



Steve Troxler  
Commissioner

North Carolina Department of Agriculture  
and Consumer Services  
*Food and Drug Protection Division*

Joseph W. Reardon  
Director

March 9, 2009

Beverly McLaughlin  
Beverly's Gourmet Foods, Inc.  
4628 Highway 49 South  
Harrisburg, North Carolina 28075

Dear Ms. McLaughlin:

This office has reviewed the following labels for your products: Edamame Salad, Squash Casserole, Broccoli Casserole and Butternut Squash Lasagna. A photostatic copy of each label is enclosed.

1. As required in 21 CFR Part 101.4(b)(2)(i), any ingredient which itself contains two or more ingredients must be declared in the ingredient statement as the established common or usual name of the ingredient followed by a parenthetical listing of all ingredients contained therein in descending order of predominance or, alternatively, incorporating into the ingredient statement in descending order of predominance the common or usual name of every component of the ingredient without listing the ingredient itself.
  - a. Ricotta listed on the Butternut Squash Lasagna label fails to disclose constituents of this ingredient.
  - b. Sharp cheddar cheese and butter listed on the Broccoli Casserole label fails to disclose constituents i.e. "milk, enzymes, salt" etc.
  - c. Sour cream listed on the Squash Casserole and Broccoli Casserole labels fails to disclose constituents of this ingredient.
  - d. Caramelized onions found on the Squash Casserole and Butternut Squash Lasagna labels may contain constituents such as butter used to process the onions. Please confirm whether or not the onions contain constituents. Include them on the label declaration revisions for these product if they are present.
  - e. Tomato sauce listed on the Butternut Squash Lasagna fails to disclose the constituents in this ingredient.

Beverly McLaughlin, Owner  
Beverly's Gourmet Foods, Inc.  
March 9, 2009  
2 of 2

2. As required in 21 CFR Part 101.105(a)(2), statements of weight shall be in terms of avoirdupois pound and ounce.
  - a. All labels bear net weight statements reflecting product contents of less than one pound and should therefore be expressed in terms of ounces measure followed by the metric equivalent i.e. Net. Wt. 8 oz (227g) etc.
  - b. The net weight statements found on the Broccoli Casserole and Squash Casserole labels appear to be missing the decimal before the quantity making it appear that the contents of both products are eighty five pounds (85 LB).
3. As required in 21 CFR Part 101.2(c), in no case may the letters and/or numbers appearing on the principle display panel or information panel be less than one-sixteenth inch in height: The lettering found the ingredient statements for the Squash Casserole and Broccoli Casserole labels do not meet the minimum type size requirement.

You will find enclosed copies of the referenced regulation. Please submit revised versions of the labels to this office for review prior to the next printing. If you have any further questions, please do not hesitate to call upon this office.

Sincerely,



Melanie Mharrison  
Food Compliance Officer

§ 101.105

21 CFR Ch. I (4-1-04 Edition)

before the point of retail sale in an establishment other than that where originally packed shall be exempt from the requirements of section 403(e)(2) of the act during introduction and movement in interstate commerce and while held for sale prior to weighing:

(1) *Provided*, That (i) The master carton or container bears a label declaration of the total net weight; and

(ii) The individual packages bear a conspicuous statement "To be weighed at or before the time of sale" and a correct statement setting forth the weight of the wrapper; using such term as "wrapper tare \_\_\_ ounce", the blank being filled in with the correct average weight of the wrapper used;

(2) *Provided further*, That it is the practice of the retail establishment to weigh the individual packages either prior to or at the time of retail sale.

(3) The act of delivering the wrapped clusters (consumer units) during the retail sale without an accurate net weight statement or alternatively without weighing at the time of sale shall be deemed an act which results in the product's being misbranded while held for sale. Nothing in this paragraph shall be construed as requiring net-weight statements for clusters (consumer units) delivered into institutional trade, provided that the master container or carton bears the required information.

