as described in § 317.313(j)(1)(i)(B) and (j)(1)(ii)(B), provided that if the product is not "low in sodium" as defined in § 317.361(b)(4), the statement "not a low sodium food," shall appear adjacent to the nutrition information and the information required to accompany a relative claim shall appear on the label or labeling as specified in § 317.313(j)(2).

11. Section 317.360 is revised to read as follows:

## § 317.360 Nutrient content claims for calorie content.

- (a) *General requirements.* A claim about the calorie or sugar content of a product may only be made on the label or in labeling of the product if:
- (1) The claim uses one of the terms defined in this section in accordance with the definition for that term;
- (2) The claim is made in accordance with the general requirements for nutrient content claims in § 317.313; and
- (3) The product for which the claim is made is labeled in accordance with § 317.309.
- (b) Calorie content claims. (1) The terms "calorie free," "free of calories," "no calories," "zero calories," "without calories," "trivial source of calories," "negligible source of calories," or "dietarily insignificant source of calories" may be used on the label or in labeling of products, provided that:
- (i) The product contains less than 5 calories per reference amount customarily consumed and per labeled serving size; and
- (ii) If the product meets this condition without the benefit of special processing, alteration, formulation, or reformulation to lower the caloric content, it is labeled to clearly refer to all products of its type and not merely to the particular brand to which the label attaches.
- (2) The terms "low calorie," "few calories," "contains a small amount of calories," "low source of calories," or "low in calories" may be used on the label or in labeling of products, except meal-type products as defined in § 317.313(l), provided that:
- (i)(A) The product has a reference amount customarily consumed greater than 30 grams (g) or greater than 2 tablespoons (tbsp) and does not provide more than 40 calories per reference amount customarily consumed; or
- (B) The product has a reference amount customarily consumed of 30 g or less or 2 tbsp or less and does not provide more than 40 calories per reference amount customarily consumed and per 50 g (for dehydrated products that must be reconstituted

- before typical consumption with water or a diluent containing an insignificant amount, as defined in § 317.309(f)(1), of all nutrients per reference amount customarily consumed, the per-50-g criterion refers to the "as prepared" form).
- (ii) If the product meets these conditions without the benefit of special processing, alteration, formulation, or reformulation to lower the caloric content, it is labeled to clearly refer to all products of its type and not merely to the particular brand to which the label attaches.
- (3) The terms defined in paragraph (b)(2) of this section may be used on the label or in labeling of a meal-type product as defined in § 317.313(l), provided that:
- (i) The product contains 120 calories or less per 100 g of product; and
- (ii) If the product meets this condition without the benefit of special processing, alteration, formulation, or reformulation to lower the calorie content, it is labeled to clearly refer to all products of its type and not merely to the particular brand to which it attaches.
- (4) The terms "reduced calorie," "reduced in calories," "calorie reduced," "fewer calories," "lower calorie," or "lower in calories" may be used on the label or in labeling of products, except meal-type products as defined in § 317.313(l), provided that:
- (i) The product contains at least 25 percent fewer calories per reference amount customarily consumed than an appropriate reference product as described in § 317.313(j)(1); and
- (ii) As required in § 317.313(j)(2) for relative claims:
- (A) The identity of the reference product and the percent (or fraction) that the calories differ between the two products are declared in immediate proximity to the most prominent such claim (e.g., lower calorie 'product'— "33½ percent fewer calories than our regular 'product'"); and
- (B) Quantitative information comparing the level of calories in the product per labeled serving size with that of the reference product that it replaces is declared adjacent to the most prominent claim or to the nutrition information (e.g., "calorie content has been reduced from 150 to 100 calories per serving").
- (iii) Claims described in paragraph (b)(4) of this section may not be made on the label or in labeling of products if the reference product meets the definition for "low calorie."
- (5) The terms defined in paragraph (b)(4) of this section may be used on the label or in labeling of a meal-type

- product as defined in § 317.313(l), provided that:
- (i) The product contains at least 25 percent fewer calories per 100 g of product than an appropriate reference product as described in § 317.313(j)(1); and
- (ii) As required in § 317.313(j)(2) for relative claims:
- (A) The identity of the reference product and the percent (or fraction) that the calories differ between the two products are declared in immediate proximity to the most prominent such claim (e.g., "calorie reduced 'product', 25% less calories per ounce (oz) (or 3 oz) than our regular 'product' "); and
- (B) Quantitative information comparing the level of calories in the product per specified weight with that of the reference product that it replaces is declared adjacent to the most prominent claim or to the nutrition information (e.g., "calorie content has been reduced from 110 calories per 3 oz to 80 calories per 3 oz").
- (iii) Claims described in paragraph (b)(5) of this section may not be made on the label or in labeling of products if the reference product meets the definition for "low calorie."
- (c) Sugar content claims. (1) Terms such as "sugar free," "free of sugar," "no sugar," "zero sugar," "without "sugarless," "trivial source of sugar," "negligible source of sugar," or ''dietarily insignificant source of sugar'' may reasonably be expected to be regarded by consumers as terms that represent that the product contains no sugars or sweeteners, e.g., "sugar free," or "no sugar," as indicating a product which is low in calories or significantly reduced in calories. Consequently, except as provided in paragraph (c)(2) of this section, a product may not be labeled with such terms unless:
- (i) The product contains less than 0.5 g of sugars, as defined in § 317.309(c)(6)(ii), per reference amount customarily consumed and per labeled serving size or, in the case of a mealtype product, less than 0.5 g of sugars per labeled serving size;
- (ii) The product contains no ingredient that is a sugar or that is generally understood by consumers to contain sugars unless the listing of the ingredient in the ingredients statement is followed by an asterisk that refers to the statement below the list of ingredients, which states: "Adds a trivial amount of sugar," "adds a negligible amount of sugar," or "adds a dietarily insignificant amount of sugar;" and
- (iii)(A) It is labeled "low calorie" or "reduced calorie" or bears a relative claim of special dietary usefulness