its website. The National Cattlemen’s Beef Association also has a website available at [www.beefretail.org/nutritionlabeler/](http://www.beefretail.org/nutritionlabeler/) that can be used to develop labels as well as POP materials for retail.

If a retailer knows the fat content of the ground or chopped product, they can obtain information for the nutrition facts panel from the ground beef calculator available from the Agricultural Research Service at the Nutrient Database for Standard Reference, Release 23. This is available at [www.ars.usda.gov/nutrientdata](http://www.ars.usda.gov/nutrientdata). For more information regarding testing the fat content of ground product, please see the answer to question 28.

Also, if the plant qualifies for the small business exemption (§317.400(a)(1) or §381.500(a)(1)), then it would be exempted from the nutrition labeling requirements for ground and chopped products.

**Q25:** Will meat that is sliced and weighed at the deli have to bear nutrition labels under the nutrition labeling final rule?

**A.** No, the most recent nutrition labeling rule applies to “major cuts” and ground or chopped products, which are not typically deli products. Under current nutrition labeling regulations, product produced or packaged at retail (and not ground or chopped) is exempt from the nutrition labeling requirements (§317.400(a)(7) and §381.500(a)(7)).

**Q26:** Will a full service meat counter, where none of the meat is packaged until a customer selects the product and then it is weighed and wrapped for the customer, have to comply with the nutrition labeling final rule?

**A.** Yes, if the full service meat counter sells the major cuts of single-ingredient, raw meat and poultry products listed in the nutrition labeling final rule, it will need to provide point-of-purchase materials for the “major cuts” it sells. Ground product, unless it is ground at a customer’s request, will require on package nutrition facts panels, unless the business qualifies for the small business exemption or other exemptions.

**Q27:** What is the small business exemption?

**A:** 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.

**Q28:** When meat is ground at small and very small establishments and retail exempt facilities, how is the fat content supposed to be measured?

**A.** It is the establishment's or retailer's responsibility to truthfully label the products. The regulations under 9 CFR 317.8(a) and 319.15(a) require a product labeled as “ground beef” to contain no more than 30 percent fat. Therefore, it is up to the establishment to support that the product is not misbranded.

**Q29:** Will random documentation be required to “verify” the processors’ claims of 80% lean/20% fat or 90% lean/10% fat, etc.?

**A.** No, there is no regulatory requirement that defines how the establishment needs to support the label, and there is no requirement that it test each lot. If they have a consistent process, using the same source materials, then the establishment could develop and implement a written program to periodically verify compliance with the label standard by ensuring that suppliers consistently provide the source materials necessary to produce the labeled product. Although, the nutrition labeling regulations do not specify how an establishment determines the nutrient content of products, §317.309(h) specifies how FSIS will sample/analyze product for compliance.

**Q30:** Does the nutrition labeling final rule require nutrition labeling of seafood? Is the nutrition labeling program an FDA or an FSIS program?

**A.** No, the nutrition labeling final rule does not require nutrition labeling of seafood. Seafood is regulated by the FDA. The nutrition labeling final rule is an FSIS final rule.

**Q31:** Are nutrition facts on posters at point-of-purchase required to be in 8pt font or larger, and the details on the bottom of the poster be in 6pt font or larger? Is there a requirement that the heading cannot be larger in font than the rest of the font on the poster?

**A.** No, those are the specifications for a nutrition facts panel or point-of-purchase materials (POP) when a nutrient content claim is made. For POP without claims, there are no format requirements (see §317.345(a)(3)).

**Q32:** Should the nutrition information used on point-of-purchase materials be based on Release 23 of the USDA National Nutrient Database for Standard Reference?

**A.** Yes, that is the most current information from the Agricultural Research Service.

**Q33:** When utilizing the USDA National Nutrient Database for Standard Reference to search for nutrient values for single-ingredient products to include on nutritional labels, options are given for “Separable Lean Only” or “Separable Lean and Fat” for the products in the database. What is the correct descriptor and subsequent value to choose for the product for accurate and acceptable nutrient information? For example, should “Pork, fresh, loin, top loin (chops), boneless, separable lean and fat, raw” or “Pork, fresh, loin, top loin (chops), boneless, separable lean only, raw” be chosen?

**A.** The correct descriptor is NOT separable lean only. §317.345(d) specifies that the nutrient data should be based on meat cuts with external cover of fat at trim levels reflecting current marketing practices. 1/8 inch trim best reflects current market practices at this time and information available in the nutrient database.

