

not less than one half the size of that required by 21 CFR 101.105 for the declaration of net quantity of contents, and in no case less than one-sixteenth of an inch in height.

II. ALTERNATE PROTEIN PRODUCTS

A. What Are the Criteria for Alternate Protein Products Used in the National School Lunch Program?

1. An alternate protein product used in meals planned under the food-based menu planning approaches in §210.10(k), must meet all of the criteria in this section.

2. An alternate protein product whether used alone or in combination with meat or other meat alternates must meet the following criteria:

a. The alternate protein product must be processed so that some portion of the non-protein constituents of the food is removed. These alternate protein products must be safe and suitable edible products produced from plant or animal sources.

b. The biological quality of the protein in the alternate protein product must be at least 80 percent that of casein, determined by performing a Protein Digestibility Corrected Amino Acid Score (PDCAAS).

c. The alternate protein product must contain at least 18 percent protein by weight when fully hydrated or formulated. (“When hydrated or formulated” refers to a dry alternate protein product and the amount of water, fat, oil, colors, flavors or any other substances which have been added).

d. Manufacturers supplying an alternate protein product to participating schools or institutions must provide documentation that the product meets the criteria in paragraphs A2. a through c of this appendix.

e. Manufacturers should provide information on the percent protein contained in the dry alternate protein product and on an as prepared basis.

f. For an alternate protein product mix, manufacturers should provide information on:

- (1) the amount by weight of dry alternate protein product in the package;
- (2) hydration instructions; and
- (3) instructions on how to combine the mix with meat or other meat alternates.

B. How Are Alternate Protein Products Used in the National School Lunch Program?

1. Schools, institutions, and service institutions may use alternate protein products to fulfill all or part of the meat/meat alternate component discussed in §210.10.

2. The following terms and conditions apply:

a. The alternate protein product may be used alone or in combination with other food ingredients. Examples of combination items are beef patties, beef crumbles, pizza top-

ping, meat loaf, meat sauce, taco filling, burritos, and tuna salad.

b. Alternate protein products may be used in the dry form (nonhydrated), partially hydrated or fully hydrated form. The moisture content of the fully hydrated alternate protein product (if prepared from a dry concentrated form) must be such that the mixture will have a minimum of 18 percent protein by weight or equivalent amount for the dry or partially hydrated form (based on the level that would be provided if the product were fully hydrated).

C. How Are Commercially Prepared Products Used in the National School Lunch Program?

Schools, institutions, and service institutions may use a commercially prepared meat or meat alternate product combined with alternate protein products or use a commercially prepared product that contains only alternate protein products.

[51 FR 34874, Sept. 30, 1986; 51 FR 41295, Nov. 14, 1986, as amended at 53 FR 29164, Aug. 2, 1988; 59 FR 51086, Oct. 7, 1994; 60 FR 31216; June 13, 1995; 61 FR 37671, July 19, 1996; 65 FR 12434, Mar. 9, 2000; 65 FR 26912, May 9, 2000; 69 FR 18803, Apr. 9, 2004]

APPENDIX B TO PART 210—CATEGORIES OF FOODS OF MINIMAL NUTRITIONAL VALUE

(a) *Foods of minimal nutritional value*—Foods of minimal nutritional value are:

(1) *Soda Water*—A class of beverages made by absorbing carbon dioxide in potable water. The amount of carbon dioxide used is not less than that which will be absorbed by the beverage at a pressure of one atmosphere and at a temperature of 60 °F. It either contains no alcohol or only such alcohol, not in excess of 0.5 percent by weight of the finished beverage, as is contributed by the flavoring ingredient used. No product shall be excluded from this definition because it contains artificial sweeteners or discrete nutrients added to the food such as vitamins, minerals and protein.

(2) *Water Ices*—As defined by 21 CFR 135.160 Food and Drug Administration Regulations except that water ices which contain fruit or fruit juices are not included in this definition.

(3) *Chewing Gum*—Flavored products from natural or synthetic gums and other ingredients which form an insoluble mass for chewing.

(4) *Certain Candies*—Processed foods made predominantly from sweeteners or artificial sweeteners with a variety of minor ingredients which characterize the following types:

(i) *Hard Candy*—A product made predominantly from sugar (sucrose) and corn syrup

which may be flavored and colored, is characterized by a hard, brittle texture, and includes such items as sour balls, fruit balls, candy sticks, lollipops, starlight mints, after dinner mints, sugar wafers, rock candy, cinnamon candies, breath mints, jaw breakers and cough drops.

