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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 52

[FV-95-326]

United States Standards for Grades of Frozen Green and Frozen Wax Beans

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: In response to a petition from the National Food Processors Association (NFPA), the United States Department of Agriculture (USDA) is revising the United States Standards for Grades of frozen green and frozen wax beans. The revision changes the U.S. grade standards for frozen green and frozen wax beans by providing for the "individual attributes" procedure for product grading with sample sizes, acceptable quality levels (AQL's), tolerances and acceptance numbers (number of allowable defects), establishing AQL's and acceptance numbers based on a specified sample size of 13 sample units, and making minor editorial changes.

EFFECTIVE DATE: August 19, 1996.

FOR FURTHER INFORMATION CONTACT: James R. Rodeheaver, Processed Products Branch, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Room 0709, South Building, P.O. Box 96456, Washington, D.C. 20090-6456, Telephone (202) 720-4693.

SUPPLEMENTARY INFORMATION: The Department of Agriculture is issuing this rule in conformance with Executive Order 12866.

This final rule has been reviewed under Executive Order 12778, Civil Justice Reform. This action is not intended to have retroactive effect. This final rule will not preempt any State or local laws, regulations, or policies,

unless they present an irreconcilable conflict with this rule. There are no administrative procedures which must be exhausted prior to any judicial challenge to the provisions of this rule.

Pursuant to the requirements set forth in the Regulatory Flexibility Act, as amended (5 U.S.C. 601 *et seq.*), the Administrator, Agricultural Marketing Service, has determined that this action will not have a significant economic impact on a substantial number of small entities because the changes to the standards are made to reflect current marketing practices. In addition, under the Agricultural Marketing Act of 1946, the use of these standards is voluntary. A small entity may avoid incurring any additional economic impact by not employing the standards.

Agencies periodically review existing regulations. An objective of the regulatory review is to ensure that the grade standards are serving their intended purpose, the language is clear, and the standards are consistent with AMS policy and authority.

USDA received a petition from the National Food Processors Association (NFPA), requesting that the U.S. grade standards for frozen green beans be revised. NFPA is a trade association representing over 450 food industry companies.

NFPA's grade standards review subcommittee is responsible for reviewing the existing U.S. grade standards for canned and frozen fruits and vegetables to ascertain whether the standards remain current and reflect processing and marketing practices. Based on the subcommittee's recommendation, NFPA requested that the U.S. grade standards for frozen green beans, which are currently based on "full attributes," where defects are grouped into four categories (minor, major, severe, and critical) with acceptable quality levels (AQL's) for each grouping, be revised.

Their recommendation was to convert the U.S. grade standards to statistically-based individual attributes grade standards, similar to the revised U.S. grade standards for canned green and wax beans (58 FR 4295, January 14, 1993) where each defect has its own AQL. Canned green beans and frozen green beans standards would be similar in design and format.

The proposal was based on discussion drafts provided to the industry in

December 1993, March 1994, and April 1994 through their major trade associations, the American Frozen Food Institute (AFFI) and NFPA. The drafts incorporated a grading system where individual tolerances were assigned to each individual defect. The proposal provided statistically derived acceptable quality levels (AQL's) based on the tolerances in the current standards (except some tolerances were changed to be similar to the tolerances in canned green beans). The proposal also included minor editorial changes and provides a uniform format consistent with recent revisions of other U.S. grade standards. The format is designed to provide industry personnel and agricultural commodity graders with simpler and more comprehensive standards. Definitions of terms and easy-to-read tables have been incorporated to assure a better understanding and uniform application of the standards. USDA believes that this proposed rule would facilitate trade between processors and buyers and improve the marketing of frozen green beans.

Proposed Rule

The proposal to revise the U.S. Standards for Grades of frozen green and frozen wax beans was published in the Federal Register on February 15, 1995, (60 FR 8573) with a sixty-day comment period. The comment period closed on April 17, 1995. USDA received one comment from the National Food Processor's Association (NFPA), one comment from Lakeside Foods, Incorporated, Manitowoc, Wisconsin, one comment from the American Frozen Food Institute, and one comment from Twin City Foods, Incorporated, Stanwood, Washington.

NFPA represents the \$400 billion food processing industry on scientific and public policy involving issues of food safety, nutrition, and regulatory and consumer affairs. Most of their members are in the canning industry, while many members operate both canning and freezing facilities. NFPA's review of the proposed rule generally agreed with the rule but pointed out four areas where the grade standards for frozen green and frozen wax beans were not consistent with the grade standards for canned green and canned wax beans. NFPA urged that these differences be closely examined and that USDA promulgate