**Q34:** What are the minimum nutritional elements that have to be shown on the label?

**A.** The basic mandatory information - serving size, servings per container, calories, calories from fat, total fat, saturated fat, cholesterol, sodium, total carbohydrate, dietary fiber, sugars, protein, vitamin A, vitamin C, calcium, iron. The servings per container statement does not need to be provided for the “major cuts,” but is required for ground and chopped products (servings per container may be stated as “varied” for random weight products like ground products). There are voluntary nutrients as well (§§317.309(c) and 381.409(c)).

**Q35:** Is there a required format for the nutrition facts panel? For example, can nutrition information be presented in script?

**A.** Yes, the nutrition facts panel format is regulated. See 9 CFR 317.309(c)-(f) and 381.409(c)-(f). Meat and poultry products would probably qualify to use the simplified format. Additionally, if the total square inches of labeling space (for the entire package) is less than 40 sq. in., then the tabular format may be used.

Nutrition information cannot be presented in script because the regulations stipulate that letters in the nutrition facts panel should never touch (§§317.309(d)(1)(ii)(D) and 381.409(d)(1)(ii)(D)).

**Q36:** Can a simplified nutrition facts panel be used for “major cuts” or ground or chopped products?

**A.** Yes, a simplified nutrition panel is acceptable since single-ingredient meat and poultry products do not generally contain carbohydrates.

**Q37:** Does nutrition information have to be presented on top of the package, or, can it be presented as a separate label on the bottom of each package?

**A.** No, the nutrition facts panel may be on the principle display panel (the front), or on the information panel (the first usable panel to the right of the principle display panel), which oftentimes is the back panel or the bottom of the package – see 9 CFR 317.2(m). The panel may either be part of the overall printed label or applied as a separate sticker.

The following labeling guide book may be helpful: [A Guide to Federal Food Labeling Requirements for Meat and Poultry Products](#)

**Q38:** Are establishments that only produce meat intended for hotels, restaurants, and similar institutions (HRI) (e.g., in 5 or 10lb bags) exempt from the nutrition labeling requirements for ground and chopped products?

**A.** Yes, if the ground and chopped products are only produced for HRI, then the products qualify for an exemption from the nutrition labeling final rule and nutrition information is not required on the products, as long as the labeling bears no nutrition information or nutrition claims (§§317.400(a)(3) and 381.500(a)(3)).

**Q39:** Will packages of meatloaf meat (e.g. raw ground beef and raw ground pork combined) be required to be labeled under the rule?

**A.** If the product includes ground pork and ground beef, it would be a multi-ingredient product. Therefore, under current regulations, it would have to bear nutrition labeling unless it is subject to an exemption.

**Q40:** Regarding the meatloaf meat, if the ground pork and ground beef are in separate portions on the same tray, could the package have two nutrition labels, one for the ground beef and one for the ground pork?

**A:** Yes, if the ground beef and ground pork were separate, there could be two nutrition facts panels.

**Q41:** Is sausage processed at a retail store exempt under 9 CFR 317.400(a)(7)(ii) from nutrition labeling?

**A.** Yes, as long as there are no nutrition information or nutrient content claims on the labeling.

**Q42:** Does the total carbohydrate value have to be listed on point-of-purchase materials?

**A.** Yes, total carbohydrate is a core nutrient and must be listed on labels or point-of-purchase materials. For meat or poultry, total carbohydrates will generally be declared as “0”.

**Q43:** Are “major cuts” that are marinated required to have nutrition labeling?

**A.** No, nutrition labeling is not required for the major cuts of meat or poultry products marinated at the store (§§317.400(a)(7)(ii) and 381.500(a)(7)(ii)). If the meat and poultry products come to the store already marinated, packaged and labeled for the consumer, they require nutrition information, unless the supplier qualifies for the small business exemption on that product.

**Q44:** Is a cube steak considered a chopped product or is it a muscle cut since the meat isn't chopped into separate pieces?

**A.** A cubed steak is not considered a chopped product. It is a muscle cut.

**Q45:** Can the required nutrition facts panel be added with a sticker label or insert label as a permanent solution to being compliant?

**A.** Yes, a nutrition facts panel can be added as a sticker or insert.

**Q46:** Can a food grade coated nutritional panel label be inserted with the chicken before being shrink wrapped and a sticker label that carries weight, price, product name etc. applied to the product once it is wrapped?

**A.** Yes, as long as all the information remains visible at the time of purchase.

**Q47:** Should the definition of the “major cuts” in §§317.344 and 381.444 be interpreted to include boneless fillets, tenderloins, thigh meat etc. or does it strictly include bone-in product only?