(ii) *Jellies and Gums*—A mixture of carbohydrates which are combined to form a stable gelatinous system of jelly-like character, and are generally flavored and colored, and include gum drops, jelly beans, jellied and fruit-flavored slices.

(iii) *Marshmallow Candies*—An aerated confection composed as sugar, corn syrup, invert sugar, 20 percent water and gelatin or egg white to which flavors and colors may be added.

(iv) *Fondant*—A product consisting of microscopic-sized sugar crystals which are separated by thin film of sugar and/or invert sugar in solution such as candy corn, soft mints.

(v) *Licorice*—A product made predominantly from sugar and corn syrup which is flavored with an extract made from the licorice root.

(vi) *Spun Candy*—A product that is made from sugar that has been boiled at high temperature and spun at a high speed in a special machine.

(vii) *Candy Coated Popcorn*—Popcorn which is coated with a mixture made predominantly from sugar and corn syrup.

(b) *Petitioning Procedures*—Reconsideration of the list of foods of minimal nutritional value identified in paragraph (a) of this section may be pursued as follows:

(1) Any person may submit a petition to FNS requesting that an individual food be exempted from a category of foods of minimal nutritional value listed in paragraph (a). In the case of artificially sweetened foods, the petition must include a statement of the percent of Reference Daily Intake (RDI) for the eight nutrients listed in §210.11(a)(2) "Foods of minimal nutritional value," that the food provides per serving and the petitioner's source of this information. In the case of all other foods, the petition must include a statement of the percent of RDI for the eight nutrients listed in §210.11(a)(2) "Foods of minimal nutritional value," that the food provides per serving and per 100 calories and the petitioner's source of this information. The Department will determine whether or not the individual food is a food of minimal nutritional value as defined in §210.11(a)(2) and will inform the petitioner in writing of such determination. In determining whether an individual food is a food of minimal nutritional value, discrete nutrients added to the food will not be taken into account.

(2) Any person may submit a petition to FNS requesting that foods in a particular category of foods be classified as foods of

minimal nutritional value as defined in §210.11(a)(2). The petition must identify and define the food category in easily understood language, list examples of the food contained in the category and include a list of ingredients which the foods in that category usually contain. If, upon review of the petition, the Department determines that the foods in that category should not be classified as foods of minimal nutritional value, the petitioners will be so notified in writing. If, upon review of the petition, the Department determines that there is a substantial likelihood that the foods in that category should be classified as foods of minimal nutritional value as defined in §210.11(a)(2), the Department shall at that time inform the petitioner. In addition, the Department shall publish a proposed rule restricting the sale of foods in that category, setting forth the reasons for this action, and soliciting public comments. On the basis of comments received within 60 days of publication of the proposed rule and other available information, the Department will determine whether the nutrient composition of the foods indicates that the category should be classified as a category of foods of minimal nutritional value. The petitioner shall be notified in writing and the public shall be notified of the Department's final determination upon publication in the FEDERAL REGISTER.

(3) Written petitions should be sent to the Chief, Nutrition Promotion and Technical Assistance Branch, Child Nutrition Division, FNS, USDA, 3101 Park Center Drive, Room 632, Alexandria, Virginia 22302. Petitions must include all information specified in paragraph (b) of this appendix and §220.12(b) (1) or (2) as appropriate.

(c) Appendix B remains in effect through June 30, 2014.

[53 FR 29147, Aug. 2, 1988, as amended at 54 FR 18465, May 1, 1989; 59 FR 23614, May 6, 1994; 77 FR 4153, Jan. 26, 2012; 78 FR 39093, June 28, 2013]

APPENDIX C TO PART 210—CHILD NUTRITION LABELING PROGRAM

1. The Child Nutrition (CN) Labeling Program is a voluntary technical assistance program administered by the Food and Nutrition Service in conjunction with the Food Safety and Inspection Service (FSIS), and Agricultural Marketing Service (AMS) of the U.S. Department of Agriculture, and National Marine Fisheries Service of the U.S. Department of Commerce (USDC) for the Child Nutrition Programs. This program essentially involves the review of a manufacturer's recipe or product formulation to determine the contribution a serving of a commercially prepared product makes toward meal pattern requirements and a review of