grade standards that are consistent with, as much as possible, the canned green and wax beans grade standards. The first point NFPA raised was the definition of "Short piece" in whole style is 44 mm (1.75 in) in the proposal and the same definition in the canned green and wax beans is 32 mm (1.25 in). The second point was the AQL for Extraneous Vegetable Material in Grade A in the proposal was 0.162 and that the AQL in the canned green and wax beans standards for the same quality factor and grade was 0.40. The lower the AQL, the more restrictive the tolerance is for the defect. The third point raised was the AQL for stems in Grade A Whole and Cut styles is 0.58 in the proposal and the AQL in the canned green beans standards for the same factors is 1.50. And the fourth point raised by NFPA was that the AQL for "Mechanical damage" in Grade A in Whole style is 2.60 for frozen green and wax beans and is 4.0 in the canned green beans standards. Lakeside Foods basically cited the same four points in their comment, believing that USDA "misunderstands" the industry's request that these grade standards be similar for both canned and frozen green beans, whenever possible. Lakeside Foods believed these differences will have an unjustified economic impact on the frozen green and wax bean industry.

The American Frozen Food Institute, representing its 560 member companies and accounting for over 90 percent of frozen food production in the United States, also commented on the proposal. AFFI's Western Technical Advisory Committee includes almost all frozen green and wax bean processors in the United States. The comment supported the proposed revision since most frozen green and wax bean processors' recommendations were incorporated into the proposal. The Institute argued however, that "small pieces" should be a classified defect instead of a prerequisite as specified in the proposal citing that if a "small piece" continues to be included as a prerequisite, the potential exists for one failing sample unit to down-grade an entire lot, resulting in an inappropriate rejection of the overall quality of the lot.

Twin City Foods, Incorporated, also commented on the proposal, opposing the increased sample unit sizes as more time-consuming when grading, and opposing "small pieces and odd cuts" in lengthwise style only, being considered as a Prerequisite quality factor. In their comment, Twin City Foods compared the sample unit sizes in the existing frozen green and wax bean grade standards (250 g, 100 units, 200 units) with the sample sizes in the

proposal (500 g, 400 units). As stated in their comment, "One of the operational requirements of Twin City Foods, Inc. is to have each tote bin of product be USDA Grade Certifiable (in our plants processing under Continuous U.S.D.A. Inspection). In order to establish a grade, the U.S.D.A. must grade a minimum of three samples per Lot, or in this case, per tote bin. When we are processing green beans, we fill a tote bin (1450 lbs for cut green beans, 900 lbs. for sliced lengthwise, and 800 lbs. for whole beans) about every 5 minutes. With the defect grading sample size twice as large for cut and sliced lengthwise green beans, and four times larger for whole green beans, accurate grade checks could not be completed in time." Twin City Foods also opposed "small pieces and odd cuts" in lengthwise style only, being categorized as a Prerequisite quality factor in the proposal, agreed with AFFI that "small pieces and odd cuts" in lengthwise style only should be a Classified quality factor, and the AQL/Tolerance for this factor should be in terms of weight, not count.

The published proposal incorporated the positions of both canning and freezing segments of the green and wax bean industry. With regard to NFPA's comments, USDA agrees in principle that AQL's and tolerances found in the frozen green and wax bean standards should be consistent with the canned green and wax beans standards "whenever possible." In practice there will reasonably be certain differences. For each point raised by NFPA, which note instances where the tolerances for defects in the grade standards for canned green and wax beans and the proposed grade standards for frozen green and wax beans differ, USDA has received comments from AFFI which support making these specific changes in the tolerances. AFFI, in these specific instances, is favoring tighter tolerances for frozen green and wax beans than those for the same defects in the canned green beans. This is consistent with the position of the frozen food industry has taken in the past relative to developing and revising grade standards.

Taking all the comments into account, USDA believes that effective marketing of frozen bean and wax beans will be best served by incorporating the provisions with respect the sample sizes set forth in the proposed rule.

USDA agrees with AFFI's comment to make "small pieces" a classified defect with an AQL to represent overall lot quality for small pieces and has incorporated this change in the final rule. In addition to this change, USDA makes "small pieces and odd cuts" in

French Style only a classified defect with an AQL to represent overall lot quality in this rule as well.

Regarding the comment from Twin City Foods, Incorporated, they have adopted a sampling rate that is higher than USDA minimum sampling rates. For most of the industry, which tends to use USDA minimum sampling rates, the increased sample unit sizes would have minimal impact while the impact would be greater on the operations of a frozen processor with higher sampling rates. Nonetheless, for most processors, the proposed change would be beneficial to the industry as a whole, and accordingly, it has been included in the final rule.

USDA found, upon additional review, that definitions for "flavor and odor" were different in the current grade standards for canned and frozen green and wax beans. USDA believes commodity graders and the industry will apply the standards more uniformly if flavor and odor definitions are similar for both commodities. USDA is removing "fairly good flavor and odor" from the definitions of terms to make the terms similar for both agricultural products.

Accordingly, based on all the information collected and to promote efficient marketing of this product, USDA revises the United States Standards for Grades of Frozen Green and Frozen Wax Beans.

List of Subjects in 7 CFR Part 52

Food grades and standards, Food labeling, Frozen foods, Fruit juices, Fruits, Reporting and recordkeeping requirements, Vegetables.