**A.** Yes, since nutrition information is based on the edible portion of the product, it doesn't matter if the product is boneless or bone-in, the same product would have to have the same nutrition information on the raw 4-ounces edible portion or cooked 3-ounce edible portion.

**Q48:** To what extent do nutritional claims on point-of-purchase (POP) materials have to be supported with on-pack nutritional labeling? For example, if a retailer states “make lean beef part of your diet” does all the beef in the case have to be labeled as “lean” or do the POP materials or on-pack labels have to identify specifically which items are “lean?”

**A.** If you make a statement about "Lean Beef" on your POP materials, the POP materials would need to indicate which cuts of beef meet the lean definition. However, if a nutrition claim is made on POP materials, **all** of the format and content requirements of §317.309 apply. If only nutrition information-and not a nutrition claim-is supplied on POP materials, the requirements of §317.309 apply, but (i) the listing of percent Daily Value for nutrients (except vitamins and minerals in §317.309(c)(8)) and footnote required by §317.309(d)(9) may be omitted, and (ii) the POP materials are not subject to any of the format requirements.

**Q49:** Can nutrition facts for single-ingredient products be presented as raw or cooked on labels or point-of-purchase materials? If cooked, what is the correct description to use from the USDA National Nutrient Database for Standard Reference (i.e. broiled, braised, or roasted)?

**A.** Point-of-purchase (POP) materials for non-ground single-ingredient, raw products can be based on nutrition information for raw or cooked products. If retailers provide nutrition information for the product as cooked, a cooking method that does not add any nutrients to the product must be used and the method must be indicated on the POP materials. However, if a nutrition claim is made on the POP materials, **all** of the format and content requirements of §317.309 apply. If only nutrition information-and not a nutrition claim-is supplied on POP materials, the requirements of §317.309 apply, but (i) the listing of percent Daily Value for nutrients (except vitamins and minerals in §317.309(c)(8)) and footnote required by §317.309(d)(9) may be omitted, and (ii) the POP materials are not subject to any of the format requirements.

**Q50:** Does a %lean/%fat statement need to be on ground products that don't qualify as "lean" according to USDA, or is it just an option?

**A.** No, the use of a %lean/%fat statement is voluntary. No claims are required. However, for ground products, a %lean/%fat statement can be listed even though the products do not meet the definition of "low fat" (3 grams of fat per reference amount).

**Q51:** Does §317.400(a)(7)(ii) exempt store-made gourmet burger patties (e.g., raw ground beef combined with cheese and onions) from nutrition labeling?

**A.** Yes, burgers made in the retail store with diced cheese and chopped onions do not meet the regulatory standards for "Chopped Beef," "Ground Beef," "Hamburger," or "Beef Patties" under §319.15 because the burgers are ground beef with added foods, not added seasonings, and as such, they are descriptively labeled products. Therefore, as long as the labeling does not include any nutrition information or claims, burgers made in the retail store with other food added (e.g., diced cheese and chopped onions) are exempt from nutrition labeling because they are multi-ingredient products processed at a retail store, not multi-ingredient ground or chopped meat products (§317.400(a)(7)(ii)).

**Q52:** Is "pumped pork" considered a multi-ingredient product and thus exempt from nutrition labeling under the final rule?

**A.** Yes, pumped pork is a multi-ingredient product and not covered by this final rule. However, it is covered by the 1993 nutrition labeling regulations.

**Q53:** When the nutrition labeling final rule becomes effective, will the nutrition label that will be applied to the product be generically approved or will the establishment have to re-apply for a new sketch approval?

**A.** The establishment will have to apply for a label approval to add the nutrition facts to its single-ingredient or other ground products. However, similar to what has been done in the past, once the establishment obtains one label approval with a 4-ounce serving size, it can generically approve others from that one approval.

**Q54:** Is a "servings per container" statement required on single-ingredient, raw products that are not ground or chopped?

**A.** No, a "servings per container" statement is not required on the major cuts of single-ingredient, raw meat and poultry products. A "servings per container" statement is required on the labels of ground or chopped products. Because ground or chopped products are often random weight products, the servings per container may be listed as "varied."

**Q55:** Based on the final 2010 nutrition labeling rule, ground product labeled for consumers cannot be labeled with ratios or codes for fat and lean, such as "90/10" or "80/10." Are there other situations where ratios or codes such as "90/10" or "80/20" would be permitted on meat and poultry products?

