

FOOD LABELING REQUIREMENTS AND GUIDELINES ALLERGENS, SPICES AND TYPE SIZE

Oregon Department of Agriculture - Food Safety Division

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.