For the reasons set forth in the preamble, 7 CFR part 52 is amended as follows:

PART 52—[AMENDED]

1. The authority citation for Part 52 is revised to read as follows:

Authority: 7 U.S.C. 1621–1627.

2. In part 52, Subpart—United States Standards for Grades of Frozen Green Beans and Frozen Wax Beans is revised to read as follows:

Subpart—United States Standards for Grades of Frozen Green Beans and Frozen Wax Beans

Sec.	Product description.
52.2321	Product description.
52.2322	Styles.
52.2323	Types.
52.2324	Kinds of pack.
52.2325	Definitions of terms.
52.2326	Grades.
52.2327	Factors of quality.
52.2328	Allowances for defects.

- 52.2329 Sample size.
52.2330 Quality requirements criteria.

Subpart—United States Standards for Grades of Frozen Green Beans and Frozen Wax Beans

§ 52.2321 Product description.

Frozen green beans and frozen wax beans, hereinafter called *frozen beans*, means the frozen product prepared from the clean, sound, succulent pods of the bean plant. The pods are stemmed, washed, blanched, sorted, and properly drained. The product is frozen in accordance with good commercial practice and maintained at temperatures necessary for the preservation of the product.

§ 52.2322 Styles.

(a) *Whole* means frozen beans consisting of whole pods, which after removal of either or both ends, are not less than 44 mm (1.75 in) in length.

(b) *Cut or cuts* means frozen beans consisting of pods that are cut transversely into pieces less than 70 mm (2.75 in) but not less than 19 mm (0.75 in) in length.

(c) *Short cut or short cuts* means frozen beans consisting of pieces of pods of which 75 percent or more are less than 19 mm (0.75 in) in length and not more than 1 percent are more than 32 mm (1.25 in) in length.

(d) *Mixed* means a mixture of two or more of the following styles of frozen beans: whole, cut, or short cut.

(e) *Sliced lengthwise, or French style* means frozen green beans consisting of pods that are sliced lengthwise.

§ 52.2323 Types.

The type of frozen beans is not incorporated in the grades of finished product, since it is not a factor of quality. The types of frozen beans are described as *round type* and *Romano or Italian type*.

(a) *Round type* means frozen beans having a width not greater than 1½ times the thickness of the beans.

(b) *Romano or Italian type* means frozen beans having a width greater than 1½ times the thickness of the beans.

§ 52.2324 Kinds of pack.

The kind of pack of frozen beans is not incorporated in the grades of finished product, since it is not a factor of quality. The kinds of pack of frozen beans are described as *regular process*, *extended blanch process*, and *special pack*.

(a) *Regular process* means the frozen beans are processed in such a manner that the brightness is not affected by the process.

(b) *Extended blanch process* means the frozen beans are intentionally processed in such a manner that the brightness is affected by the process.

(c) *Special pack* means the frozen bean pack intentionally contains beans of two or more varietal characteristics (such as a mixture of green and wax beans).

§ 52.2325 Definitions of terms.

(a) *Acceptable Quality Level (AQL)* means the maximum percent of defective units or the maximum number of defects per hundred units of product that, for the purpose of acceptance sampling, can be considered satisfactory as a process average.

(b) *Blemish*—(1) *Minor blemish* means any unit which is affected by scars, pathological injury, insect injury or other means in which the aggregate area affected exceeds the area of a circle 3 mm (0.125 in) in diameter or the appearance or eating quality of the unit is slightly affected.

(2) *Major blemish* means any unit which is affected or damaged by discoloration or any other means to the extent that the appearance or eating quality of the unit is more than slightly affected.

(3) *Total blemish* means the total of the major and minor blemishes.

(c) *Brightness* means the extent that the overall appearance of the sample unit as a mass is affected by dullness. (Applies to *regular process* only).

(1) Grade A: Not affected.

(2) Grade B: Slightly affected.

(3) Grade C: Materially affected.

(4) Substandard: Seriously affected.

(d) *Character*—(1) *Round type—Green Beans*—(i) *Good character* means the pods are full fleshed; after cooking, the pods are tender and the seeds are not mealy.

(ii) *Reasonably good character* means the pods are reasonably fleshy; after cooking, the pods are tender and the seeds are not mealy.

(iii) *Fairly good character* means the pods have not entirely lost their fleshy structure; after cooking, the pods are fairly tender and the seeds may be slightly mealy.

(iv) *Poor character* means the beans fail the requirements for *fairly good character*.

(2) *Round type—Wax Beans*—(i) *Good character* means the pods are full fleshed and may show slight breakdown of the flesh between seed cavities; after cooking, the pods are tender and the seeds are not mealy.

(ii) *Reasonably good character* means the pods are reasonably fleshy and may show substantial breakdown of the flesh between the seed cavities; after cooking,

the pods are tender and the seeds are not mealy.

