

PART 102—COMMON OR USUAL NAME FOR NONSTANDARDIZED FOODS

Subpart A—General Provisions

Sec.

102.5 General principles.

102.19 Petitions.

Subpart B—Requirements for Specific Nonstandardized Foods

102.22 Protein hydrolysates.

102.23 Peanut spreads.

102.26 Frozen "heat and serve" dinners.

102.28 Foods packaged for use in the preparation of "main dishes" or "dinners."

102.33 Beverages that contain fruit or vegetable juice.

102.37 Mixtures of edible fat or oil and olive oil.

102.39 Onion rings made from diced onion.

102.41 Potato chips made from dried potatoes.

102.45 Fish sticks or portions made from minced fish.

102.46 Pacific whiting.

102.47 Bonito.

102.49 Fried clams made from minced clams.

102.50 Crabmeat.

102.54 Seafood cocktails.

102.55 Nonstandardized breaded composite shrimp units.

102.57 Greenland turbot (*Reinhardtius hippoglossoides*).

AUTHORITY: 21 U.S.C. 321, 343, 371.

SOURCE: 42 FR 14322, Mar. 15, 1977, unless otherwise noted.

Subpart A—General Provisions

§ 102.5 General principles.

(a) The common or usual name of a food, which may be a coined term, shall accurately identify or describe, in as simple and direct terms as possible, the basic nature of the food or its characterizing properties or ingredients. The name shall be uniform among all identical or similar products and may not be confusingly similar to the name of any other food that is not reasonably encompassed within the same name. Each class or subclass of food shall be given its own common or usual name that states, in clear terms, what it is in a way that distinguishes it from different foods.

(b) The common or usual name of a food shall include the percentage(s) of any characterizing ingredient(s) or

component(s) when the proportion of such ingredient(s) or component(s) in the food has a material bearing on price or consumer acceptance or when the labeling or the appearance of the food may otherwise create an erroneous impression that such ingredient(s) or component(s) is present in an amount greater than is actually the case. The following requirements shall apply unless modified by a specific regulation in subpart B of this part.

(1) The percentage of a characterizing ingredient or component shall be declared on the basis of its quantity in the finished product (i.e., weight/weight in the case of solids, or volume/volume in the case of liquids).

(2) The percentage of a characterizing ingredient or component shall be declared by the words "containing (or contains) _ percent (or %) _____" or "_ percent (or %) _____" with the first blank filled in with the percentage expressed as a whole number not greater than the actual percentage of the ingredient or component named and the second blank filled in with the common or usual name of the ingredient or component. The word "containing" (or "contains"), when used, shall appear on a line immediately below the part of the common or usual name of the food required by paragraph (a) of this section. For each characterizing ingredient or component, the words "_ percent (or %) _____" shall appear following or directly below the word "containing" (or contains), or directly below the part of the common or usual name of the food required by paragraph (a) of this section when the word "containing" (or contains) is not used, in easily legible boldface print or type in distinct contrast to other printed or graphic matter, and in a height not less than the larger of the following alternatives:

(i) Not less than one-sixteenth inch in height on packages having a principal display panel with an area of 5 square inches or less and not less than one-eighth inch in height if the area of the principal display panel is greater than 5 square inches; or

(ii) Not less than one-half the height of the largest type appearing in the part of the common or usual name of

the food required by paragraph (a) of this section.

(c) The common or usual name of a food shall include a statement of the presence or absence of any characterizing ingredient(s) or component(s) and/or the need for the user to add any characterizing ingredient(s) or component(s) when the presence or absence of such ingredient(s) or component(s) in the food has a material bearing on price or consumer acceptance or when the labeling or the appearance of the food may otherwise create an erroneous impression that such ingredient(s) or component(s) is present when it is not, and consumers may otherwise be misled about the presence or absence of the ingredient(s) or component(s) in the food. The following requirements shall apply unless modified by a specific regulation in subpart B of this part.

(1) The presence or absence of a characterizing ingredient or component shall be declared by the words "containing (or contains) _____" or "containing (or contains) no _____" or "no _____" or "does not contain _____", with the blank being filled in with the common or usual name of the ingredient or component.

(2) The need for the user of a food to add any characterizing ingredient(s) or component(s) shall be declared by an appropriate informative statement.

