foods, such as fruit jellies, jams, and preserves, would it be necessary to identify a ''parent'' product, for example, a standardized jam or jelly that complies with minimum compositional requirements established by regulation, to avoid misleading use of the percentage declaration on the food label? For example, if products with less than 45 parts fruit were allowed to be called ''jam'' or ''preserves,'' provided the percentage of fruit were required to be declared, would a standard of identity for jam and preserves specifying the types of ingredients the foods contain and requiring a minimum fruit content, minimum sweetener content, or minimum soluble solids in the finished product be necessary? If so, would it be desirable that the standard of identity also require declaration of the percentage of fruit in the parent product for comparison purposes?

5. Establishment of Generic Food Standards

FDA has established several generic food standards, such as the class standards of identity in part 133 for certain types of cheeses for which the agency has not established individual varietal standards (e.g., § 133.150 *Hard cheeses*, and § 133.193 *Spiced, flavored standardized cheeses*) and the generic standard for nutritionally modified versions of traditional standardized foods in § 130.10 *Requirements for foods named by the use of a nutrient content claim and a standardized term*. Could the generic food standard concept be extended to other classes of food standards, e.g., canned fruits and canned fruit juices? Could these standards be written as ''performance'' standards rather than as recipes? If so, provide illustrative examples.

6. Private Certification of Food Products

Which characteristics of food products are most amenable to certification by private organizations rather than by local, State, or Federal government? Which factors render private certification impractical or inappropriate?

7. Labeling Qualifications That Product Differs From Government Standard

a. Should products that do not conform to FDA quality standards be labeled ''BELOW STANDARD IN QUALITY—GOOD FOOD, NOT HIGH GRADE?'' Is there better labeling that would provide more useful distinctions? Would alternative labeling be more readily interpreted in the case of substandard fill labeling?

b. FDA notes that most of the previous questions are directed primarily at standards of identity or common or usual name regulations. However, the agency requests that commenters also consider the need for standards of fill of container and standards of quality. How important are these regulations to consumers and the food industry? As in the case of standards of identity, FDA requests comments on whether these standards should be retained, revised, or revoked. Some of the quality factors of the standards were based on acceptance of the Codex Alimentarius international food standards and others on good commercial practice in this country. Thus, comments should consider as part of their analysis the impact of such standards relative to exported and imported food, as well as food produced and sold domestically.

8. Moratorium on Food Standards

FDA requests comment on whether, if it institutes a broad rulemaking on foods standards, a moratorium on foods standards actions, e.g., issuance of temporary marketing permits and the development of regulations to amend, repeal, or establish new standards, would be appropriate.

9. Are There Any Other Ideas?

a. Is there a better way to protect consumer expectations about food products without the market entry delays and demands on agency resources that frequently occur under the current system? If the existing system of standards is deemed to be outdated and no longer serving a useful purpose in the marketplace, is there a middle ground? Is there a different system for standards that would be useful? What, if anything, should be done about section 401 of the act? If this provision is not repealed, the agency will continue to receive petitions to issue standards of identity, quality, and fill of container.

b. The agency is particularly interested in the cost/benefit aspects of food standards. Do the benefits of standards of identity, quality, and fill of container to consumers and to the regulated industry outweigh the costs of such regulations? If the existing programs need to be restructured, how should this be accomplished, and how would such a change affect the costs and benefits to consumers?

c. What factors affect the benefits and costs of food standards, other than the factors listed previously? Are there considerations relating to the cost/benefit factors listed above that have not been acknowledged? How can FDA best estimate the benefits and costs of particular standards? Which standards are particularly beneficial or costly, and why?

Interested persons may, on or before April 29, 1996, submit to the Dockets Management Branch (address above) written comments regarding this advanced notice of proposed rulemaking. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: December 22, 1995.

William B. Schultz,

Deputy Commissioner for Policy.

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