

Chapter ATCP 87

DIETARY FOOD LABELING

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Note: Chapter Ag 55 was renumbered Chapter ATCP 87 under s. 13.93 (2m) (b) 1, Stats., Register, April, 1993, No. 448.

ATCP 87.01 Definitions and interpretations. (1) The term "special dietary uses" means particular (as distinguished from general) uses of food as follows:

(a) Uses for supplying particular dietary needs which exist by reason of a physical, physiological, pathological or other condition, including but not limited to the conditions of disease, convalescence, pregnancy, lactation, allergic hypersensitivity to food, underweight, and overweight;

(b) Uses for supplying particular dietary needs which exist by reason of age, including but not limited to the ages of infancy and childhood;

(c) Uses for supplementing or fortifying the ordinary or usual diet with any vitamin, mineral, or other dietary property. Any such particular use of a food is a special dietary use, regardless of whether such food also purports to be or is represented for general use.

(2) A food may be represented for special dietary use regardless of whether such food also is represented for general use. The name of certain foods, such as fish liver oils and vitamin and mineral preparations which by their inherent characteristics are for special dietary uses, will be construed a representation for special dietary use.

(3) Any requirement with respect to the quantity of vitamin A means the measured activity of vitamin A and its precursors by biological or physical-chemical methods; but if any such precursor is sold as such or is added to a food the label shall designate such precursor by its common or usual name and not as vitamin A.

(4) Specification of a quantity of any vitamin, mineral, or other dietary property as a minimum daily requirement shall not be construed as a determination that such quantity is sufficient for the treatment of any disease resulting from a deficiency in such vitamin, mineral, or other property.

(5) The terms "infant", "child", and "adult" mean persons not more than 12 months old, more than 12 months but less than 12 years old, and 12 years or more old, respectively.

ATCP 87.02 Label statements relating to vitamins. (1) If a food is represented for special dietary use by reason of its vitamin property in respect of —

Vitamin A or its precursors,

Thiamine (vitamin B¹),
 Ascorbic acid (vitamin C),
 Vitamin D, or
 Riboflavin (vitamin B²),

the label (except for milk and evaporated milk, and unless the exemption under sub. (3) applies) shall bear a statement of the proportion of the minimum daily requirement for such vitamin supplied by such food when consumed in a specified quantity during a period of one day. If such represented special dietary use is for persons within 2 or more age groups for which minimum daily requirements are set forth in sub. (5), such statement shall include such proportion for each such group; but if such use is for persons irrespective of age groups, such statement may be limited to the proportion of the minimum daily requirement set forth in sub. (5) for an adult. The quantity specified as above required shall be the quantity customarily or usually consumed during a period of one day, or a quantity reasonably suitable for and practicable of consumption within such period. When such proportion is a whole number and a fraction it may be expressed as the whole number and the fraction may be disregarded.

Note: Milk is subject to the fortified milk rules in ch. ATCP 78.

(2) If a food is represented for special dietary use by reason of its vitamin property in respect of any vitamin not listed in sub. (1), the label shall bear a statement of the quantity of such vitamin in a specified quantity of such food. The quantity of food specified as required herein shall be the quantity customarily or usually consumed during a period of one day, or a quantity reasonably suitable for and practicable of consumption within such period. If the need in human nutrition for such vitamin has not been established, the label shall also bear the statement "The need for _____ in human nutrition has not been established", the blank to be filled in with the name of such vitamin.

(3) If a food is represented for special dietary use by reason of its vitamin property, and any such use is for treating any disease resulting from a dietary deficiency of any vitamin, the label shall bear a statement of the quantity of such vitamin in a specified quantity of such food. If the represented special dietary use of such food is solely for treating any such disease, such food shall be exempt from the labeling requirements of subs. (1) and (2) when otherwise applicable.

(4) Compliance with the provisions of subs. (2) and (3) shall not be construed as relieving any food which is represented for special dietary use by reason of its vitamin

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property from the application of s. 97.10, Stats., as in the case where the need for such vitamin in human nutrition is not substantially supported by the opinion of experts qualified by scientific training and experience to determine such needs.

Note: Section 97.10, Stats., prohibits sale of adulterated foods and misbranded foods.

(5) For the purposes of this section the following are minimum daily requirements:

(a) For vitamin A, 1,500 U.S.P. units for an infant, 3,000 U.S.P. units for a child, 4,000 U.S.P. units for an adult.