(3) The statement(s) required under paragraph (c)(1) and/or (2) of this section shall appear following or directly below the part of the common or usual name of the food required by paragraphs (a) and (b) of this section, in easily legible boldface print or type in distinct contrast to other printed or graphic matter, and in a height not less than the larger of the alternatives established under paragraphs (b)(2) (i) and (ii) of this section.

(d) A common or usual name of a food may be established by common usage or by establishment of a regulation in subpart B of this part, in part 104 of this chapter, in a standard of identity, or in other regulations in this chapter.

§ 102.19 Petitions.

(a) The Commissioner of Food and Drugs, either on his own initiative or

on behalf of any interested person who has submitted a petition, may publish a proposal to issue, amend, or revoke, under this part, a regulation prescribing a common or usual name for a food, pursuant to part 10 of this chapter.

(b) If the principal display panel of a food for which a common or usual name regulation is established is too small to accommodate all mandatory requirements, the Commissioner may establish by regulation an acceptable alternative, e.g., a smaller type size. A petition requesting such a regulation, which would amend the applicable regulation, shall be submitted pursuant to part 10 of this chapter.

[42 FR 14322, Mar. 15, 1977, as amended at 42 FR 15673, Mar. 22, 1977]

Subpart B—Requirements for Specific Nonstandardized Foods

§ 102.22 Protein hydrolysates.

The common or usual name of a protein hydrolysate shall be specific to the ingredient and shall include the identity of the food source from which the protein was derived.

(a) "Hydrolyzed wheat gluten," "hydrolyzed soy protein," and "autolyzed yeast extract" are examples of acceptable names. "Hydrolyzed casein" is also an example of an acceptable name, whereas "hydrolyzed milk protein" is not an acceptable name for this ingredient because it is not specific to the ingredient (hydrolysates can be prepared from other milk proteins). The names "hydrolyzed vegetable protein" and "hydrolyzed protein" are not acceptable because they do not identify the food source of the protein.

(b) [Reserved]

[58 FR 2876, Jan. 6, 1993]

§ 102.23 Peanut spreads.

(a) The common or usual name of a spreadable peanut product that does not conform to § 164.150 of this chapter, and more than 10 percent of which consists of nonpeanut ingredients, shall consist of the term "peanut spread" and a statement of the percentage by weight of peanuts in the product in the manner set forth in § 102.5(b), except that peanut percentages shall be based

on the amount of peanuts used to make the finished food and shall be declared in 5-percent increments expressed as a multiple of 5, not to exceed the actual percentage of peanuts in the products.

(b) A spreadable peanut product that is nutritionally inferior to peanut butter shall be labeled as an imitation of peanut butter under §101.3(e)(2) of this chapter; a spreadable peanut product shall be considered nutritionally equivalent to peanut butter if it meets all of the following conditions:

(1) *Protein.* (i) The protein content of the product is at least 24 percent by weight of the finished product, and the overall biological quality of the protein contained in the product is at least 68 percent that of casein; or

(ii) The protein content of the product is at least 16.6 percent by weight of the finished product, and the overall biological quality of the protein contained in the product is equal to or greater than that of casein.

(2) *Other nutrients.* The product contains the following levels of nutrients per 100 grams of product:

Nutrient	Amount (milligrams)
Niacin	15.3
Vitamin B ₆	0.33
Folic acid	0.08
Iron	2.0
Zinc	2.9
Magnesium	173.0
Copper	0.6

(c) Compliance with the requirements of paragraph (b) of this section shall be determined by methods described in the following references except that in determining protein quantity in products with mixed protein sources a nitrogen conversion factor of 6.25 may be used.

(1) Protein quantity: "Official Methods of Analysis of the Association of Official Analytical Chemists" (AOAC), 13th Ed. (1980), using the method described in section 27.007, which is incorporated by reference. Copies may be obtained from the Association of Official Analytical Chemists International, 481 North Frederick Ave., suite 500, Gaithersburg, MD 20877-2504, or may be examined at the Office of the Federal

Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(2) Biological quality of protein: AOAC, 13th Ed. (1980), using the method described in sections 43.212-43.216, which is incorporated by reference. The availability of this incorporation by reference is given in paragraph (c)(1) of this section.

(3) Niacin: AOAC, 13th Ed. (1980), using the method described in sections 43.044-43.046, which is incorporated by reference. The availability of this incorporation by reference is given in paragraph (c)(1) of this section.

(4) Vitamin B₆: AOAC, 13th Ed. (1980), using the method described in sections 43.188-43.193, which is incorporated by reference. The availability of this incorporation by reference is given in paragraph (c)(1) of this section.

