

§ 101.83

21 CFR Ch. I (4–1–09 Edition)

(6) The claim may include information on the number of people in the United States who have heart disease. The sources of this information shall be identified, and it shall be current information from the National Center for Health Statistics, the National Institutes of Health, or “Nutrition and Your Health: Dietary Guidelines for Americans,” USDA and DHHS, GPO;

(e) *Model health claim.* The following model health claims may be used in food labeling to describe the relationship between diets that are low in saturated fat and cholesterol and that include soy protein and reduced risk of heart disease:

(1) 25 grams of soy protein a day, as part of a diet low in saturated fat and cholesterol, may reduce the risk of heart disease. A serving of [name of food] supplies ___ grams of soy protein.

(2) Diets low in saturated fat and cholesterol that include 25 grams of soy protein a day may reduce the risk of heart disease. One serving of [name of food] provides ___ grams of soy protein.

[64 FR 57732, Oct. 26, 1999]

EFFECTIVE DATE NOTE: At 64 FR 57732, Oct. 26, 1999, §101.82 was added. Paragraph (c)(2)(ii)(B) contains information collection and recordkeeping requirements and will not become effective until approval has been given by the Office of Management and Budget.

§101.83 Health claims: plant sterol/stanol esters and risk of coronary heart disease (CHD).

(a) *Relationship between diets that include plant sterol/stanol esters and the risk of CHD.* (1) Cardiovascular disease means diseases of the heart and circulatory system. Coronary heart disease (CHD) is one of the most common and serious forms of cardiovascular disease and refers to diseases of the heart muscle and supporting blood vessels. High blood total cholesterol and low density lipoprotein (LDL) cholesterol levels are associated with increased risk of developing coronary heart disease. High CHD rates occur among people with high total cholesterol levels of 240 milligrams per deciliter (mg/dL) (6.21 millimole per liter (mmol/l)) or above and LDL cholesterol levels of 160

mg/dL (4.13 mmol/l) or above. Borderline high risk blood cholesterol levels range from 200 to 239 mg/dL (5.17 to 6.18 mmol/l) for total cholesterol, and 130 to 159 mg/dL (3.36 to 4.11 mmol/l) of LDL cholesterol.

(2) Populations with a low incidence of CHD tend to have relatively low blood total cholesterol and LDL cholesterol levels. These populations also tend to have dietary patterns that are not only low in total fat, especially saturated fat and cholesterol, but are also relatively high in plant foods that contain dietary fiber and other components.

(3) Scientific evidence demonstrates that diets that include plant sterol/stanol esters may reduce the risk of CHD.

(b) *Significance of the relationship between diets that include plant sterol/stanol esters and the risk of CHD.* (1) CHD is a major public health concern in the United States. It accounts for more deaths than any other disease or group of diseases. Early management of risk factors for CHD is a major public health goal that can assist in reducing risk of CHD. High blood total and LDL cholesterol are major modifiable risk factors in the development of CHD.

(2) The scientific evidence establishes that including plant sterol/stanol esters in the diet helps to lower blood total and LDL cholesterol levels.

(c) *Requirements*—(1) *General.* All requirements set forth in §101.14 shall be met, except §101.14(a)(4) with respect to the disqualifying level for total fat per 50 grams (g) in dressings for salad and spreads and §101.14(e)(6) with respect to dressings for salad.

(2) *Specific requirements*—(i) *Nature of the claim.* A health claim associating diets that include plant sterol/stanol esters with reduced risk of heart disease may be made on the label or labeling of a food described in paragraph (c)(2)(iii) of this section, provided that:

(A) The claim states that plant sterol/stanol esters should be consumed as part of a diet low in saturated fat and cholesterol;

(B) The claim states that diets that include plant sterol/stanol esters “may” or “might” reduce the risk of heart disease;

(C) In specifying the disease, the claim uses the following terms: “heart disease” or “coronary heart disease”;

(D) In specifying the substance, the claim uses the term “plant sterol esters” or “plant stanol esters,” except that if the sole source of the plant sterols or stanols is vegetable oil, the claim may use the term “vegetable oil sterol esters” or “vegetable oil stanol esters”;

(E) The claim does not attribute any degree of risk reduction for CHD to diets that include plant sterol/stanol esters;

(F) The claim does not imply that consumption of diets that include plant sterol/stanol esters is the only recognized means of achieving a reduced risk of CHD; and

(G) The claim specifies the daily dietary intake of plant sterol or stanol esters that is necessary to reduce the risk of CHD and the contribution one serving of the product makes to the specified daily dietary intake level. Daily dietary intake levels of plant sterol and stanol esters that have been associated with reduced risk of are:

(1) 1.3 g or more per day of plant sterol esters.