(b) For thiamine (vitamin B¹), 0.25 milligram (83 U.S.P. units) for an infant, 0.5 milligram (167 U.S.P. units) for a child less than 6 years old, 0.75 milligram (250 U.S.P. units) for a child 6 or more years old, 1 milligram (333 U.S.P. units) for an adult.

(c) For ascorbic acid (vitamin C), 10 milligrams (200 U.S.P. units) for an infant, 20 milligrams (400 U.S.P. units) for a child, 30 milligrams (600 U.S.P. units) for an adult.

(d) For vitamin D, 400 U.S.P. units for an infant, child, or adult.

(e) For riboflavin (vitamin B²), 0.5 milligram for an infant, 2.0 milligrams for an adult.

History: 1-2-56; correction in (4) made under s. 13.93 (2m) (b) 7, Stats., Register, April, 1993, No. 448.

ATCP 87.03 Label statements relating to minerals. (1) If a food is represented for special dietary use by reason of its mineral property in respect of —

Calcium,
Phosphorus,
Iron, or
Iodine,

the label (except for iron or iodine in milk and for iodized salt as hereinafter provided, and unless the exemption under sub. (3) applies) shall bear a statement of the proportion of the minimum daily requirement for such element supplied by such food when consumed in a specified quantity during a period of one day. If such purported or represented special dietary use is for persons within 2 or more age groups or other groups having special dietary requirements, for which minimum daily requirements are set forth in sub. (5), such statement shall include such proportion for each such group; but if such use is for persons irrespective of such groups, such statement may be limited to the proportion of the minimum daily requirement set forth in sub. (5) for an adult other than a pregnant or lactating woman. The quantity specified as above required shall be the quantity customarily or usually consumed during a period of one day, or a quantity reasonably suitable for and practicable of consumption within such period. When such proportion is a whole number and a fraction it may be expressed as the whole number and the fraction may be disregarded. The foregoing requirements of this subsection shall not apply to iodized salt which is represented for special dietary use by reason of its iodine content, if the label bears a statement of the quantity or proportion of iodine, or salt thereof, in the iodized salt and the

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quantity of iodine present therein is not more than 0.02% by weight.

Note: Milk is subject to the fortified milk rules in ch. ATCP 78.

(2) If a food is represented for special dietary use by reason of its mineral property in respect of any element not listed in sub. (1), the label shall bear a statement of the quantity of such element in a specified quantity of such food. Except as provided in s. ATCP 87.04, the quantity of food specified as required herein shall be the quantity customarily or usually consumed during a period of one day, or a quantity reasonably suitable for and practicable of consumption within such period. If the need in human nutrition for such element has not been established, the label shall also bear the statement "The need for _____ in human nutrition has not been established", the blank to be filled in with the name of such element.

(3) If a food is represented for special dietary use by reason of its mineral property, and any such use is for treating any disease resulting from a dietary deficiency of any element, the label shall bear a statement of the quantity of such element in a specified quantity of such food. If the represented special dietary use of such food is solely for treating any such disease, such food shall be exempt from the labeling requirements of subs. (1) and (2) when otherwise applicable.

(4) Compliance with the provisions of subs. (2) and (3) shall not be construed as relieving any food which is represented for special dietary use by reason of its mineral property from the application of s 97.10, Stats., as in the case where the need for such element in human nutrition is not substantially supported by the opinion of experts qualified by scientific training and experience to determine such needs.

Note: Section 97.10 prohibits the sale of adulterated foods and misbranded foods.

(5) For the purposes of the regulations in this section, the following are minimum daily requirements:

(a) For calcium (Ca), 750 milligrams for a child or an adult, except a pregnant or lactating woman in which case the minimum daily requirement is 1.5 grams.

(b) For phosphorus (P), 750 milligrams for a child or an adult, except a pregnant or lactating woman in which case the minimum daily requirement is 1.5 grams.

(c) For iron (Fe), 7.5 milligrams for a child less than 6 years old, 10 milligrams for a child 6 or more years old or for an adult, except a pregnant or lactating woman in which case the minimum daily requirement is 15 milligrams.

(d) For iodine (I), 0.1 milligram for a child or an adult.

History: 1-2-56; correction in (4) made under s. 13.93 (2m) (b) 7, Stats., Register, April, 1993, No. 448.