(5) Folic acid: Using the method described in U.S. Department of Agriculture Handbook No. 29, modified by use of ascorbate buffer as described by Ford and Scott, *Journal of Dairy Research*, 35:85-90 (1968), which is incorporated by reference. Copies are available from the Center for Food Safety and Applied Nutrition (HFS-150), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, or available for inspection at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(6) Iron: AOAC, 13th Ed. (1980), using the method described in sections 43.217-43.219, which is incorporated by reference. The availability of this incorporation by reference is given in paragraph (c)(1) of this section.

(7) Zinc: AOAC, 13th Ed. (1980), using the method described in sections 25.150-25.153, which is incorporated by reference. The availability of this incorporation by reference is given in paragraph (c)(1) of this section.

(8) Copper: AOAC, 13th Ed. (1980), using the method described in sections 25.038-25.043, which is incorporated by reference. The availability of this incorporation by reference is given in paragraph (c)(1) of this section.

(9) Magnesium: AOAC, 13th Ed. (1980), using the method described in sections 2.109-2.113, which is incorporated by

reference. The availability of this incorporation by reference is given in paragraph (c)(1) of this section.

[42 FR 36455, July 15, 1977, as amended at 47 FR 11821, Mar. 19, 1982; 49 FR 5609, Feb. 14, 1984; 54 FR 24891, June 12, 1989; 61 FR 14479, Apr. 2, 1996; 63 FR 14035, Mar. 24, 1998]

§ 102.26 Frozen “heat and serve” dinners.

(a) A frozen “heat and serve” dinner:

(1) Shall contain at least three components, one of which shall be a significant source of protein and each of which shall consist of one or more of the following: meat, poultry, fish, cheese, eggs, vegetables, fruit, potatoes, rice, or other cereal based products (other than bread or rolls).

(2) May also contain other servings of food (e.g., soup, bread or rolls, beverage, dessert).

(b) The common or usual name of the food consists of all of the following:

(1) The phrase “frozen ‘heat and serve’ dinner,” except that the name of the predominant characterizing ingredient or other appropriately descriptive term may immediately precede the word “dinner” (e.g., “frozen chicken dinner” or “frozen heat and serve beef dinner”). The words “heat and serve” are optional. The word “frozen” is also optional, provided that the words “Keep Frozen” or the equivalent are prominently and conspicuously placed on the principal display panel in type size not less than that specified in § 102.5(b)(2)(i).

(2) The phrase “containing (or contains) _____” the blank to be filled in with an accurate description of each of the three or more dish components listed in paragraph (a)(1) of this section in their order of descending predominance by weight (e.g., ham, mashed potatoes, and peas), followed by any of the other servings specified in paragraph (a)(2) of this section contained in the package (e.g., onion soup, enriched white bread, and artificially flavored vanilla pudding) in their order of descending predominance by weight. This part of the name shall be placed immediately following or directly below the part specified in paragraph (b)(1) of this section in the manner set forth in § 102.5(c)(3). The words “contains” or “containing” are optional.

(3) If the labeling implies that the package contains other foods and these foods are not present in the package, e.g., if a vignette on the package depicts a “serving suggestion” which includes any foods not present in the package, the principal display panel shall bear a statement that such foods are not present, in type size not less than that specified in § 102.5(b)(2)(i).

§ 102.28 Foods packaged for use in the preparation of “main dishes” or “dinners.”

(a) The common or usual name of a packaged food which is represented on the principal display panel by word or vignette to be used in the preparation of a “main dish”, “dinner”, or other such food serving, and to which some other important characterizing ingredient(s) or component(s) not present in the package must be added, consists of all the following:

(1) The common or usual name of each important ingredient or component in the package, in descending order of predominance by weight (e.g., “noodles and tomato sauce”).

(2) An appropriate informative statement identifying the food to be prepared by use of the package contents (e.g., “for preparation of chicken casserole”).

(3) An appropriate informative statement that additional characterizing ingredient(s) or component(s) must be added and which names the additional characterizing ingredient(s) or component(s) (e.g., “you must add _____ to complete the recipe,” the blank to be filled in with the name(s) of the important characterizing ingredient(s) or component(s) that must be added).

(b) The labeling required by paragraph (a) of this section shall appear on the principal display panel.