(2) 3.4 g or more per day of plant stanol esters.

(H) The claim specifies that the daily dietary intake of plant sterol or stanol esters should be consumed in two servings eaten at different times of the day with other foods.

(ii) *Nature of the substance*—(A) *Plant sterol esters.* (1) Plant sterol esters prepared by esterifying a mixture of plant sterols from edible oils with food-grade fatty acids. The plant sterol mixture shall contain at least 80 percent beta-sitosterol, campesterol, and stigmasterol (combined weight).

(2) FDA will measure plant sterol esters by the method entitled “Determination of the Sterol Content in Margarines, Halvarines, Dressings, Fat Blends and Sterol Fatty Acid Ester Concentrates by Capillary Gas Chromatography,” developed by Unilever United States, Inc., dated February 1, 2000. The method, which is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51, may be obtained from the Center for Food Safety and Applied Nutrition, Of-

fice of Nutritional Products, Labeling, and Dietary Supplements, Division of Nutrition Science and Policy, 5100 Paint Branch Pkwy., College Park, MD 20740, and may be examined at the Center for Food Safety and Applied Nutrition’s Library, 5100 Paint Branch Pkwy., College Park, MD 20740, or 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.

(B) *Plant stanol esters.* (1) Plant stanol esters prepared by esterifying a mixture of plant stanols derived from edible oils or byproducts of the kraft paper pulping process with food-grade fatty acids. The plant stanol mixture shall contain at least 80 percent sitostanol and campestanol (combined weight).

(2) FDA will measure plant stanol esters by the following methods developed by McNeil Consumer Healthcare dated February 15, 2000: “Determination of Stanols and Sterols in Benecol Tub Spread”; “Determination of Stanols and Sterols in Benecol Dressing”; “Determination of Stanols and Sterols in Benecol Snack Bars”; or “Determination of Stanols and Sterols in Benecol Softgels.” These methods are incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from the Center for Food Safety and Applied Nutrition, Office of Nutritional Products, Labeling, and Dietary Supplements, Division of Nutrition Science and Policy, 5100 Paint Branch Pkwy., College Park, MD 20740, or may be examined at the Center for Food Safety and Applied Nutrition’s Library, 5100 Paint Branch Pkwy., College Park, MD 20740, and 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.

(iii) *Nature of the food eligible to bear the claim.* (A) The food product shall contain:

(1) At least 0.65 g of plant sterol esters that comply with paragraph (c)(2)(ii)(A)(1) of this section per reference amount customarily consumed of the food products eligible to bear the health claim, specifically spreads and dressings for salad, or

(2) At least 1.7 g of plant stanol esters that comply with paragraph (c)(2)(ii)(B)(1) of this section per reference amount customarily consumed of the food products eligible to bear the health claim, specifically spreads, dressings for salad, snack bars, and dietary supplements in softgel form.

(B) The food shall meet the nutrient content requirements in §101.62 for a “low saturated fat” and “low cholesterol” food; and

(C) The food must meet the limit for total fat in §101.14(a)(4), except that spreads and dressings for salad are not required to meet the limit for total fat per 50 g if the label of the food bears a disclosure statement that complies with §101.13(h); and

(D) The food must meet the minimum nutrient contribution requirement in §101.14(e)(6) unless it is a dressing for salad.

(d) *Optional information.* (1) The claim may state that the development of heart disease depends on many factors and may identify one or more of the following risk factors for heart disease about which there is general scientific agreement: A family history of CHD; elevated blood total and LDL cholesterol; excess body weight; high blood pressure; cigarette smoking; diabetes; and physical inactivity. The claim may also provide additional information about the benefits of exercise and management of body weight to help lower the risk of heart disease.

(2) The claim may state that the relationship between intake of diets that include plant sterol/stanol esters and reduced risk of heart disease is through the intermediate link of “blood cholesterol” or “blood total and LDL cholesterol.”

(3) The claim may include information from paragraphs (a) and (b) of this section, which summarize the relationship between diets that include plant sterol/stanol esters and the risk of CHD and the significance of the relationship.

(4) The claim may include information from the following paragraph on the relationship between saturated fat and cholesterol in the diet and the risk of CHD: The scientific evidence establishes that diets high in saturated fat and cholesterol are associated with increased levels of blood total and LDL cholesterol and, thus, with increased risk of CHD. Intakes of saturated fat exceed recommended levels in the diets of many people in the United States. One of the major public health recommendations relative to CHD risk is to consume less than 10 percent of calories from saturated fat and an average of 30 percent or less of total calories from all fat. Recommended daily cholesterol intakes are 300 mg or less per day. Scientific evidence demonstrates that diets low in saturated fat and cholesterol are associated with lower blood total and LDL cholesterol levels.

