

# Food Code Fact Sheet #25

What you should know about the Code

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## OAR 333-150-0000, CHAPTER 1-201.10

“Combination Food Service Establishment” means any food establishment located within a single structure or at a single site, and which is engaged in activities subject to licensing or inspecting requirements of both the Oregon Health Authority and the Oregon Department of Agriculture, and the regulated activities are common to the same operator.

## PUBLIC HEALTH REASONS:

Specialized processes extend outside the Food Sanitation Rules and require different training and certification to evaluate. Because ODA licenses and inspects processors, the staff have already received the necessary training and certification to inspect these types of specialized processes. It is more efficient to use the resources already in place than to have county staff obtain training in order to inspect the few establishments they may have within their jurisdiction.

## Special Processes in Food Service Establishments

A food service establishment may be regulated by both the Local Public Health Authority (LPHA) and the Oregon Department of Agriculture (ODA) if it is conducting a specialized process.

Many of these processes require a restaurant to maintain their current license with the county, but now they will be required to obtain a separate license from ODA as well for the specialized process.

In these establishments, ODA will only license and inspect the special process, and the LPHA will license and inspect the rest of the operation.

Mobile units may only conduct special processing in a licensed commissary.

### Processes that require a variance from OHA:

- **Meat curing**— Addition of nitrites/nitrates to meats, dry fermented sausages and low water activity products like prosciutto
- **Sprouting on site**—to be served fully cooked
- **On-site acidification** of sushi rice
- **Reduced Oxygen Packaging** activities outside the Food Sanitation Rule requirements
- Other food handling activities outside the Food Sanitation Rules

For more information on the variance process, go to: [www.healthoregon.org/foodsafety/Pages/variance.aspx](http://www.healthoregon.org/foodsafety/Pages/variance.aspx)

### Processes that require an ODA license:

- **Acidified Food processing**—a low acid food to which acid or acid food are added and which has an equilibrium pH of 4.6 or below and a water activity greater than 0.85.

These are shelf stable foods such as salsa, barbecue sauces, and dressings that are bottled to extend shelf life or for retail sale. This does not include the acidification of rice.

- **Sprouting on site**— served raw in the establishment
- **Seafood processing**— packaging/selling fish/fish products to another licensed establishment or off premises sales
- **Juice processing**— packaging/selling juice and juice products to another licensed establishment or off premises sales
- **Low-Acid Canned Food processing**— any food with a pH greater than 4.6 and a water activity greater than 0.85, such as green beans. This is rarely seen in a restaurant environment because of the large size and expense of the necessary processing equipment
- **Dairy processing** —packaging/selling dairy products to another licensed establishment or off premises sales. Non-dairy frozen desserts are not required to have a separate license from ODA.

If an establishment chooses to do one of these special processes, the first step is to coordinate a meeting between the LPHA and ODA inspector. Inspectors for both agencies will talk about the special process and come to an agreement on which agency will license and inspect each part of the establishment.

LPHAs finding unlicensed and/or unauthorized special processes to be licensed by ODA in an establishment should ask the operator to stop processing and contact their local ODA partner to discuss the operation.



## Labeling Requirements for Distribution out of a Licensed Kitchen

### **3-602.11 Food Labels.**

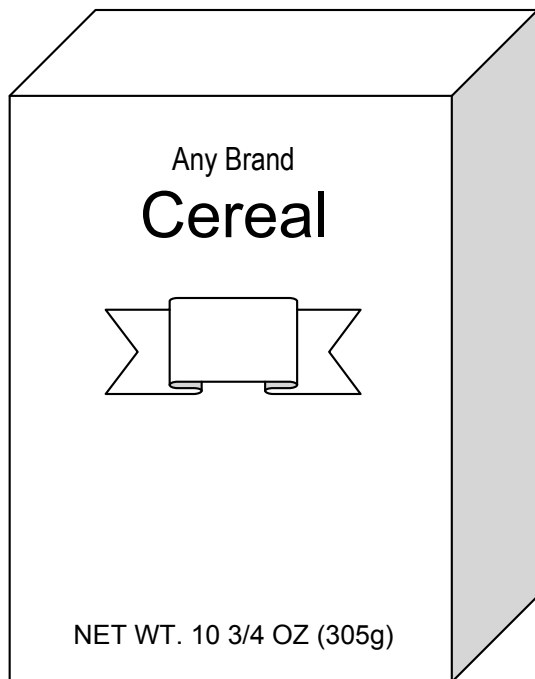
- (A) Food packaged in a food establishment, shall be labeled as specified in law, including 21 CFR 101 - Food Labeling, and 9 CFR 317 Labeling, Marking Devices, and Containers.
- (B) Label information shall include:
- (1) The common name of the food, or absent a common name, an adequately descriptive identity statement;
  - (2) 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;
  - (3) An accurate declaration of the quantity of contents;
  - (4) The name and place of business of the manufacturer, packer, or distributor; and
  - (5) Except as exempted in the Federal Food, Drug, and Cosmetic Act § 403(Q)(3)-(5), nutrition labeling as specified in 21 CFR 101 - Food Labeling and 9 CFR 317 Subpart B Nutrition Labeling.
- (C) Bulk food that is available for consumer self-dispensing shall be prominently labeled with the following information in plain view of the consumer:
- (1) The manufacturer's or processor's label that was provided with the food; or
  - (2) A card, sign, or other method of notification that includes the information specified under Subparagraphs (B)(1), (2), and (5) of this section.
- (D) Bulk, unpackaged foods such as bakery products and unpackaged foods that are portioned to consumer specification need not be labeled if:
- (1) A health, nutrient content or other claim is not made;
  - (2) There are no state or local laws requiring labeling; and
  - (3) The food is manufactured or prepared on the premises of the food establishment or at another 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.