(1) No word in the statement required by paragraph (a)(2) of this section may appear on the principal display panel more conspicuously or in larger type than the smallest and least conspicuous type employed on the panel for any word, phrase or statement within the scope of paragraph (a)(1) of this section.

(2) Every word in the statement required by paragraph (a)(3) of this section shall appear on the principal display panel in easily legible bold face print or type in distinct contrast to other printed or graphic matter, and in a height not less than the larger of the following alternatives:

(i) Not less than one-sixteenth inch in height on packages having a principal display panel with an area of 5 square inches or less and not less than one-eighth inch in height if the area of the principal display panel is greater than 5 square inches; or

(ii) Not less than one-half the height of the largest type appearing in the part of the common or usual name of the food required by paragraphs (a) (1) and (2) of this section.

(c) Any vignette which shows any food or characterizing ingredient(s) or component(s) not included in the package shall be accompanied either by the statement required by paragraph (a)(3) of this section or by a separate statement specifying the food or characterizing ingredient(s) or component(s) shown in the vignette but not included in the package.

(d) If the statement specified in paragraph (a)(2) of this section is used on any panel in addition to the principal display panel as a product identification statement, the complete common or usual name shall appear on such panel in the manner specified in paragraph (b) of this section.

(e) When a brand name or other prominent product designation contains a word or words that includes or suggests an important characterizing ingredient(s) or component(s) that must be added, or otherwise states or implies that the package contains a complete main dish, dinner, or other food serving, the part of the common or usual name of the food required by paragraph (a)(3) of this section shall appear in direct conjunction with such brand name or other designation and in type size not less than one-half the height of the largest type appearing in such brand name or other designation.

§102.33 Beverages that contain fruit or vegetable juice.

(a) For a carbonated or noncarbonated beverage that contains less than

100 percent and more than 0 percent fruit or vegetable juice, the common or usual name shall be a descriptive name that meets the requirements of §102.5(a) and, if the common or usual name uses the word "juice," shall include a qualifying term such as "beverage," "cocktail," or "drink" appropriate to advise the consumer that the product is less than 100 percent juice (e.g., "diluted grape juice beverage" or "grape juice drink").

(b) If the product is a diluted multiple-juice beverage or blend of single-strength juices and names, other than in the ingredient statement, more than one juice, then the names of those juices, except in the ingredient statement, must be in descending order of predominance by volume unless the name specifically shows that the juice with the represented flavor is used as a flavor (e.g., raspberry-flavored apple and pear juice drink). In accordance with §101.22(i)(1)(iii) of this chapter, the presence of added natural flavors is not required to be declared in the name of the beverage unless the declared juices alone do not characterize the product before the addition of the added flavors.

(c) If a diluted multiple-juice beverage or blend of single-strength juices contains a juice that is named or implied on the label or labeling other than in the ingredient statement (represented juice), and also contains a juice other than the named or implied juice (nonrepresented juice), then the common or usual name for the product shall indicate that the represented juice is not the only juice present (e.g., "Apple blend; apple juice in a blend of two other fruit juices.")

(d) In a diluted multiple-juice beverage or blend of single-strength juices where one or more, but not all, of the juices are named on the label other than in the ingredient statement, and where the named juice is not the predominant juice, the common or usual name for the product shall:

(1) Indicate that the named juice is present as a flavor or flavoring (e.g., "Raspcranberry"; raspberry and cranberry flavored juice drink); or

(2) Include the amount of the named juice, declared in a 5- percent range (e.g., Raspcranberry; raspberry and

cranberry juice beverage, 10- to 15-percent cranberry juice and 3- to 8-percent raspberry juice). The 5-percent range, when used, shall be declared in the manner set forth in § 102.5(b)(2).

(e) The common or usual name of a juice that has been modified shall include a description of the exact nature of the modification (e.g., "acid-reduced cranberry juice," "decaffeinated, de-colored grape juice").

(f) If the product is a beverage that contains a juice whose color, taste, or other organoleptic properties have been modified to the extent that the original juice is no longer recognizable at the time processing is complete, or if its nutrient profile has been diminished to a level below the normal nutrient range for the juice, then the source fruits or vegetables from which the modified juice was derived may not be depicted on the label by vignette or other pictorial representation.

(g)(1) If one or more juices in a juice beverage is made from concentrate, the name of the juice must include a term indicating that fact, such as "from concentrate," or "reconstituted." Such terms must be included in the name of each individual juice or it may be stated once adjacent to the product name so that it applies to all the juices, (e.g., "cherry juice (from concentrate) in a blend of two other juices" or "cherry juice in a blend of 2 other juices (from concentrate)"). The term shall be in a type size no less than one-half the height of the letters in the name of the juice.