**A.** Yes, if the product is NOT for consumers and will be used for ground product, you could use a ratio (e.g., “72/28”) as an indication of the lean to fat ratio on the labeling provided: (1) the labels bear no nutrient content claims and (2) a statement of limited use is displayed on the label (e.g., “for further processing,” “not for retail sale”). Ratios or codes will also be permitted on the shipping containers that hold fully labeled ground product with a %Lean/% Fat statement. The shipping container can show a ratio on the shipping container, e.g., “80/20” instead of the statement of lean and fat percentage “80%Lean/20%Fat”.

**Q56:** Are marinated or injected (“enhanced”) products covered by this new regulation?

**A.** No. This rule establishes new nutrition labeling requirements for major cuts of raw, single-ingredient products and ground products with or without added seasonings. Labels of multi-ingredient injected products are required to include nutrition information based on the original nutrition labeling regulations published in 1993 (58 FR 632), unless they qualify for an exemption.

**Q57.** Can a retailer add nutrition labels to a single-ingredient product that is otherwise fully labeled at the Federal plant and includes the legend?

**A.** No, a retailer cannot add nutrition labels to product that is fully labeled at the Federal plant. However, retailers can provide POP materials for those products.

The net weight is the only mandatory labeling feature that retailers may apply to packages of meat labeled at a Federal establishment. The regulations (9 CFR 317.2(h) and 381.121) permit a retailer to apply the net weight directly to random weight consumer size packages). If a ground beef chub is fully labeled at the Federal establishment, then only the Federal establishment can apply the nutrition facts panel to the package of ground beef chub.

In comparison, the retail store can apply nutrition labels to packages if, for example, the store purchases the ground beef in bulk and repackages it into consumer size packages or purchases the product in chubs, removes the product from its original packaging, and repackages it at retail. The retailer in these scenarios would be packaging and labeling the product as opposed to the Federal establishment.

**Q58.** Can the retailer add nutrition labels to ground product that is otherwise fully labeled at the Federal plant and includes the legend?

**A.** No, on case ready product, the retailer cannot add nutrition labels, if it was fully labeled at the Federal plant. Even if the Federal plant is exempt from the nutrition labeling requirements, nutrition labels cannot be added by the retailer.

**Q59.** Do retailers need to submit labels to FSIS for label approval?

**A.** No, retailers do not need to obtain label approval from FSIS for adding the nutrition facts panel to products packaged at retail. Only federally inspected meat or poultry plants obtain label approval through our office. Adding the nutrition facts panel is no different from all of

the other labeling features that a retailer places on labeling of products packaged at retail, e.g., product name, handling statement, net weight, address, safe handling instructions, and the ingredients statement.

**Q60.** Are immediate containers of imported meat and poultry products required to bear nutritional labeling features as mandated by 9 CFR Parts 317 and 381?

**A.** Yes. Nutritional labeling requirements apply to meat and poultry products imported into the United States in the same respect that they apply to domestically produced products. Exemptions from nutritional labeling requirements are outlined in 9 CFR 317.400 and 9 CFR 381.500.

**Q61.** Do retailers and Federal plants need to test each lot of product for nutrient content?

**A.** No, there is no requirement that an establishment or retailer has to test each product. If necessary, the plant can obtain nutrition information and materials for the major cuts of single-ingredient, raw meat and poultry products that can be used at point-of-purchase from the FSIS website at:

[www.fsis.usda.gov/Regulations\\_&Policies/Nutrition\\_Labeling/index.asp](http://www.fsis.usda.gov/Regulations_&Policies/Nutrition_Labeling/index.asp) or from The Food Marketing Institute at: [www.fmi.org/consumer/nutrifacts/](http://www.fmi.org/consumer/nutrifacts/). The National Cattlemen's Beef Association also has a website available at: [www.beefretail.org/nutritionlabeler/](http://www.beefretail.org/nutritionlabeler/) that can be used to develop labels.

The nutrient content of the ground or chopped beef products can be obtained from the ground beef calculator available from the Agricultural Research Service at the Nutrient Database for Standard Reference, Release 23. This is available at: [www.ars.usda.gov/nutrientdata](http://www.ars.usda.gov/nutrientdata). For more information regarding testing the fat content of ground product, see askFSIS Q&A titled [2010 Nutrition Labeling Final Rule - verifying nutrition information](#) and 75 FR 82160-82161.

**Q62.** Will specific documentation be required to support the processors' claims of 80% lean/20% fat or 90% lean/10% fat, etc. on imported products that are ground domestically?