# FOOD LABELING REQUIREMENTS AND GUIDELINES

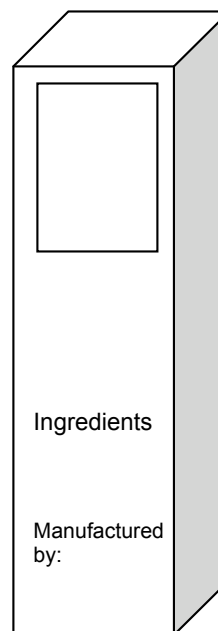
## BASIC LABEL INFORMATION

### Oregon Department of Agriculture - Food Safety Division

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Principal Display Panel



Information Panel

There are many rules and regulations governing food labeling. All foods packaged for retail sale must be properly labeled. There are 5 mandatory requirement areas that must be on the label.

**Principal Display Panel** - As you look at the front of the package, the entire surface area that you can see is referred to as the face or principal display panel. The height times the width of this entire surface determines the font size requirement of the label that is affixed to the front of the Principal Display Panel. The principal display panel must contain certain information in a specific order or location and be of specific type size. Although a brand name may appear on the principal display panel, this is voluntary.

1. *Product Identity* - The truthful or common name of the product that is contained in the package. This is required to be in the middle portion of the Principal display panel front label. The product identity must be dominant and stand out from all other print and pictures on the package. Bold and contrasting type is the normal method of achieving this. Minimum type height is 1/16".
2. *Net Weight* - Must be located in the lower 30% of the principal display panel. No other type can be placed adjacent to or below the net weight. The net weight or volume must be in both the US lbs/oz (Avoirdupois oz.) and metric scale. "Net Wt. 12 oz (340 g)" for a dry product and "Net Wt. 32 fl. oz (1QT) 946 ml" for a liquid product. Minimum type height is 1/16th". In some instances, count instead of weight maybe used. The net weight must be listed as the minimum net weight, not by the average net weight. Net weight is the gross weight minus the tare weight of the packaging.

**Information Panel** - This is the area normally to the right of the principal display panel. On a box, it would be the label on the right side of the package; on a jar it would be directly to the right of the principal display panel. The labeling requirements are designed to provide the consumer with a consistent arrangement of information on packaged foods. The information panel must contain certain information in a specified order.

3. *Nutrition Facts* - Most packaged foods require a nutrition fact statement panel. Some firms may qualify for an exemption of the nutritional facts statement. A manufacturer that meets the requirements in *21 CFR 101.9 (j)* can file for the exemption.

If a nutritional claim is made on a packaged food, a nutrition facts panel is required.

4. *Ingredient Statement* - This statement is located below the nutrition facts and above the manufacturer or distributor information. The ingredients including food colorings and chemical preservatives must be listed in descending order of predominance by weight or volume. If less than 2% by weight, the ingredient can be listed at the end with a statement "contains 2% or less of \_\_\_\_". The ingredient shall be the specific name of the ingredient except that certain spices and flavorings need to be declared according to regulation (*21 CFR 101.22*). An ingredient that contains two or more sub-ingredients may be declared by the common name but must also list in parentheses all the ingredients that are in the particular ingredient. If the ingredient label has specific allergen information, it must be carried over to your manufactured packaged food (e.g., if M & M's are used in cookies, the warning on the M & M package about the possibility of containing peanuts must be carried over to your manufactured food label.)
5. *Place of Address* - The place of business is located on the lower portion of the information panel. The name, street address, city, state and zip code of the food manufacturer or the distributor must be listed. If the company name is correctly listed and can be found in the local phone book, the actual physical street address is not required. A telephone number or an e-mail address may be listed but is not a requirement. When the person whose name appears on the label does not manufacture the packaged food, the name shall reflect the connection of the person with the appropriate term "manufactured by" or "distributed by".

**Additional Requirements** - Many manufactured foods may have further requirements, for example:

- Bottled water has additional labeling requirements about the source (*21 CFR 165.110*)
- Perishable foods are required to have a pull date (*OAR 603-025-0800*) and should be labeled "Keep Refrigerated".
- SAFE HANDLING INSTRUCTIONS are required on certain types of foods (i.e., meats, eggs, juice)

"A FOOD LABELING GUIDE", is a 65 page booklet available on FDA's web site, <http://www.cfsan.fda.gov> or specific regulations can be found in the Code of Federal Regulations, 21 CFR 101. Labeling questions can be answered by your Food Safety Specialist or by calling the Salem office [(503) 986-4720] of the Oregon Department of Agriculture.

