

## § 130.8

## 21 CFR Ch. I (4-1-14 Edition)

requested to comment on the desirability and need for the standard, on the specific provisions of the standard, on additional or different provisions that should be included in the standard, and on any other pertinent points. After reviewing all such comments, the Commissioner either shall publish a proposal to establish a food standard pursuant to section 401 of the act covering the food involved, or shall publish a notice terminating consideration of such a standard.

(c) All interested persons are encouraged to confer with different interest groups (consumers, industry, the academic community, professional organizations, and others) in formulating petitions or comments pursuant to paragraph (b) of this section. All such petitions or comments are requested to include a statement of any meetings and discussions that have been held with other interest groups. Appropriate weight will be given by the Commissioner to petitions or comments that reflect a consensus of different interest groups.

### § 130.8 Conformity to definitions and standards of identity.

In the following conditions, among others, a food does not conform to the definition and standard of identity therefor:

(a) If it contains an ingredient for which no provision is made in such definition and standard, unless such ingredient is an incidental additive introduced at a nonfunctional and insignificant level as a result of its deliberate and purposeful addition to another ingredient permitted by the terms of the applicable standard and the presence of such incidental additive in unstandardized foods has been exempted from label declaration as provided in § 101.100 of this chapter.

(b) If it fails to contain any one or more ingredients required by such definition and standard;

(c) If the quantity of any ingredient or component fails to conform to the limitation, if any, prescribed therefor by such definition and standard.

### § 130.9 Sulfites in standardized food.

(a) Any standardized food that contains a sulfiting agent or combination

of sulfiting agents that is functional and provided for in the applicable standard or that is present in the finished food at a detectable level is misbranded unless the presence of the sulfiting agent or agents is declared on the label of the food. A detectable amount of sulfiting agent is 10 parts per million or more of the sulfite in the finished food. The level of sulfite in the finished food will be determined using sections 20.123 through 20.125, "Sulfurous Acid (Total) in Food Modified Monier-Williams Method Final Action" in "Official Methods of Analysis of the Association of Official Analytical Chemists," 14th ed. (1984), which is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51, and the refinements of the "Total Sulfurous Acid" procedure in the "Monier-Williams Procedure (with Modifications) for Sulfites in Foods," which is appendix A to part 101 of this chapter. A copy of sections 20.123 through 20.125 of the "Official Methods of Analysis of the Association of Official Analytical Chemists" is available from AOAC INTERNATIONAL, 481 North Frederick Ave., suite 500, Gaithersburg, MD 20877, or available for at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030, or go to: [http://www.archives.gov/federal\\_register/code\\_of\\_federal\\_regulations/ibr\\_locations.html](http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html).

(b) Any standardized food that, as a result of actions that are consistent with current good manufacturing practice, contains an indirectly added sulfiting agent that has no functional effect in the food and that would, in the absence of § 101.100(a)(4) of this chapter, be considered to be an incidental additive for purposes of § 130.8, conforms to the applicable definition and standard of identity if the presence of the sulfiting agent is declared on the label of the food.

[58 FR 2876, Jan. 6, 1993, as amended at 63 FR 14035, Mar. 24, 1998]

### § 130.10 Requirements for foods named by use of a nutrient content claim and a standardized term.

(a) *Description.* The foods prescribed by this general definition and standard