**A.** No, there is no regulatory requirement that defines how the establishment needs to support the label, and there is no requirement that it test each lot. If the establishment has a consistent process, using the same source materials, then the establishment could develop and implement a written program to periodically verify compliance with the label's nutrition labeling information, including claims, by ensuring that suppliers consistently provide the source materials necessary to produce the labeled product. Although the nutrition labeling regulations do not specify how an establishment determines the nutrient content of products, §317.309(h) and 381.409(h) specify how FSIS will sample/analyze product for compliance and require that the management of the establishment maintain records to support the validity of nutrient declarations contained on product labels. All ground products may be subject to random sampling by FSIS.

**Q63.** Do religious exempt products fall under this regulation?

**A.** No, it would not. Religious exempt product is not an inspected product. If a company or retailer wanted to label religious exempt product with the nutrition facts, it would be on a strictly voluntary basis. The minimal labeling requirements for religious exempt product for retail sale are the plant number, the signature line, and a statement under which religious exemption the bird falls under. No other labeling is required for religious exempt product, unless the bird is un-eviscerated, and then the labeling would have to state the religious authority under which the bird was slaughtered. (9 CFR 381.10-381.14, specifically 381.10(a)(5) & (6))

**Q64.** Do raw kosher, soaked and salted products fall under mandatory nutrition labeling?

**A.** Yes, if they are major cuts, raw kosher meat and poultry products would be subject to mandatory nutrition labeling. These products are considered to fall within the definition of single-ingredient, raw products, and, thus, are subject to mandatory nutrition labeling (58 FR 639).

**Q65.** When the nutrition panel with the mandated nutrients is on the package, is the %lean/%fat statement necessary on the package?

**A.** No, claims such as %lean/%fat are always voluntary; claims do not need to be included on the label.

**Q66.** If changes are made to the POP materials from the FSIS website, do I have to update my POP materials before displaying?

**A.** No. If substantial changes are made to the USDA/ARS data for the major cuts of meat and poultry products, FSIS will update the POP materials on the FSIS website in a timely manner. If a new version of the POP materials is posted on the FSIS website, retailers should update their POP materials as quickly as feasible. However, when substantial changes are made to the USDA/ARS data for the major cuts, as long as the retailer updates their POP materials within 2 years of the date of the new version of the FSIS POP materials, FSIS will consider the retailer to be in compliance. Additionally, other POP materials are acceptable if they are based on the USDA/ARS Nutrient Database for Standard Reference.

**Q67.** If a retailer wants to make nutrient content claims on the major cuts of single-ingredient, raw products, is posting the FSIS or other POP materials sufficient?

**A.** No, if a retailer makes nutrient content claims on these products, the nutrition facts must be displayed in an acceptable regulated nutrition facts format (all of the format and content requirements of §317.309 apply). If nutrient content claims are not made, the requirements of §317.309 apply, but (i) the listing of percent Daily Value for nutrients (except vitamins and minerals in §317.309(c)(8)) and footnote required by §317.309(d)(9) may be omitted, and (ii) the POP materials are not subject to any of the format requirements.

**Q68.** If a retailer adds seasonings to ground beef (e.g., salt and pepper), would the product be exempt from the nutrition labeling regulations that require nutrition labels on all ground product?

**A.** No, nutrition labeling is still required on the product. The nutrition labeling regulations apply to both seasoned and unseasoned ground product. The ground beef product must still meet the regulatory standard for “Ground Beef” in 9 CFR 319.15(a). Therefore, only the seasonings permitted in ground beef are acceptable (for example, dry spices and natural flavorings).

**Q69.** Are the other ground products permitted to be seasoned?

**A.** Yes, FSIS has permitted all ground products (e.g., ground beef, pork, chicken, turkey, etc.) to include the same type of seasonings that are permitted by the ground beef standard in 9 CFR 319.15(a).

**Q70.** When does a seasoned single-ingredient grind cease to be a single-ingredient grind (i.e., not covered by this regulation)? For example, if seasonings are added to ground pork that turn it into Italian sausage, is that product now exempt from the nutrition labeling requirements or does it still require a nutritional panel on the package?

**A.** It depends upon the added ingredients and the product. Because the ground beef standard permits seasonings (9 CFR 319.15(a)), the nutrition labeling rule was written to encompass seasoned ground beef products as well as single-ingredient ground beef. Under the rule, ground beef with added seasonings is subject to nutrition labeling requirements, unless an exemption applies.