# FOOD LABELING REQUIREMENTS AND GUIDELINES ALLERGENS, SPICES AND TYPE SIZE

## Oregon Department of Agriculture - Food Safety Division

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The Food Allergen Labeling and Consumer Protection Act of 2006 (FALCPA) requires packaged foods to clearly label all ingredients that are Class I allergens. Class I allergens include:

- peanuts (also peanut flour, hydrolyzed protein, but not peanut oil)
- tree nuts (pecans, walnuts, hazelnuts, filberts, cashews, brazil nuts)
- milk (any protein from cow's milk, milk, cream, dry milk, whey)
- eggs (whites, yolks, albumen and powdered eggs)
- soy (soy beans, soy protein, soy flour, but not soybean oil)
- wheat
- seafood (i.e., bass, flounder, cod)
- crustaceans (i.e., crab, lobster, shrimp)

Failure to declare Class I allergens on your manufactured food may lead to a Class I food recall. Furthermore, all FD & C colorings and sulfites must be clearly and correctly labeled correctly on your food label.

FDA has advised that advisory labeling such as "may contain [allergen]" should not be used as a substitute for adherence to current Good Manufacturing Practices (cGMP's). In addition, any advisory statement such as "may contain [allergen]" must be truthful and not misleading.

### **There are two ways to properly label allergens.**

The **first** is the use of a "Contains" statement to summarize the allergen information in a statement at the end of, or immediately adjacent to, the ingredient list. The "Contains" statement must use the common terms for the major food allergen from which any allergen ingredient in the food is derived. The "Contains" statement must appear in a type size no smaller than the type size used in the ingredient list. The word "Contains" with a capital "C" must be the first word to begin a "Contains" statement (bolded text within the contains statement is optional). The words used in the "Contains" statement must be the same words used to list the 8 allergens in FALCPA (singular form is acceptable, walnut versus walnuts). If the "Contains" statement is used then all FALCPA allergens in the food product must appear in the "Contains" statement.

The **second** way to properly label allergens is to place the term for the appropriate major food allergen in parenthesis within the ingredient list after the common or usual name of the ingredient derived from that major food allergen. The listing of the term for the food allergen is not required to appear in parentheses after an ingredient name if the ingredient name uses the term for the major food allergen (i.e., "milk" need not appear in parentheses after "milk" or "milk byproduct"). The term for a food allergen need not be placed after an ingredient if the term for that food allergen appears elsewhere in the ingredient list. The food allergen term need only appear once in the ingredient statement unless the name of the food source that appears elsewhere in the ingredient list appears as part of the name of a food ingredient that is excluded from the definition of a major food allergen (i.e., natural flavoring with peanuts as a constituent).

For example, if a food were to have as ingredients semolina, rice flour, cream, rolled oats, pine nuts, tomato juice, whey, sodium caseinate and natural flavoring including peanuts as a constituent, the major food allergens in the food could be labeled two ways.

1. The following statement could appear at the end of, or immediately adjacent to the list of ingredients in the same type size: "Contains wheat, milk, pine nuts and peanuts."
2. The ingredient list could also read: semolina (wheat), rice flour, cream (milk) rolled oats, pine nuts, tomato juice, whey, sodium caseinate, and natural flavoring (peanuts)."

**What is the correct type size for my NET WEIGHT statement? (21 CFR 101.2(c))**

If the principle display panel is:

Less than 5 sq. inches	-----1/16" high
5 to 25 sq. inches	----- 1/8" high
25 to 100 sq. inches	-----3/16" high
100 to 400 sq. inches	-----1/4" high

**What is the descending order of predominance? (21 CFR 101.4 (a))**

Ingredients are listed in order of predominance by weight, that is, the ingredient that weighs the most is listed first, and the ingredient that weighs the least is listed last.

**How do I list artificial colors as ingredients? (21 CFR 101.22 (k)(1) & 74.705 (d)(2))**

Certified colors: List by specific or abbreviated name such as "FD & C Red No. 40" or "Red 40".

Non-certified colors: List as "artificial color," "artificial coloring," or by their specific common or usual names such as "caramel coloring" and "beet juice"

**When does water have to be added as an ingredient? (21 CFR 101.4)**

Water added in making food is considered to be an ingredient. The added water must be identified in the list of ingredients and listed in its descending order of predominance by weight.

**Should the common and usual name be used for ingredients? (21 CFR 101.4(a))**

Always use the common or usual name unless there is a regulation that provides for a different term. For example, use 'sugar' instead of the scientific name 'sucrose'.

**What listing is used for a spice that is also a coloring? (21 CFR 101.22(a)(2))**

Spices, such as paprika, turmeric, saffron and others that are also colorings must be declared either by the term 'spice and coloring' or by the actual (common or usual) names, such as 'paprika'.

**The term 'fresh' (21 CFR 101.95 (a) & (c)(2))**

When used on a label to imply the food is unprocessed, means the food is in the raw state and has not been frozen or subjected to any form of thermal processing or any other form of preservation. This does not include refrigeration.