(2) If the juice is 100 percent single species juice consisting of juice directly expressed from a fruit or vegetable whose Brix level has been raised by the addition of juice concentrate from the same fruit or vegetable, the name of the juice need not include a statement that the juice is from concentrate. However, if water is added to this 100 percent juice mixture to adjust the Brix level, the product shall be labeled with the term "from concentrate" or "reconstituted."

[58 FR 2926, Jan. 6, 1993; 58 FR 17103, Apr. 1, 1993, as amended at 58 FR 44063, Aug. 18, 1993; 62 FR 15343, Mar. 31, 1997]

§ 102.37 Mixtures of edible fat or oil and olive oil.

The common or usual name of a mixture of edible fats and oils containing less than 100 percent and more than 0 percent olive oil shall be as follows:

(a) A descriptive name for the product meeting the requirements of § 102.5(a), e.g., "cottonseed oil and olive oil" or another descriptive phrase, and

(b) When the label bears any representation, other than in the ingredient listing, of the presence of olive oil in the mixture, the descriptive name shall be followed by a statement of the percentage of olive oil contained in the product in the manner set forth in § 102.5(b)(2).

§ 102.39 Onion rings made from diced onion.

(a) The common or usual name of the food product that resembles and is of the same composition as onion rings, except that it is composed of comminuted onions, shall be as follows:

(1) When the product is composed of dehydrated onions, the name shall be "onion rings made from dried diced onions."

(2) When the product is composed of any form of onion other than dehydrated, the name shall be "onion rings made from diced onions."

(b) The words "made from dried diced onions" or "made from diced onions" shall immediately follow or appear on a line(s) immediately below the words "onion rings" in easily legible boldface print or type in distinct contrast to other printed or graphic matter, and in a height not less than the larger of the following alternatives:

(1) Not less than one-sixteenth inch in height on packages having a principal display panel with an area of 5 square inches or less and not less than one-eighth inch in height if the area of the principal display panel is greater than 5 square inches; or

(2) Not less than one-half the height of the largest type used in the words "onion rings."

§ 102.41 Potato chips made from dried potatoes.

(a) The common or usual name of the food product that resembles and is of the same composition as potato chips,

§ 102.45

except that it is composed of dehydrated potatoes (buds, flakes, granules, or other form), shall be "potato chips made from dried potatoes."

(b) The words "made from dried potatoes" shall immediately follow or appear on a line(s) immediately below the words "potato chips" in easily legible boldface print or type in distinct contrast to other printed or graphic matter, and in a height not less than the larger of the following alternatives:

(1) Not less than one-sixteenth inch in height on packages having a principal display panel with an area of 5 square inches or less and not less than one-eighth inch in height if the area of the principal display panel is greater than 5 square inches; or

(2) Not less than one-half the height of the largest type used in the words "potato chips."

§ 102.45 Fish sticks or portions made from minced fish.

(a) The common or usual name of the food product that resembles and is of the same composition as fish sticks or fish portions, except that it is composed of comminuted fish flesh, shall be "fish _____ made from minced fish," the blank to be filled in with the word "sticks" or "portions" as the case may be.

(b) The words "made from minced fish" shall immediately follow or appear on a line(s) immediately below the words "fish _____" in easily legible boldface print or type in distinct contrast to other printed or graphic matter, and in a height not less than the larger of the following alternatives:

(1) Not less than one-sixteenth inch in height on packages having a principal display panel with an area of 5 square inches or less and not less than one-eighth inch in height if the area of the principal display panel is greater than 5 square inches; or

(2) Not less than one-half the height of the largest type used in the words "fish _____."

§ 102.46 Pacific whiting.

"Pacific whiting" or "North Pacific whiting" is the common or usual name of the food fish *Merluccius productus*.

[44 FR 45617, Aug. 3, 1979]

§ 102.47 Bonito.

"Bonito" or "bonito fish" is the common or usual name of the following food fishes:

Cybiosarda elegans (Whitely, 1935)—Leaping bonito

Gymnosarda unicolor (Ruppell, 1838)—Dogtooth tuna

Orcynopsis unicolor (Geoffroy St. Hilaire, 1817)—Plain bonito

Sarda australis (Macleay, 1880)—Australian bonito

Sarda chiliensis (Cuvier, 1831)—Eastern Pacific bonito

Sarda orientalis (Temminck and Schlegel, 1844)—Striped bonito

Sarda sarda (Bloch, 1793)—Atlantic bonito

[55 FR 45797, Oct. 31, 1990]

§ 102.49 Fried clams made from minced clams.

