



## Special Alert

# Temporary Allowances for Labels Going to Retail

FSIS is exercising enforcement discretion for a temporary period to provide labeling flexibilities for products intended for food service going to retail. Below please find certain situations describing how product can move to retail with certain labeling deviations. Please note, these situations apply to product that has already been produced. Product currently being produced is expected to meet all requirements. FSIS will provide additional information on labeling issues in the future if necessary.

### Labeling at a Federal Establishment

Product produced at a Federal establishment typically intended for distribution to hotels, restaurants, or similar institutions (HRI) will have modified labels applied by the Federal establishment so that the products can now be sold at retail. The label would be required to bear all required features. FSIS will not object to the use of labels without nutrition labeling, even if the establishment does not meet an exemption under 9 CFR 317.400 and 381.500, provided the labels do not bear any nutrition claims. The absence of nutrition labeling would normally require an establishment to submit for temporary approval under 9 CFR 412.1(f)(1). However, if the only deficiency is the absence of nutrition labeling, FSIS will not require establishments to submit for temporary approval for the next 60 days. If the proposed label has other deficiencies from FSIS labeling requirements (e.g., formulation changes not reflected in the ingredients statement), establishments will need to submit the label for temporary approval for an evaluation on a case by case basis.

### Labeling at Retail for Bulk Product Already in Commerce

Bulk product, even if labeled for HRI (e.g. Child Nutrition labeled product or product labeled for a specific restaurant or institution), may be distributed to retail where the retailer will repackage the product into smaller consumer size packages and apply a label. The label applied to the repackaged product will need to bear all required features except for the USDA mark of inspection. The only deviation from current requirements under 9 CFR 317.8 and 381.129 is the bulk product may be distributed in a manner that is inconsistent with a statement of limited use on the outer box. For example, a box labeled "for school foodservice use only" can now be distributed to a retail outlet for repackaging and labeling. FSIS will not object to products being distributed in a manner that is inconsistent with the statement of limited use under 9 CFR 317.8 and 381.129 for the next 60 days starting on March 23, 2020.

1 Temporary Allowances  
for Labels Going to  
Retail

*FSIS Constituent  
Update* is prepared by the  
Congressional and Public  
Affairs Staff,  
Office of Public Affairs and  
Consumer Education

Assistant Administrator  
Carol Blake

Deputy Assistant  
Administrator  
Aaron Lavallee

Director  
Roxanne Smith

Editor  
Cody Kahlig

## ... Labels going to Retail

*Continued from Page 1*

### **Labeling at Retail for Product in Unlabeled Protective Coverings Already in Commerce**

A fully labeled container with meat or poultry products in unlabeled protective coverings may be distributed to a retailer for labeling, which is not currently allowed under 9 CFR 317.1 and 381.115. The container may have a statement of limited use that would normally indicate that the product is for HRI only (see example above). FSIS will not object to the container being distributed to retail and the retailer applying a label to the protective covering so that the product may be sold at retail on a temporary basis (see date below). The label applied by the retailer may be an insert label supplied by the Federal establishment that produced the product or it could be a label that the retailer printed. The insert label provided by the establishment or, alternatively, the label printed at retail, should duplicate the label on the incoming container. The labels applied by the retailer are expected to bear all required features with the exception of the USDA mark of inspection. Labels printed at retail cannot bear the USDA mark of inspection. FSIS will also not require nutrition labeling for such product even if an exemption from nutrition labeling does not apply. FSIS will permit retailers to label products in protective coverings in this manner for the next 60 days starting on March 23, 2020.