(iii) *Fairly good character* means the pods may show total breakdown of the flesh between the seed cavities with no definite seed pocket, but still retain flesh on the inside pod wall; after cooking, the pods are fairly tender and the seeds may be slightly mealy.

(iv) *Poor character* means the beans fail the requirements for *fairly good character*.

(3) *Romano or Italian type*—(i) *Good character* means the pods have a full inner membrane, typical of the variety and are tender after cooking.

(ii) *Reasonably good character* means the pods have a reasonably well developed inner membrane and are reasonably tender after cooking.

(iii) *Fairly good character* means the pods may lack an inner membrane; and are fairly tender after cooking.

(iv) *Poor character* means the beans fail the requirements for *fairly good character*.

(e) *Color defective* means a unit that varies markedly from the color that is normally expected for the variety and grade.

(f) *Defect* means any nonconformance of a unit of product from a specified requirement of a single quality characteristic.

(g) *Extraneous vegetable material (EVM)* means harmless vegetable material (other than the bean pods) including, but not limited to, stalk, vine material, [vine material with stem(s) attached], leaves of the bean plant, and leaves or portions of other harmless plants.

(h) *Fiber*—(1) *Edible fiber* means fiber developed in the wall of the bean pod that, after cooking, is noticeable upon chewing, but can be consumed with the rest of the bean material without objection.

(2) *Inedible fiber* means fiber developed in the wall of the bean pod that, after cooking, is objectionable upon chewing and tends to separate from the rest of the bean material.

(i) *Flavor and odor. Good flavor and odor* means the product, after cooking, has a characteristic green bean or wax bean flavor and odor typical of the varietal type and is free from objectionable flavors and odors.

(j) *Mechanical damage* means a unit, in all styles except French, that is broken or split into two parts (equals 1 defect), is crushed, or is damaged by mechanical means to such an extent that the appearance is seriously affected; and for whole and cut styles has very ragged edges that are greater than 8 mm (⁵/₁₆ in).

(k) *Short piece* means a unit in cut style, that is less than 13 mm (0.50 in) in length, and a unit in whole style that is less than 44 mm (1.75 in) in length, measured along the longest dimension parallel to the bean suture line.

(l) *Single sample unit* means the amount of product specified (500 grams for French style and 400 units for all other styles) to be used for unofficial inspection. It may be:

- (1) The entire contents of a container;
- (2) A portion of the contents of a container; or
- (3) A combination of the contents of two or more containers.

(m) *Sloughing* means the separation of the outer surface layer of tissue from the pod.

(n) *Small pieces and odd cuts*, in French style only, mean pieces of pod less than 19 mm (0.75 in) in length or pieces of pod not conforming to the normal appearance of a sliced lengthwise bean unit.

(o) *Stem* means any part or portion (loose or attached) of the hard or tough fibrous material that attaches the bean pod to the vine.

(p) *Tolerance* means the percentage of defective units allowed for each quality factor for a specified sample size.

(q) *Unit* means a bean pod or any individual portion thereof.

§ 52.2326 Grades.

(a) *U.S. Grade A* is the quality of frozen beans that:

- (1) Meets the following prerequisites in which the beans:
 - (i) Have similar varietal characteristics (except special packs);
 - (ii) Have a good flavor and odor;
 - (iii) Have a good overall brightness that is not affected by dullness (regular process only); and
 - (iv) Are not materially affected by sloughing.
- (2) Is within the limits for defects as specified in Section 52.2328, as applicable for the style.

(b) *U.S. Grade B* is the quality of frozen beans that:

- (1) Meets the following prerequisites in which the beans:
 - (i) Have similar varietal characteristics (except special packs);
 - (ii) Have a good flavor and odor;
 - (iii) Have a reasonably good overall brightness (regular process only); and
 - (iv) Are not materially affected by sloughing.
- (2) Is within the limits for defects as specified in Section 52.2328, as applicable for the style.

(c) *U.S. Grade C* is the quality of frozen beans that:

- (1) Meets the following prerequisites in which the beans:
 - (i) Have similar varietal characteristics (except special packs);
 - (ii) Have a good flavor and odor;

- (iii) Have a fairly good overall brightness (regular process only); and
- (iv) Are not seriously affected by sloughing.

(2) Is within the limits for defects as specified in Section 52.2328, as applicable for the style.

(d) *Substandard* is the quality of frozen beans that fail the requirements of U.S. Grade C.

§ 52.2327 Factors of quality.

The grade of frozen beans is based on requirements for the following quality factors:

- (a) *Prerequisite quality factors.* (1) Varietal characteristics (except special packs);
- (2) Flavor and odor;
- (3) Brightness (regular process only); and
- (4) Sloughing.
- (b) *Classified quality factors.* (1) Extraneous vegetable material (EVM);
- (2) Stems;
- (3) Major blemishes;
- (4) Total blemishes;
- (5) Mechanical damage;
- (6) Short pieces (Cut, Whole Style);
- (7) Small pieces and odd cuts (French Style);
- (8) Color defectives;
- (9) Character;
- (10) Inedible fiber; and
- (11) Edible fiber.

