

Consumer Expenditure Survey, 1997–99, Bureau of Labor Statistics, U.S. Department of Labor, Washington, DC, May 2001, p. 3. Obtained data from the Internet site <http://stats.bls.gov/cex/csxann99.pdf> on July 25, 2002.

#### List of Subjects in 21 CFR Part 101

Food labeling, Incorporation by reference, Nutrition, Reporting and recordkeeping requirements.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, it is proposed that 21 CFR part 101 be amended as follows:

#### PART 101—FOOD LABELING

1. The authority citation for 21 CFR part 101 continues to read as follows:

**Authority:** 15 U.S.C 1453, 1454, 1455; 21 U.S.C. 321, 331, 342, 343, 348, 371; 42 U.S.C. 243, 264, 271.

2. Section 101.4 is amended by revising paragraph (h) to read as follows:

##### **§ 101.4 Food; designation of ingredients.**

\* \* \* \* \*

(h) The common or usual name of a botanical ingredient (including fungi and algae) listed on the label of a dietary supplement must be consistent with the “standardized common name” listed in *Herbs of Commerce, 2nd Edition* (2000) for the plant from which the ingredient is derived. The use of the term “ginseng” as a common or usual name (or part thereof) for any dietary supplement or dietary ingredient is limited to those that are derived from a plant classified within the genus “*Panax*.” *Herbs of Commerce, 2nd Edition* (2000) is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies of this book may be obtained from the American Herbal Products Association, 8484 Georgia Ave., suite 370, Silver Spring, MD 20910, 301–588–1171, FAX: 301–588–1174, e-mail: [ahpa@ahpa.org](mailto:ahpa@ahpa.org). Copies also may be examined at the Center for Food Safety and Applied Nutrition’s Library, 5100 Paint Branch Pkwy., College Park, MD, or at the Office of the Federal Register, 800 North Capitol St. NW., suite 700, Washington, DC.

(1) The listing of the common or usual name on the label must be followed by statements of:

(i) The part of the plant (e.g., root, leaves) from which the dietary ingredient is derived (e.g., “Garlic bulb” or “Garlic (bulb)”), except that this designation is not required for algae. The name of the part of the plant must be expressed in English (e.g., “flower” rather than “flos”); and

(ii) The Latin binomial name (i.e., genus and species) of the plant from which the botanical ingredient is derived, stated in parentheses, when no “standardized common name” for the plant is listed in *Herbs of Commerce, 2nd Edition* (2000). In such cases, this Latin binomial name may be listed before the part of the plant and must be stated in accordance with the internationally accepted rules on botanical nomenclature found in the *International Code of Botanical Nomenclature (Saint Louis Code) 2000*. When needed to positively identify the botanical ingredient, the Latin binomial name also must include the author citation (i.e., name(s) of the person(s) who described and published the Latin binomial name in accordance with the internationally accepted rules on botanical nomenclature found in the *International Code of Botanical Nomenclature (Saint Louis Code) 2000*). The *International Code of Botanical Nomenclature (Saint Louis Code) 2000*, a publication of the International Association for Plant Taxonomy, is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies of this book may be obtained from Koeltz Scientific Books, D–61453 Königstein, Germany; University Bookstore, Southern Illinois University, Carbondale, IL 62901–4422, 618–536–3321, FAX: 618–453–5207, e-mail: [siu@bkstr.com](mailto:siu@bkstr.com); and from Lubrecht & Cramer, 18 East Main St., Port Jervis, NY 12771, 800–920–9334, FAX: 800–920–9334, e-mail: [books@lubrechtcramer.com](mailto:books@lubrechtcramer.com). Copies also may be examined at the Center for Food Safety and Applied Nutrition’s Library, 5100 Paint Branch Pkwy., College Park, MD, or at the Office of the Federal Register, 800 North Capitol St. NW., suite 700, Washington, DC.

(2) On labels of single-ingredient dietary supplements that do not include an ingredient list, the identification of the Latin binomial name, when needed, and the part of the plant may be prominently placed on the principal display panel or information panel, or included in the nutrition label.

Dated: August 14, 2003.

**William K. Hubbard,**

*Associate Commissioner for Policy and Planning.*

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#### DEPARTMENT OF THE TREASURY

##### Internal Revenue Service

#### 26 CFR Part 1

[REG–129709–03]

RIN–1545–BC34

#### Prohibited Allocations of Securities in an S Corporation

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Change of date for public hearing on proposed rulemaking by cross-reference to temporary regulations.

**SUMMARY:** This document provides notice of a change of date for the public hearing on proposed regulations by cross-reference to temporary regulations under sections 409(p), and 409(p)(5).

**DATES:** The public hearing is being held on Monday, November 17, 2003 at 10 a.m. Outline of oral comments must be received by October 27, 2003.

**ADDRESSES:** The public hearing is being held in room 6718, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC. Send submissions to: CC:PA:LPD:PR (REG–129709–03), Room 5203, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand delivered between the hours of 8 a.m. and 5 p.m. to: CC:PA:LPD:PR (REG–129709–03), Courier’s Desk, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC. Alternatively, taxpayers may submit an outline of oral comments electronically directly to the IRS Internet site at <http://www.irs.gov/regs>.

**FOR FURTHER INFORMATION:** Concerning the regulations, John Ricotta (202) 622–6060; concerning submissions, Sonya M. Cruse (202) 622–4693 (not a toll-free number).

#### SUPPLEMENTARY INFORMATION:

##### Background

A notice of proposed rulemaking by cross-reference to temporary regulations and notice of public hearing appearing in the **Federal Register** on Monday, July 21, 2003 (68 FR 43058), announced that a public hearing on proposed rulemaking by cross-reference to temporary regulations that provided guidance on identifying disqualified persons and determining whether a plan year is a nonallocation year under section 409(p) and on the definition of synthetic equity under section 409 (p)(5) would be held on Thursday, November 20, 2003, in room 6718, Internal