**Section 720.40 Food**

a) Food: Labeling; Misbranding.

1) Among representations in the labeling of a food which renders such food misbranded is a false or misleading representation with respect to another food or a drug, device or cosmetic.

2) The labeling of a food which contains two or more ingredients may be misleading by reason (among other reasons) of the designation of such food in such labeling by a name which includes or suggests the name of one or more but not all such ingredients, even though the names of all such ingredients are stated elsewhere in the labeling.

b) Food Labeling in Package Form; Identify.

1) The label of a food in package form shall bear as one of its principal features a statement of the identity of the commodity.

2) Such statement of identity shall be in terms of:

A) The name now or hereafter specified in or required by any applicable law or regulation; or, in the absence thereof,

B) The common or usual name of the food; or, in the absence thereof,

C) An appropriately descriptive term or, when the nature of the food is obvious, a fanciful name commonly used by the public for such food.

3) Where a food is marketed in various optional forms (whole, sliced, diced, etc.), the particular form shall be considered to be a necessary part of the statement of identity and shall be declared in letters of a type size bearing a reasonable relation to the size of the letters forming the other components of the statement of identity; except that if the optional form is visible through the container or is depicted by an appropriate vignette, the particular form need not be included in the statement. This specification does not affect the required declarations of identity under definitions and standards for Foods promulgated pursuant to Section 9 of the Act.

4) This statement of identity shall be presented in bold type on the label, shall be in a size reasonably related to the most prominent printed matter on such label, and shall be in lines generally parallel to the base on which the package rests as it is designated to be displayed.

c) Food: Labeling; Prominence of Required Statements.

A word, statement or other information required by or under authority of the Act to appear on the label may lack that prominence and conspicuousness required by Section 11(f) of the Act by reason (among other reasons) of:

1) The failure of such word, statement or information to appear on the part or panel of the label which is presented or displayed under customary conditions of purchase;

2) The failure of such word, statement or information to appear on two or more parts or panels of the label, each of which has sufficient space therefore, and each of which is so designed as to render it likely to be, under customary conditions of purchase, the part or panel displayed;

3) The failure of the label to extend over the area of the container or package available for such extension, so as to provide sufficient label space for the prominent placing of such word, statement or information;

4) Insufficiency of label space (for the prominent placing of such word, statement or information) resulting from the use of label space for any word, statement, design or device which is not required by or under authority of the Act to appear on the label;

5) Insufficiency of label space (for the prominent placing of such word, statement or information) resulting from the use of label space to give materially greater conspicuousness to any other word, statement or information, or to any design or device; or

6) Smallness or style of type in which such word, statement or information appears, insufficient background contrast, obscuring designs or vignettes, or crowding with other written, printed or graphic matter.

d) No exemption depending on insufficiency of label space, as prescribed in regulation promulgated under Section 11(i) of the Act, shall apply if such insufficiency is caused by:

1) The use of label space for any word, statement, design or device which is not required by or under authority of the Act to appear on the label;

2) The use of label space to give greater conspicuousness to any word, statement or other information than is required by Section 11(f) of the Act; or

3) The use of label space for any representation in a foreign language.

e)

1) All words, statements and other information required by or under authority of the Act to appear on the label or labeling shall appear thereon in the English language;

2) If the label contains any representation in a foreign language, all words, statements and other information required by or under authority of the Act to appear on the label shall appear thereon in the foreign language;

3) If the labeling contains any representation in a foreign language, all words, statements and other information required by or under authority of the Act to appear on the label or labeling shall appear on the labeling in the foreign language.

f) Food: Labeling; Designation of Ingredients.

The name of an ingredient (except a spice, flavoring or coloring which is an ingredient of a food other than one sold as a spice, flavoring or coloring), required by Section 11(i)(2) of the Act to be borne on the label of a food, shall be a specific name and not a collective name. But if an ingredient (which itself contains two or more ingredients) conforms to a definition and standard of indentity prescribed by regulations under Section 9 of the Act, such ingredient may be designated on the label of such food by the name specified in the definition and standard, supplemented, in case such regulations require the naming of optional ingredients present in such ingredient, by a statement showing the optional ingredients which are present in such ingredient.

g) No ingredient shall be designated on the label as a spice, flavoring or coloring unless it is a spice, flavoring or coloring, as the case may be, within the meaning of such term as commonly understood by consumers. The term "coloring" shall not include any bleaching substance.