§ 52.2328 Allowances for defects.

TABLE I—PREREQUISITE FACTORS FOR FROZEN GREEN BEANS AND WAX BEANS ¹

Factors	Grade A	Grade B	Grade C
Varietal characteristics	Similar	Similar	Similar.
Flavor and odor	Good	Good	Good.
Brightness	Good	Reasonably good	Fairly good.
Sloughing	Not materially affected	Not materially affected	Not seriously affected.

¹ Determined container-by-container.

TABLE II.—ACCEPTANCE NUMBERS FOR WHOLE, AND CUT STYLE FROZEN GREEN BEANS AND WAX BEANS (GRADE A)

Sample Units × Sample Unit Size	1×400	1.5×400	3×400	6×400	13×400	21×400	29×400
Units of Product	1 400	² 600	1200	2400	5200	8400	11600

TOL	AQL ³	Quality factors	Acceptance numbers						
0.25	0.162	Extraneous Vegetable Material	2	2	4	7	13	19	26
0.75	0.58	Stems	5	6	11	20	39	60	81
1.25	1.02	Major Blemishes	7	10	18	33	65	101	136
3.75	3.30	Total Blemishes (Major + Minor)	19	27	50	94	193	304	415
3.00	2.60	Mechanical Damage	16	22	40	75	154	242	330
20.00	19.10	Short Pieces, Whole Style	89	130	251	490	1040	1664	2285
8.50	7.90	Short Pieces, Cut Style	41	59	111	212	444	706	966
1.75	1.48	Edible Fiber	10	14	25	45	91	142	193
0.10	0.05	Inedible Fiber	1	1	2	3	5	7	10
5.50	5.00	Color Defectives	27	39	73	138	286	454	620
10.75	10.10	Character—"B"	50	72	138	266	561	894	1225
1.25	1.02	Character—"C"	7	10	18	33	65	101	136
0.10	0.05	Character—"SStd"	1	1	2	3	5	7	10

¹ For unofficial samples.

² For use with small container sizes only.

³ AQL calculated from tolerance (TOL) at 5200.

TABLE IIA.—ACCEPTANCE NUMBERS FOR WHOLE, AND CUT STYLE FROZEN GREEN BEANS AND WAX BEANS (GRADE B)

Sample Units × Sample Unit Size		1×400	1.5×400	3×400	6×400	13×400	21×400	29×400	
Units of Product		1 400	2 600	1200	2400	5200	8400	11600	
TOL	AQL ³	Quality factors		Acceptance numbers					
.50	0.366	Extraneous Vegetable Material	3	4	8	13	26	40	53
1.50	1.25	Stems	8	12	21	39	78	122	165
2.50	2.17	Major Blemishes	13	19	34	64	130	204	278
6.75	6.20	Total Blemishes (Major + Minor)	33	47	88	169	352	559	763
6.00	5.50	Mechanical Damage	30	42	79	151	314	498	680
N/A	N/A	Short Pieces, Whole Style	N/A	N/A	N/A	N/A	N/A	N/A	N/A
12.50	11.80	Short Pieces, Cut Style	58	84	160	309	652	1040	1426
4.50	4.00	Edible Fiber	22	32	59	112	232	366	500
1.50	1.25	Inedible Fiber	8	12	21	39	78	122	165
10.75	10.10	Color Defectives	50	72	138	266	561	894	1225
N/A	N/A	Character—"B"	N/A	N/A	N/A	N/A	N/A	N/A	N/A
10.75	10.10	Character—"C"	50	72	138	266	561	894	1225
1.25	1.02	Character—"SStd"	7	10	18	33	65	101	136

¹ For unofficial samples.² For use with small container sizes only.³ AQL calculated from tolerance (TOL) at 5200.

TABLE IIB.—ACCEPTANCE NUMBERS FOR WHOLE, AND CUT STYLE FROZEN GREEN BEANS AND WAX BEANS (GRADE C)

Sample Units × Sample Unit Size		1×400	1.5×400	3×400	6×400	13×400	21×400	29×400	
Units of Product		1 400	2 600	1200	2400	5200	8400	11600	
TOL	AQL ³	Quality factors		Acceptance numbers					
1.00	0.80	Extraneous Vegetable Material	6	8	15	26	52	80	108
3.00	2.60	Stems	16	22	40	75	154	242	330
3.75	3.30	Major Blemishes	19	27	50	94	193	304	415
12.75	12.00	Total Blemishes (Major + Minor)	58	85	162	314	663	1057	1449
10.75	10.10	Mechanical Damage	50	72	138	266	561	894	1225
N/A	N/A	Short Pieces, Whole Style	N/A	N/A	N/A	N/A	N/A	N/A	N/A
18.25	17.40	Short Pieces, Cut Style	82	119	230	448	950	1519	2085
8.50	7.90	Edible Fiber	41	59	111	212	444	706	966
3.75	3.30	Inedible Fiber	19	27	50	94	193	304	415
17.75	16.90	Color Defectives	80	116	224	435	923	1476	2027
N/A	N/A	Character—"B"	N/A	N/A	N/A	N/A	N/A	N/A	N/A
N/A	N/A	Character—"C"	N/A	N/A	N/A	N/A	N/A	N/A	N/A
10.75	10.10	Character—"SStd"	50	72	138	266	561	894	1225

¹ For unofficial samples.² For use with small container sizes only.³ AQL calculated from tolerance (TOL) at 5200.