(a) The common or usual name of the food product that resembles and is of the same composition as fried clams, except that it is composed of comminuted clams, shall be "fried clams made from minced clams."

(b) The words "made from minced clams" shall immediately follow or appear on a line(s) immediately below the words "fried clams" and in easily legible boldface print or type in distinct contrast to other printed or graphic matter, and in a height not less than the larger of the following alternatives:

(1) Not less than one-sixteenth inch in height on packages having a principal display panel with an area of 5 square inches or less and not less than one-eighth inch in height if the area of the principal display panel is greater than 5 square inches; or

(2) Not less than one-half the height of the largest type used in the words "fried clams."

§ 102.50 Crabmeat.

The common or usual name of crabmeat derived from each of the following designated species of crabs shall be as follows:

Scientific name of crab	Common or usual name of crabmeat
<i>Chionoecetes opilio</i> , <i>Chionoecetes tanneri</i> , <i>Chionoecetes bairdii</i> , and <i>Chionoecetes angulatus</i>	Snow crabmeat.
<i>Erimacrus isenbeckii</i>	Korean variety crabmeat or Kegani crabmeat.
<i>Lithodes aequispina</i>	Brown King crabmeat.
<i>Paralithodes brevipes</i>	King crabmeat or Hanasaki crabmeat.
<i>Paralithodes camtschaticus</i>	King crabmeat. and Paralithodes Platypus.

[42 FR 14322, Mar. 15, 1977, as amended at 60 FR 34460, July 3, 1995]

§ 102.54 Seafood cocktails.

The common or usual name of a seafood cocktail in package form fabricated with one or more seafood ingredients shall be:

(a) When the cocktail contains only one seafood ingredient, the name of the seafood ingredient followed by the word "cocktail" (e.g., shrimp cocktail, crabmeat cocktail) and a statement of the percentage by weight of that seafood ingredient in the product in the manner set forth in § 102.5(b).

(b) When the cocktail contains more than one seafood ingredient, the term "seafood cocktail" and a statement of the percentage by weight of each seafood ingredient in the product in the manner set forth in § 102.5(b).

§ 102.55 Nonstandardized breaded composite shrimp units.

(a) The common or usual name of the food product that conforms to the definition and standard of identity described by § 161.175(c)(6) of this chapter, except that the food is made from comminuted shrimp and is not in raw frozen form, shall be "_____ made from minced shrimp," the blank to be filled in with the words "breaded shrimp sticks" or "breaded shrimp cutlets" depending upon the shape of the product, or if prepared in a shape other than that of sticks or cutlets "breaded shrimp _____ made from minced shrimp," the blank to be filled by a word or phrase that accurately de-

scribes the shape and that is not misleading.

(b) The words "made from minced shrimp" shall immediately follow or appear on a line(s) immediately below the other words required by this section in easily legible boldface print or type in distinct contrast to other printed or graphic matter, and in a height not less than the larger of the following alternatives:

(1) Not less than one-sixteenth inch in height on packages having a principal display panel with an area of 5 square inches or less and no less than one-eighth inch in height if the area of the principal display panel is greater than 5 square inches; or

(2) Not less than one-half the height of the largest type used in the words "breaded shrimp sticks" or the other comparable words required by this section.

§ 102.57 Greenland turbot (Reinhardtius hippoglossoides).

"Greenland turbot" is the common or usual name of the food fish *Reinhardtius hippoglossoides*, a species of *Pleuronectidae* right-eye flounders. The term "halibut" may be associated only with Atlantic halibut (*Hippoglossus hippoglossus*) or Pacific halibut (*Hippoglossus stenolepis*).

PART 104—NUTRITIONAL QUALITY GUIDELINES FOR FOODS

Subpart A—General Provisions

Sec. 104.5 General principles.

Subpart B—Fortification Policy

104.20 Statement of purpose.

Subpart C—Specific Nutritional Quality Guidelines

104.47 Frozen "heat and serve" dinner.

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Subpart A—General Provisions

§ 104.5 General principles.

(a) A nutritional quality guideline prescribes the minimum level or range