ATCP 87.04 Label statements relating to sodium. If a food purports to be or is represented for special dietary use by reason of its use as a means of regulating the intake of sodium or salt (sodium chloride), the label shall bear a statement of the number of milligrams of sodium in 100 grams of the food and a statement of the number of milligrams of sodium in an average serving of the food. The

average serving shall be expressed in terms of a convenient unit or units of such food or a convenient unit of measure that can be readily understood and utilized by purchasers of such food.

Note: An average serving might be expressed in terms of a number of slices, cookies, wafers, etc., or in terms of cupfuls, tablespoonfuls, teaspoonfuls, etc.

ATCP 87.05 Label statements relating to infant food. If a food which is represented for special dietary use is a food for infants, the label shall bear, in case such food is fabricated from 2 or more ingredients, the common or usual name of each such ingredient including the specific spice, flavoring, and coloring; if such food, or any ingredient thereof in case it is fabricated from 2 or more ingredients, consists in whole or in part of plant or animal matter and the name of such food or ingredient does not clearly reveal the specific plant or animal which is its source, such name shall be so qualified as to reveal clearly the specific plant or animal which is such source. If such use of the food is by reason of its simulation of human milk or its suitability as a complete or partial substitute for human milk, the label (except for milk and evaporated milk) shall also bear:

(1) A statement of the percent by weight of moisture, protein, fat, available carbohydrate, crude fiber, calcium (Ca), phosphorus (P), and iron (Fe) contained in such food;

(2) A statement of the number of available calories of U.S.P. units of vitamin A and vitamin D, and milligrams or U.S.P. units of thiamine (vitamin B¹) and ascorbic acid (vitamin C) supplied by a specified quantity of such food; and

(3) If less than 1.5 milligrams (30 U.S.P. units) of ascorbic acid (vitamin C), less than 50 U.S.P. units of vitamin D, or less than 0.75 milligram of iron (Fe), is supplied by the quantity of such food which, as customarily or usually prepared for consumption, supplies 100 available calories, a statement that additional quantities of such vitamin or iron, as the case may be, should be supplied from other sources.

ATCP 87.06 Label statements relating to food used in weight or disease control. If a food is represented for special dietary use by reason of its use as a means of regulating the intake of protein, fat, carbohydrate, or calories, for the purpose of controlling body weight, or for the purpose of dietary management with respect to disease, the label shall bear a statement of —

(1) The percent by weight of protein, fat and available carbohydrates in such food; and

(2) The number of available calories supplied by a specified quantity of such food.

ATCP 87.07 Label statements relating to nonnutritive constituents. (1) If a food is represented for special dietary use by reason of the presence of any constituent which is not utilized in normal metabolism, the label shall bear a statement of the percent by weight of such constituent, and, in juxtaposition with the name of such constituent, the word "nonnutritive". If such constituent is fibrous plant matter, it shall be considered to be crude fiber and its percent expressed as such. But if such constituent is a sweetening agent, the label shall bear, in lieu of such statement and word, the statement "Contains _____, a nonnutritive, artificial sweetener which should be used only by persons who must restrict their intake of ordinary sweets", the blank to be filled in with the percent by weight of a sweetening agent in such food, followed by the name of such sweetening agent.

(2) The provisions of this section shall not be construed as authorizing the use of nonnutritive sweeteners in any food other than one for use by persons who must restrict their intake of carbohydrates, or as relieving any food from compliance with any requirement of ss. 97.25 and 97.60, Stats.

Note: See note following ATCP 87.03 (4).

ATCP 87.08 Label statements relating to hypoallergenic food. If a food is represented for special dietary use by reason of the decrease or absence of any allergenic property, the label shall bear:

(1) The common or usual name and the quantity or proportion of each ingredient including the specific spices, flavoring, and coloring, in case the food is fabricated from 2 or more ingredients;

(2) A qualification of the name of the food, or of the name of each ingredient thereof in case the food is fabricated from 2 or more ingredients, to reveal clearly the specific plant or animal which is the source of such food or of such ingredient, if such food or such ingredient consists in whole or in part of plant or animal matter and such name does not clearly reveal the specific plant or animal which is such source; and

(3) A statement indicating the nature and effect of any treatment or processing of the food or any ingredient thereof, if the changed allergenic property results from such treatment or processing.