TABLE III.—ACCEPTANCE NUMBERS FOR SHORT CUT, AND MIXED CUT STYLE FROZEN GREEN BEANS AND WAX BEANS (GRADE A)

Sample Units × Sample Unit Size		1×400	1.5×400	3×400	6×400	13×400	21×400	29×400	
Units of Product		1 400	2 600	1200	2400	5200	8400	11600	
TOL	AQL ³	Quality factors		Acceptance numbers					
0.25	0.162	Extraneous Vegetable Material	2	2	4	7	13	19	26
0.75	0.58	Stems	5	6	11	20	39	60	81
1.25	1.02	Major Blemishes	7	10	18	33	65	101	136
3.75	3.30	Total Blemishes (Major + Minor)	19	27	50	94	193	304	415
3.00	2.60	Mechanical Damage	16	22	40	75	154	242	330
1.75	1.48	Edible Fiber	10	14	25	45	91	142	193
0.10	0.05	Inedible Fiber	1	1	2	3	5	7	10
5.50	5.00	Color Defectives	27	39	73	138	286	454	620
10.75	10.10	Character—"B"	50	72	138	266	561	894	1225
1.25	1.02	Character—"C"	7	10	18	33	65	101	136

0.10	0.05	Character—"SStd"	1	1	2	3	5	7	10
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¹ For unofficial samples.

² For use with small container sizes only.

³ AQL calculated from tolerance (TOL) at 5200.

TABLE IIIa—ACCEPTANCE NUMBERS FOR SHORT CUT, AND MIXED CUT STYLE FROZEN GREEN BEANS AND WAX BEANS (GRADE B)

Sample Units × Sample Unit Size	1×400	1.5×400	3×400	6×400	13×400	21×400	29×400
Units of Product	1 400	² 600	1200	2400	5200	8400	11600

TOL	AQL ³	Quality factors	Acceptance numbers						
0.50	0.366	Extraneous Vegetable Material	3	4	8	13	26	40	53
1.50	1.25	Stems	8	12	21	39	78	122	165
2.50	2.17	Major Blemishes	13	19	34	64	130	204	278
6.75	6.20	Total Blemishes (Major + Minor)	33	47	88	169	352	559	763
6.00	5.50	Mechanical Damage	30	42	79	151	314	498	680
4.50	4.00	Edible Fiber	22	32	59	112	232	366	500
1.50	1.25	Inedible Fiber	8	12	21	39	78	122	165
10.75	10.10	Color Defectives	50	72	138	266	561	894	1225
N/A	N/A	Character—"B"	N/A	N/A	N/A	N/A	N/A	N/A	N/A
10.75	10.10	Character—"C"	50	72	138	266	561	894	1225
1.25	1.02	Character—"SStd"	7	10	18	33	65	101	136

¹ For unofficial samples.

² For use with small container sizes only.

³ AQL calculated from tolerance (TOL) at 5200.

TABLE IIIb.—ACCEPTANCE NUMBERS FOR SHORT CUT, AND MIXED CUT STYLE FROZEN GREEN BEANS AND WAX BEANS (GRADE C)

Sample Units × Sample Unit Size	1×400	1.5×400	3×400	6×400	13×400	21×400	29×400
Units of Product	1 400	² 600	1200	2400	5200	8400	11600

TOL	AQL ³	Quality factors	Acceptance numbers						
1.00	0.80	Extraneous Vegetable Material	6	8	15	26	52	80	108
3.00	2.60	Stems	16	22	40	75	154	242	330
3.75	3.30	Major Blemishes	19	27	50	94	193	304	415
8.50	7.90	Total Blemishes (Major + Minor)	41	59	111	212	444	706	966
10.75	10.10	Mechanical Damage	50	72	138	266	561	894	1225
8.50	7.90	Edible Fiber	41	59	111	212	444	706	966
3.75	3.30	Inedible Fiber	19	27	50	94	193	304	415
17.75	16.90	Color Defectives	80	116	224	435	923	1476	2027
N/A	N/A	Character—"B"	N/A	N/A	N/A	N/A	N/A	N/A	N/A
N/A	N/A	Character—"C"	N/A	N/A	N/A	N/A	N/A	N/A	N/A
10.725	10.10	Character—"SStd"	50	72	138	266	561	894	1225

¹ For unofficial samples.

² For use with small container sizes only.