h) An ingredient which is both a spice and a coloring, or both a flavoring and a coloring, shall be designated as spice and coloring, or flavoring and coloring, as the case may be, unless such ingredient is designated by its specific name.

i) In the case of fabricated foods, including mixtures of food ingredients, where the proportion of an expensive ingredient or ingredients present has a material bearing on price or consumer acceptance, the label of such food shall bear a quantitative statement of such ingredient(s) if the label without such declaration may create an erroneous impression that such ingredient or ingredients are present in an amount greater than is actually the case. For example, a label designation of identity as "cotton seed oil and olive oil" for a mixture containing 80 percent or more of cotton seed oil would require a declaration of the percent of olive oil present. Similarly, a representation by vignette or statement of identity that a breakfast syrup is made from a mixture of sugar syrup and maple sugar syrup would necessitate a quantitative declaration of the maple sugar syrup unless more than 20 percent maple sugar syrup is present.

j) In the case of an assortment of different items of food, when variations in the items which make up different packages packed from such assortment normally occur in good packing practice, and when such variations result in variations in the ingredients in different packages, such food shall be exempt from compliance with the requirements of clause (2) of Section 11(i) of the Act with respect to any ingredient which is not common to all packages. But such exemption shall be on the condition that the label shall bear, in conjunction with the name of such ingredients as are common to all packages, a statement in terms which are as informative as practicable and which are not misleading, indicating that other ingredients may be present.

k) A food shall be exempt while held for sale from the requirements of clause (2) of Section 11(i) of the Act (requiring a declaration on the label of the common or usual name of each ingredient when the food is fabricated from two or more ingredients) if said food, having been received in bulk containers at a retain establishment, is displayed to the purchaser with either

1) the labeling of the bulk container plainly in view, or

2) a counter card, sign or other appropriate device bearing prominently and conspicuously the information required to be stated on the label pursuant to clause (2) of Section 11(i) of the Act.

l) Propylene glycol or glycerin present in quiescently frozen confections because of use as a carrier for food-grade emulsifiers and stabilizers is exempt from the requirements of Section 11(i)(2) of the Act (requiring a declaration on the label of the common or usual name of each ingredient when the food is fabricated from two or more ingredients).

m) Ingredients shall be listed by common or usual name in order of decreasing predominance. The declaration shall be presented on any appropriate information panel in adequate type size, without obscuring design, vignettes or crowding. The entire ingredient statement shall appear on a single panel of the label.

n) Food: Labeling; Artificial Flavoring or Coloring, Chemical Preservatives.

1) The term "artificial flavoring" means a flavoring containing any sapid or aromatic constituent, which constituent was manufactured by a process of synthesis or other similar artifice.

2) The term "artificial coloring" means a coloring containing any dye or pigment, which dye or pigment was manufactured by a process of synthesis or other similar artifice, or a coloring which was manufactured by extracting a natural dye or natural pigment from a plant or other material in which such dye or pigment was naturally produced.

3) The term "chemical preservative" means any chemical that, when added to food, tends to prevent or retard deterioration thereof, but does not include common salt, sugars, vinegars, spices or oils extracted from spices, substances added to food by direct exposure thereof to wood smoke, or chemicals applied for their insecticidal or herbicidal properties.

o) A food which is subject to the requirements of Section 11(k) of the Act shall bear labeling, even though such food is not in package form.

p) A statement of artificial flavoring, artificial coloring, or chemical preservative shall be placed on the food, or on its container or wrapper, or on any two or all of these, as may be necessary to render such statement likely to be read by the ordinary individual under customary conditions of purchase and use of such food.

q) A food shall be exempt from compliance with the requirements of Section 11(k) of the Act if it is not in package form and the units thereof are so small that a statement of artificial flavoring, artificial coloring, or chemical preservative, as the case may be, cannot be placed on such units with such conspicuousness as to render it likely to be read by the ordinary individual under customary conditions of purchase and use.

r) A food shall be exempt while held for sale from the requirements of Section 11(k) of the Act (requiring label statement of any artificial flavoring, artificial coloring, or chemical preservative) if said food, having been received in bulk containers at a retail establishment, is displayed to the purchaser with either

1) the labeling of the bulk container plainly in view, or

2) a counter card, sign or other appropriate device bearing prominently and conspicuously the information required to be stated on the label pursuant to Section 11(k) of the Act.

s) A fruit or vegetable shall be exempt from compliance with the requirements of Section 11(k) of the Act with respect to a chemical preservative applied to the fruit or vegetable as a pesticide chemical prior to harvest.