[42 FR 14308, Mar. 15, 1977, as amended at 51 FR 25017, July 9, 1986; 58 FR 2188, 2876, Jan. 6, 1993; 66 FR 17358, Mar. 30, 2001]

**§ 101.105 Declaration of net quantity of contents when exempt.**

(a) The principal display panel of a food in package form shall bear a declaration of the net quantity of contents. This shall be expressed in the terms of weight, measure, numerical count, or a combination of numerical count and weight or measure. The statement shall be in terms of fluid measure if the food is liquid, or in terms of weight if the food is solid, semisolid, or viscous, or a mixture of solid and liquid; except that such statement may be in terms of dry measure if the food is a fresh fruit, fresh vegetable, or other dry commodity that is customarily sold by dry measure. If there is a firmly established general

consumer usage and trade custom of declaring the contents of a liquid by weight, or a solid, semisolid, or viscous product by fluid measure, it may be used. Whenever the Commissioner determines that an existing practice of declaring net quantity of contents by weight, measure, numerical count, or a combination in the case of a specific packaged food does not facilitate value comparisons by consumers and offers opportunity for consumer confusion, he will by regulation designate the appropriate term or terms to be used for such commodity.

(b)(1) Statements of weight shall be in terms of avoirdupois pound and ounce.

(2) Statements of fluid measure shall be in terms of the U.S. gallon of 231 cubic inches and quart, pint, and fluid ounce subdivisions thereof, and shall:

(i) In the case of frozen food that is sold and consumed in a frozen state, express the volume at the frozen temperature.

(ii) In the case of refrigerated food that is sold in the refrigerated state, express the volume at 40 °F (4 °C).

(iii) In the case of other foods, express the volume at 68 °F (20 °C).

(3) Statements of dry measure shall be in terms of the U.S. bushel of 2,150.42 cubic inches and peck, dry quart, and dry pint subdivisions thereof.

(c) When the declaration of quantity of contents by numerical count does not give adequate information as to the quantity of food in the package, it shall be combined with such statement of weight, measure, or size of the individual units of the foods as will provide such information.

(d) The declaration may contain common or decimal fractions. A common fraction shall be in terms of halves, quarters, eighths, sixteenths, or thirty-seconds; except that if there exists a firmly established general consumer usage and trade custom of employing different common fractions in the net quantity declaration of a particular commodity, they may be employed. A common fraction shall be reduced to its lowest terms; a decimal fraction shall not be carried out to more than two places. A statement that includes small fractions of an

§ 101.2

21 CFR Ch. I (4-1-04 Edition)

to accommodate the necessary information or is otherwise unusable label space, e.g., folded flaps or can ends, the panel immediately contiguous and to the right of this part of the label may be used.

(2) If the package has one or more alternate principal display panels, the information panel is immediately contiguous and to the right of any principal display panel.

(3) If the top of the container is the principal display panel and the package has no alternate principal display panel, the information panel is any panel adjacent to the principal display panel.

(b) All information required to appear on the label of any package of food under §§101.4, 101.5, 101.8, 101.9, 101.13, 101.17, 101.36, subpart D of part 101, and part 105 of this chapter shall appear either on the principal display panel or on the information panel, unless otherwise specified by regulations in this chapter.

(c) All information appearing on the principal display panel or the information panel pursuant to this section shall appear prominently and conspicuously, but in no case may the letters and/or numbers be less than one-sixteenth inch in height unless an exemption pursuant to paragraph (f) of this section is established. The requirements for conspicuousness and legibility shall include the specifications of §§101.105(h) (1) and (2) and 101.15.

(1)(i) Soft drinks packaged in bottles manufactured before October 31, 1975 shall be exempt from the requirements prescribed by this section to the extent that information which is blown, lithographed, or formed onto the surface of the bottle is exempt from the size and placement requirements of this section.

(ii) Soft drinks packaged in bottles shall be exempt from the size and placement requirements prescribed by this section if all of the following conditions are met:

(A) If the soft drink is packaged in a bottle bearing a paper, plastic foam jacket, or foil label, or is packaged in a nonreusable bottle bearing a label lithographed onto the surface of the bottle or is packaged in metal cans, the product shall not be exempt from any

requirement of this section other than the exemptions created by §1.24(a)(5) (ii) and (v) of this chapter and the label shall bear all required information in the specified minimum type size, except the label will not be required to bear the information required by §101.5 if this information appears on the bottle closure or on the lid of the can in a type size not less than one-sixteenth inch in height, or if embossed on the lid of the can in a type size not less than one-eighth inch in height.