³ AQL calculated from tolerance (TOL) at 5200.

TABLE IV—ACCEPTANCE NUMBERS FOR FRENCH STYLE FROZEN GREEN BEANS AND WAX BEANS GRADE A

Sample Units × Sample Unit Size	1×200×2.5	1.5×200×2.5	3×200×2.5	6×200×2.5	13×200×2.5	21×200×.5	29×00×.5
Grams of Product	1 500	² 750	1500	3000	6500	10500	14500

TOL	AQL ³	Quality factors	Acceptance numbers						
0.25	0.153	Extraneous Vegetable Material (No. of Pieces)	1	1	2	4	7	10	14
0.75	0.541	Stems (No. of stems)	3	4	6	11	20	30	41
1.25	0.961	Major Blemishes (Grams)	10	15	25	43	83	128	170
2.50	2.05	Total Blemishes [(Grams) Major + Minor]	18	25	45	83	163	253	343
10.0	9.0	Small pieces & odd cuts (Grams)	63	88	165	313	648	1025	1400

5.50	4.80	Color Defectives (Grams)	38	50	95	175	358	563	765
N/A	N/A	Character—"B" (Grams)	N/A	N/A	N/A	N/A	N/A	N/A	N/A
6.75	6.00	Character—"C" (Grams)	45	63	115	215	440	695	945
1.75	1.40	Character—"SStd" (Grams)	13	18	33	58	115	178	240

¹ For unofficial samples.

² For use with small container sizes only.

³ AQL calculated from tolerance (TOL) at 2600.

TABLE IVA.—ACCEPTANCE NUMBERS FOR FRENCH STYLE FROZEN GREEN BEANS AND WAX BEANS (GRADE B)

Sample Units × Sample Unit Size	1×200×2.5	1.5×200×2.5	3×200×2.5	6×200×2.5	13×200×2.5	21×200×2.5	29×200×2.5
Grams of Product	1 500	² 750	1500	3000	6500	10500	14500

TOL	AQL ³	Quality factors	Acceptance numbers						
0.50	0.325	Extraneous Vegetable Material (No. of Pieces)	2	2	4	7	13	20	26
1.50	1.16	Stems (No. of stems)	5	6	11	20	39	60	81
2.50	2.05	Major Blemishes (Grams)	18	25	45	83	163	253	343
3.75	53.20	Total Blemishes [(Grams) Major + Minor]	25	38	65	120	245	383	520
15.0	13.9	Small pieces & odd cuts (Grams)	90	128	243	465	978	1553	2125
10.75	9.80	Color Defectives (Grams)	68	95	178	338	703	1113	1520
N/A	N/A	Character—"B"	N/A	N/A	N/A	N/A	N/A	N/A	N/A
20.00	18.80	Character—"C" (Grams)	118	168	320	620	1305	2078	2848
5.50	4.80	Character—"SStd" (Grams)	38	50	95	175	358	563	765

¹ For unofficial samples.

² For use with small container sizes only.

³ AQL calculated from tolerance (TOL) at 2600.

TABLE IVB.—ACCEPTANCE NUMBERS FOR FRENCH STYLE FROZEN GREEN BEANS AND WAX BEANS (GRADE C)

Sample Units × Sample Unit Size	1×200×2.5	1.5×200×2.5	3×200×2.5	6×200×2.5	13×200×2.5	21×200×2.5	29×200×2.5
Grams of Product	1 500	² 750	1500	3000	6500	10500	14500

TOL	AQL ³	Quality factors	Acceptance numbers						
1.00	0.733	Extraneous Vegetable Material (No. of Pieces)	3	4	8	13	26	40	53
3.00	2.50	Stems (No. of stems)	8	12	21	39	78	122	165
3.75	3.20	Major Blemishes (Grams)	25	38	65	120	245	383	520
10.75	9.80	Total Blemishes [(Grams)Major + Minor]	68	95	178	338	703	1113	1520
20.0	18.8	Small pieces & odd cuts (Grams)	118	168	320	620	1305	2078	2848
17.75	16.60	Color Defectives (Grams)	105	150	285	550	1158	1843	2523
N/A	N/A	Character—"B" (Grams)	N/A	N/A	N/A	N/A	N/A	N/A	N/A
N/A	N/A	Character—"C" (Grams)	N/A	N/A	N/A	N/A	N/A	N/A	N/A
12.50	11.50	Character—"SStd" (Grams)	75	108	205	390	813	1293	1768

¹ For unofficial samples.

² For use with small container sizes only.

³ AQL calculated from tolerance (TOL) at 2600.

§ 52.2329 Sample size.

The sample size used to determine whether the requirements of these standards are met shall be as specified in the sampling plans and procedures contained in §§ 52.1 through 52.83.

§ 52.2330 Quality requirement criteria.