The rule does not establish new requirements for products that are ground but that fall under another standard of identity (such as sausage) or products such as beef patty mix that have always been considered multi-ingredient products. Those products are required to bear nutrition labeling based on the 1993 final nutrition labeling rule (58 FR 632).

**Q71.** If a retailer has ground beef that’s 80% lean/20%fat, and they add salt and pepper to it, can they still advertise that the beef is 80% lean/20% fat?

**A.** Yes, provided that the data in the nutrition facts panel supports this statement.

**Q72.** If a retailer has ground beef that’s 80% lean/20% fat, and they add cheese or bacon to the product, can they still say that the ground beef is 80% lean/20% fat?

**A.** No, this is a multi-ingredient product and does not meet the standard of identity for “ground beef.” A percent lean/fat statement would not be permitted on the product unless it meets the regulatory definition of “low in fat.” (9 CFR 317.362(b)(6))

**Q73.** If the label includes nutrition information based on the cooked product, are actual “cooking instructions” required on the label, or can the label just state “as packaged,” or “braised,” or “baked”?

**A.** The nutrition data in the nutrition facts panel for ground product must be on “as packaged” (raw) but a second column can be voluntarily added to the nutrition facts panel for the product “as consumed” (cooked).

The nutrition data in the nutrition facts panel or POP materials for the major cuts of raw, single-ingredient meat and poultry products can be provided either “as packaged” or “as consumed.”

Whenever the “as consumed” data is provided for raw product, the cooking method must be included with the serving size, e.g., 3 oz braised (84g) (317.312(b) and 381.412(b)). Also, and cooking instructions for that method need to be included (317.345(d) and 381.445(d)) on the packaging to instruct the consumer how to obtain a fully cooked product( i.e., to ensure the raw product gets to an appropriate internal temperature). Simply stating braised in the serving size without braising instructions on the label is not sufficient.

If the serving size is for product “as packaged” (raw) only, then cooking instructions are not required by the nutrition labeling rule, but cooking instructions are recommended for general labeling purposes unrelated to the nutrition labeling rule.

POP materials do not require specific cooking instructions when nutrition information is listed for cooked products; they only require the method of cooking.

**Q74.** For the major cuts of raw, single-ingredient meat or poultry products, what does FSIS consider “claims” on labels or POP that would require nutrition information on the package instead of nutrition information at the point-of-purchase?

**A.** Any claim identified in 9 CFR 317.300-317.400 or 381.400-381.500, including implied claims, would require nutrition information on the product. Such claims include, “lean,” “low fat,” “lower sodium,” “high in protein,” and “good source of iron” (i.e., any mention of a nutrient or calories).

**Q75.** The beef data on the FSIS POP materials is based on 3 oz, cooked, 1/8th inch trim, “all grades” product. If a retailer has only “Choice”, 1/4 inch trim product in their service case, will the FSIS POP materials be acceptable for compliance with the 2010 Nutritional Labeling Regulation?

**A.** Yes, the beef data for 3 ounces cooked, 1/8 inch trim "all grades" is acceptable for posting for any beef product, provided there are no nutrient content claims as stated in 317.345(e) and 381.445(e). The regulations permit this general information for POP materials because it is not on a specific package of product. When nutrient content claims are included or the nutrition facts panel is on the package the information must represent the product in the package when such data are contained in the representative data base.

**Q76.** For single-ingredient ground products that are packaged and sold at that retail store, can the nutritional panel be displayed in either vertical (portrait) or horizontal (landscape) formats? Are there any restrictions that would modify these requirements?

**A.** The same criteria apply at the store as at a Federal plant. The tabular format (landscape) may be used on packages with less than 40 total square inches of labeling space (9 CFR 317.309(g) and 381.409(g)). The vertical formats, either full format or simplified format (portrait), may be used on any label (317.309(d) and (f) and 381.409(d) and (f)). Keep in mind that the criterion to use the simplified format is in 9 CFR 317.309(f) and 381.409(f).

**Q77.** Can the nutrition facts panel or a nutrition claim be a separate hand applied label as opposed to being part of the primary label?

**A.** Yes, the nutrition facts panel or a claim can be a separate sticker.

**Q78.** Does the nutritional panel need to be on top of the package (or can it be on the underside, like Safe Handling Instructions)?

**A.** The nutrition facts panel can be on the underside of the package, on the information panel, just like the Safe Handling Instructions.

**Q79.** Can ground product simply include a %Fat statement and not a %Lean/%Fat statement?

**A.** Yes, that is acceptable based on 317.313(i) and 381.413(i), as a factual statement of percentage of a nutrient.