(B) If the soft drink is packaged in a bottle which does not bear a paper, plastic foam jacket or foil label, or is packaged in a reusable bottle bearing a label lithographed onto the surface of the bottle:

(1) Neither the bottle nor the closure is required to bear nutrition labeling in compliance with §101.9, except that any multiunit retail package in which it is contained shall bear nutrition labeling if required by §101.9; and any vending machine in which it is contained shall bear nutrition labeling if nutrition labeling is not present on the bottle or closure, if required by §101.9.

(2) All other information pursuant to this section shall appear on the top of the bottle closure prominently and conspicuously in letters and/or numbers no less than one thirty-second inch in height, except that if the information required by §101.5 is placed on the side of the closure in accordance with §1.24(a)(5)(ii) of this chapter, such information shall appear in letters and/or numbers no less than one-sixteenth inch in height.

(3) Upon the petition of any interested person demonstrating that the bottle closure is too small to accommodate this information, the Commissioner may by regulation establish an alternative method of disseminating such information. Information appearing on the closure shall appear in the following priority:

(i) The statement of ingredients.  
(ii) The name and address of the manufacturer, packer, or distributor.  
(iii) The statement of identity.

(2) Individual serving-size packages of food served with meals in restaurants, institutions, and on board passenger carriers, and not intended for sale at retail, are exempt from

or an appropriately descriptive term indicating the type of dietary ingredients that are in the product (e.g., herbal supplement with vitamins).

[42 FR 14308, Mar. 15, 1977, as amended at 48 FR 10811, Mar. 15, 1983; 58 FR 2227, Jan. 6, 1993; 60 FR 67174, Dec. 28, 1995; 62 FR 49847, Sept. 23, 1997]

**§ 101.4 Food; designation of ingredients.**

(a)(1) Ingredients required to be declared on the label or labeling of a food, including foods that comply with standards of identity, except those ingredients exempted by § 101.100, shall be listed by common or usual name in descending order of predominance by weight on either the principal display panel or the information panel in accordance with the provisions of § 101.2, except that ingredients in dietary supplements that are listed in the nutrition label in accordance with § 101.36 need not be repeated in the ingredient list. Paragraph (g) of this section describes the ingredient list on dietary supplement products.

(2) The descending order of predominance requirements of paragraph (a)(1) of this section do not apply to ingredients present in amounts of 2 percent or less by weight when a listing of these ingredients is placed at the end of the ingredient statement following an appropriate quantifying statement, e.g., "Contains \_\_\_ percent or less of \_\_\_" or "Less than \_\_\_ percent of \_\_\_." The blank percentage within the quantifying statement shall be filled in with a threshold level of 2 percent, or, if desired, 1.5 percent, 1.0 percent, or 0.5 percent, as appropriate. No ingredient to which the quantifying phrase applies may be present in an amount greater than the stated threshold.

(b) The name of an ingredient shall be a specific name and not a collective (generic) name, except that:

(1) Spices, flavorings, colorings and chemical preservatives shall be declared according to the provisions of § 101.22.

(2) An ingredient which itself contains two or more ingredients and which has an established common or usual name, conforms to a standard established pursuant to the Meat Inspection or Poultry Products Inspection

Acts by the U.S. Department of Agriculture, or conforms to a definition and standard of identity established pursuant to section 401 of the Federal Food, Drug, and Cosmetic Act, shall be designated in the statement of ingredients on the label of such food by either of the following alternatives:

(i) By declaring the established common or usual name of the ingredient followed by a parenthetical listing of all ingredients contained therein in descending order of predominance except that, if the ingredient is a food subject to a definition and standard of identity established in subchapter B of this chapter that has specific labeling provisions for optional ingredients, optional ingredients may be declared within the parenthetical listing in accordance with those provisions.

(ii) By incorporating into the statement of ingredients in descending order of predominance in the finished food, the common or usual name of every component of the ingredient without listing the ingredient itself.

(3) Skim milk, concentrated skim milk, reconstituted skim milk, and nonfat dry milk may be declared as "skim milk" or "nonfat milk".

(4) Milk, concentrated milk, reconstituted milk, and dry whole milk may be declared as "milk".