(5) The claim may state that diets that include plant sterol or stanol esters and are low in saturated fat and cholesterol are consistent with “Nutrition and Your Health: Dietary Guidelines for Americans,” U.S. Department of Agriculture (USDA) and Department of Health and Human Services (DHHS), Government Printing Office (GPO).

(6) The claim may state that individuals with elevated blood total and LDL cholesterol should consult their physicians for medical advice and treatment. If the claim defines high or normal blood total and LDL cholesterol levels, then the claim shall state that individuals with high blood cholesterol should consult their physicians for medical advice and treatment.

(7) The claim may include information on the number of people in the United States who have heart disease. The sources of this information shall be identified, and it shall be current information from the National Center for Health Statistics, the National Institutes of Health, or “Nutrition and Your Health: Dietary Guidelines for Americans,” U.S. Department of Agriculture (USDA) and Department of Health and Human Services (DHHS), Government Printing Office (GPO).

(e) *Model health claim.* The following model health claims may be used in

food labeling to describe the relationship between diets that include plant sterol or stanol esters and reduced risk of heart disease:

(1) *For plant sterol esters:* (i) Foods containing at least 0.65 g per serving of plant sterol esters, eaten twice a day with meals for a daily total intake of at least 1.3 g, as part of a diet low in saturated fat and cholesterol, may reduce the risk of heart disease. A serving of [name of the food] supplies _____ grams of vegetable oil sterol esters.

(ii) Diets low in saturated fat and cholesterol that include two servings of foods that provide a daily total of at least 1.3 g of vegetable oil sterol esters in two meals may reduce the risk of heart disease. A serving of [name of the food] supplies _____ grams of vegetable oil sterol esters.

(2) *For plant stanol esters:* (i) Foods containing at least 1.7 g per serving of plant stanol esters, eaten twice a day with meals for a total daily intake of at least 3.4 g, as part of a diet low in saturated fat and cholesterol, may reduce the risk of heart disease. A serving of [name of the food] supplies _____ grams of plant stanol esters.

(ii) Diets low in saturated fat and cholesterol that include two servings of foods that provide a daily total of at least 3.4 g of vegetable oil stanol esters in two meals may reduce the risk of heart disease. A serving of [name of the food] supplies _____ grams of vegetable oil stanol esters.

[65 FR 54717, Sept. 8, 2000; 65 FR 70466, Nov. 24, 2000, as amended at 66 FR 66742, Dec. 27, 2001; 68 FR 15355, Mar. 31, 2003; 70 FR 41958, July 21, 2005]

Subpart F—Specific Requirements for Descriptive Claims That Are Neither Nutrient Content Claims nor Health Claims

§ 101.93 Certain types of statements for dietary supplements.

(a)(1) No later than 30 days after the first marketing of a dietary supplement that bears one of the statements listed in section 403(r)(6) or the Federal Food, Drug, and Cosmetic Act, the manufacturer, packer, or distributor of the dietary supplement shall notify the Office of Nutritional Products, Label-

ing and Dietary Supplements (HFS-810), Center for Food Safety and Applied Nutrition, Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740, that it has included such a statement on the label or in the labeling of its product. An original and two copies of this notification shall be submitted.

(2) The notification shall include the following:

(i) The name and address of the manufacturer, packer, or distributor of the dietary supplement that bears the statement;

(ii) The text of the statement that is being made;

(iii) The name of the dietary ingredient or supplement that is the subject of the statement, if not provided in the text of the statement; and

(iv) The name of the dietary supplement (including brand name), if not provided in response to paragraph (a)(2)(iii) on whose label, or in whose labeling, the statement appears.

(3) The notice shall be signed by a responsible individual or the person who can certify the accuracy of the information presented and contained in the notice. The individual shall certify that the information contained in the notice is complete and accurate, and that the notifying firm has substantiation that the statement is truthful and not misleading.

(b) *Disclaimer.* The requirements in this section apply to the label or labeling of dietary supplements where the dietary supplement bears a statement that is provided for by section 403(r)(6) of the Federal Food, Drug, and Cosmetic Act (the act), and the manufacturer, packer, or distributor wishes to take advantage of the exemption to section 201(g)(1)(C) of the act that is provided by compliance with section 403(r)(6) of the act.

(c) *Text for disclaimer.* (1) Where there is one statement, the disclaimer shall be placed in accordance with paragraph (d) of this section and shall state:

This statement has not been evaluated by the Food and Drug Administration. This product is not intended to diagnose, treat, cure, or prevent any disease.