(a) *Lot inspection.* A lot of frozen beans is considered as meeting the requirements for quality if:

(1) The prerequisite requirements specified in § 52.2326 and § 52.2328, Table I, are met; and

(2) None of the allowances for the individual quality factors specified in Tables II, IIa, IIb, III, IIIa, IIIb, IV, IVa, and IVb of § 52.2328, as applicable for the style, are exceeded.

(b) *Single sample unit.* Each unofficial sample unit submitted for quality evaluation will be treated individually and is considered as meeting the requirements for quality if:

(1) The prerequisites requirements specified in § 52.2326 and § 52.2328, Table I, are met; and

(2) The Acceptable Quality Levels in Tables II, IIa, IIb, III, IIIa, IIIb, IV, IVa, and IVb of § 52.2328, as applicable for the style, are not exceeded.

Dated: July 11, 1996.

Robert C. Keeney,

Director, Fruit and Vegetable Division.

[FR Doc. 96-18176 Filed 7-18-96; 8:45 am]

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Food and Consumer Service**7 CFR Parts 210 and 225**

RIN 0584-AC04

Removal of the "Cheese Alternate Products" Specifications From the National School Lunch Program

AGENCY: Food and Consumer Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule eliminates the specifications governing the use of "Cheese Alternate Products" in the National School Lunch Program (NSLP). The removal of these specifications should enable the food industry more freedom to produce cheese substitute products for use in the NSLP while maintaining program nutrition standards through reliance on existing Food and Drug Administration rules.

EFFECTIVE DATE: July 19, 1996.

FOR FURTHER INFORMATION CONTACT: Ms. Marion Hinners, (703) 305-2556.

SUPPLEMENTARY INFORMATION:**Executive Order 12866**

This final rule has been determined to be not significant for purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget.

Regulatory Flexibility Act

This final rule has been reviewed with regard to the requirements of the Regulatory Flexibility Act (5 U.S.C. 601 through 612). The Administrator of the Food and Consumer Service has determined that this final rule will not have a significant economic impact on a substantial number of small entities. There are currently fewer than ten companies participating in the Child Nutrition Programs (CNPs) affected by this regulation. In addition, the removal of this regulation is expected to reduce the regulatory burden on all companies producing a cheese alternate type product and allow the use of a wider variety of products than currently can be used in the CNPs.

Category of Federal Domestic Assistance

The National School Lunch Program and the Summer Food Service Program for Children are listed in the Catalog of Federal Domestic Assistance under No. 10.555 and 10.559, respectively, and are subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. (7 CFR part 3015, subpart V and final rule related notice at 48 FR 29112, June 24, 1983.)

Executive Order 12778

This final rule has been reviewed under Executive Order 12778, Civil Justice Reform. This final rule is intended to have preemptive effect with respect to any State or local laws, regulations, or policies which conflict with its provisions or would otherwise impede its full implementation. This final rule is not intended to have retroactive effect unless specified in the Effective Date section of this preamble. Prior to any judicial challenge to the provisions of this final rule or the application of the provisions, all applicable administrative procedures must be exhausted.

Information Collection

This final rule contains no new information collection requirements which are subject to review by the Office of Management and Budget under the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35).

Background

Cheese alternates are used primarily as economical replacements for natural or processed cheese in the National School Lunch Program (NSLP). Cheese alternates are a class of products currently required to be made from conventional ingredients which must meet nutritional and physical specifications set forth in the NSLP regulations in 7 CFR part 210, Appendix A—Alternate Foods for Meals (appendix A to part 210) in order to be used as a food component contributing to the NSLP meal patterns.

The Department published a proposed rule to remove the "Cheese Alternate Products" specifications from the NSLP in the Federal Register on September 27, 1995 (60 FR 49807). The Department accepted comments on the proposal until November 13, 1995. One commenter requested an extension of the comment period. A subsequent Federal Register publication on November 27, 1995 (60 FR 58252) reopened the comment period until December 27, 1995.

FCS received a total of 25 comments on the proposed rule. Five comments were from the state or federal government agencies, five were from School Food Authorities, six were from private companies and nine were from trade associations. Eighteen commenters were generally supportive of FCS proposals: five of those were from private industry and six from trade organizations. Seven commenters opposed or advocated major changes to the proposal. Of these seven, two were trade organizations for dairy interests and one was a private manufacturer.

Commenters who supported the proposal cited positive changes including that the proposal would: (1) Allow use of alternate protein sources, (2) provide more flexibility in meeting the Dietary Guidelines for Americans, (3) reduce food costs, (4) increase the number of products available, (5) allow for more consistency between the food-based and nutrient-based menu planning systems used in the NSLP, (6) increase availability of lower fat and lower saturated fat products, (7) reduce regulatory burden, (8) eliminate costly, lengthy product evaluations on the part of industry, (9) increase products for vegetarians and individuals with dairy product allergies, (10) allow for reduction in cholesterol and calories and, (11) allow for the protein digestibility-corrected amino acid score for assessing protein quality.

The negative comments were varied. One of the government commenters was concerned about the nutritional impact