(5) Bacterial cultures may be declared by the word "cultured" followed by the name of the substrate, e.g., "made from cultured skim milk or cultured buttermilk".

(6) Sweetcream buttermilk, concentrated sweetcream buttermilk, reconstituted sweetcream buttermilk, and dried sweetcream buttermilk may be declared as "buttermilk".

(7) Whey, concentrated whey, reconstituted whey, and dried whey may be declared as "whey".

(8) Cream, reconstituted cream, dried cream, and plastic cream (sometimes known as concentrated milk fat) may be declared as "cream".

(9) Butteroil and anhydrous butterfat may be declared as "butterfat".

(10) Dried whole eggs, frozen whole eggs, and liquid whole eggs may be declared as "eggs".

(11) Dried egg whites, frozen egg whites, and liquid egg whites may be declared as "egg whites".

BEVERLY'S GOURMET FOODS, INC.  
**EDAMAME SALAD**

ORGANIC EDAMAME BEANS, ONIONS, RED PEPPERS, CARROTS,  
SHOE PEG CORN, FRESH MINT, FRESH THYME, LEMON JUICE,  
GARLIC AND SEA SALT. MIX WELL BEFORE SERVING.  
NET WT. 1/2LBS. 704-533-0073 4628 HWY 49 S HARRISBURG NC 28075

BEVERLY'S GOURMET FOODS, INC.  
**SQUASH CASSEROLE**

LOCAL SQUASH, SOUR CREAM, CARAMELIZED ONIONS, MUSHROOM BROTH (MUSHROOMS, VEGETABLE OIL, CORN,  
COTTONSEED, CANOLA AND/OR SOYBEAN, MODIFIED FOOD STARCH, WHEAT FLOUR, MSG, SOY PROTEIN  
CONCENTRATE, YEAST EXTRACT, DEHYDRATED GARLIC, BREAD CRUMBS (WHEAT FLOUR, MALTED BARLEY,  
MALT, IRON, NIACIN, RIBOFLAVIN, CORN SYRUP, HYDROLYZED SOYBEAN OIL,  
MOLASSES, CITRIC ACID, CALCIUM PROPIONATE, SALT AND PEPPER.  
HEAT AT 350 FOR 30 MIN.  
BEVERLY McLAUGHLIN  
NET WT. .85 LBS. 704-533-0073 4628 HWY 49 S HARRISBURG NC 28075

BEVERLY'S GOURMET FOODS, INC.  
**BROCCOLI CASSEROLE**

FRESH BROCCOLI, FRESH RANGE EGGS, SOUR CREAM, MAYONNAISE (SOYBEAN OIL, EGG YOLKS,  
DISTILLED & CIDER VINEGAR, CORN SYRUP, HIGH FRUCTOSE CORN SYRUP, SUGAR, OLIVE OIL,  
PAPRIKA, CALCIUM DIBIPHOSPHATE), SHARP CHEDDAR CHEESE, MUSHROOM SOUP (MUSHROOMS,  
VEGETABLE OIL (SOYBEAN, COTTONSEED, CANOLA AND/OR SOYBEAN), MODIFIED FOOD STARCH, WHEAT  
FLOUR, SOY PROTEIN CONCENTRATE, YEAST EXTRACT, DEHYDRATED GARLIC, SALT & BUTTER).  
HEAT AT 350 FOR 30 MIN.  
BEVERLY McLAUGHLIN  
NET WT. 85 LBS. 704-533-0073 4628 HWY 49 S HARRISBURG NC 28075

BEVERLY'S GOURMET FOODS, INC.  
**BUTTERNUT SQUASH LASAGNA**

ORGANIC BUTTERNUT SQUASH, CARAMELIZED ONIONS, RICOTTA,  
MOZZARELLA AND PARMESAN CHEESES (MILK, CHEESE CULTURES, ENZYMES),  
BASIL, TOMATO SAUCE, LASAGNA PASTA (SEMOLINA FLOUR,  
NIACIN, IRON, THIAMIN MONONITRATE), OLIVE OIL, GARLIC, AND SALT. SERVE HOT.  
BEVERLY McLAUGHLIN  
NET WT. 85 LBS. 704-533-0073 4628 HWY 49 S HARRISBURG NC 28075