

requirements and with methoxy content not less than 27.5 percent and not more than 31.5 percent on a dry-weight basis), carrageenan or salts of carrageenan complying with the requirements of §172.620 or §172.626 of this chapter, or any combination of two or more of these. Pectin may be standardized with a nutritive sweetening ingredient, but such sweetening ingredient shall not amount to more than 44 percent by weight of the standardized pectin and the quantity of such standardized pectin used shall not exceed 3 percent by weight of the finished food. Carrageenan or salts of carrageenan may be standardized with a nutritive sweetening ingredient, but such sweetening ingredient shall not amount to more than 25 percent by weight of the standardized carrageenan or salts of carrageenan and the quantity of such standardized carrageenan or salts of carrageenan used shall not exceed 2 percent by weight of the finished food.

(e) The name of each artificially sweetened fruit preserve or artificially sweetened fruit jam for which a definition and standard of identity is prescribed by this section consists of the words "artificially sweetened" immediately followed by the name prescribed by §150.160(e)(1) for the fruit preserves or jams which correspond in fruit ingredient to the artificially sweetened article. The words "artificially sweetened" shall be prominently and conspicuously displayed in letters not smaller than the largest letter used in any other word in the name of the food.

(f)(1) The jelling ingredient used shall be named on the label by a statement "_____ added" or "with added _____", the blank being filled in with the common name of the jelling ingredient used.

(2) When one of the optional ingredients specified in paragraph (a)(1) of this section is used, the label shall bear the statement, "_____ added" or "with added _____", the blank being filled in with the words "spice", "spice oil", or "spice extract" as appropriate, but in lieu of the word "spice" in such statement the common name of the spice may be used.

(3) When the optional ingredient specified in paragraph (a)(4) of this sec-

tion is used, the label shall bear the words "sodium hexametaphosphate added" or "with added sodium hexametaphosphate".

(4) When any optional ingredient listed in paragraph (a)(6) of this section is used, the label shall bear the statement "_____ added as a preservative", the blank being filled in with the common name by which the preservative ingredient used is designated in paragraph (a)(6) of this section.

(g) Wherever the name of the food appears on the label of the artificially sweetened fruit preserve or artificially sweetened fruit jam so conspicuously as to be easily seen under customary conditions of purchase, the words and statements specified in this section, showing the optional ingredients used, shall immediately and conspicuously precede or follow such name without intervening written, printed, or graphic matter, except that the varietal name of the fruit used in preparing such preserve or jam may so intervene.

(h) Label declaration. Each of the ingredients used in the food shall be declared on the label as required by the applicable sections of parts 101 and 130 of this chapter.

[42 FR 14445, Mar. 15, 1977, as amended at 58 FR 2882, Jan. 6, 1993]

PART 152—FRUIT PIES

AUTHORITY: 21 U.S.C. 321, 341, 343, 348, 371, 379e.

Subpart A [Reserved]

Subpart B—Requirements for Specific Standardized Fruit Pies

§ 152.126 Frozen cherry pie.

(a) *Identity.* (1) Frozen cherry pie (excluding baked and then frozen) is the food prepared by incorporating in a filling contained in a pastry shell mature, pitted, stemmed cherries that are fresh, frozen, and/or canned. The top of the pie may be open or it may be wholly or partly covered with pastry or other suitable topping. Filling, pastry, and topping components of the food consist of optional ingredients as prescribed by paragraph (a)(2) of this section. The finished food is frozen.

(2) The optional ingredients referred to in paragraph (a)(1) of this section consist of suitable substances that are not food additives as defined in section 201(s) of the Federal Food, Drug, and Cosmetic Act or color additives as defined in section 201(t) of the act; or if they are food additives or color additives as so defined, they are used in conformity with regulations established pursuant to section 409 or 721 of the act. Ingredients that perform a useful function in the formulation of the filling, pastry, and topping components, when used in amounts reasonably required to accomplish their intended effect, are regarded as suitable except that artificial sweeteners are not suitable ingredients of frozen cherry pie.

(3) The name of the food for which a definition and standard of identity is established by this section is frozen cherry pie; however, if the maximum diameter of the food (measured across opposite outside edges of the pastry shell) is not more than 4 inches, the food alternatively may be designated by the name frozen cherry tart. The word "frozen" may be omitted from the name on the label if such omission is not misleading.

(4)(i) Label declaration. Each of the ingredients used in the food shall be declared on the label as required by the applicable sections of parts 101 and 130 of this chapter.

(ii) The label shall not bear any misleading pictorial representation of the cherries in the pie.

(b) *Quality.* (1) The standard of quality for frozen cherry pie is as follows:

(i) The fruit content of the pie is such that the weight of the washed and drained cherry content is not less than 25 percent of the weight of the pie when determined by the procedure prescribed by paragraph (b)(2) of this section.

(ii) Not more than 15 percent by count of the cherries in the pie are blemished with scab, hail injury, discoloration, scar tissue, or other abnormality. A cherry showing skin discoloration (other than scald) having an aggregate area exceeding that of a circle nine thirty-seconds of an inch in diameter is considered to be blemished. A cherry showing discoloration of any

area but extending into the fruit tissue is also considered to be blemished.

(2) Compliance with the requirement for the weight of the washed and drained cherry content of the pie, as prescribed by paragraph (b)(1)(i) of this section, is determined by the following procedure:

(i) Select a random sample from a lot:

(a) At least 24 containers if they bear a weight declaration of 16 ounces or less.

(b) Enough containers to provide a total quantity of declared weight of at least 24 pounds if they bear a weight declaration of more than 16 ounces.

(ii) Determine net weight of each frozen pie.

(iii) Temper the pie until the top crust can be removed.

(iv) Remove the filling and cherries from the pie and transfer to the surface of a previously weighed 12-inch diameter U.S. No. 8 sieve (0.094-inch openings) stacked on a U.S. No. 20 sieve (0.033-inch openings).

(v) Distribute evenly over the surface and wash with a gentle spray of water at 70°-75 °F to free the cherries and cherry fragments from the adhering material.

(vi) Remove the U.S. No. 8 sieve and examine the U.S. No. 20 sieve and transfer all cherry fragments to the U.S. No. 8 sieve.

(vii) Drain the cherry contents on the No. 8 sieve for 2 minutes in an inclined position (15°-30° slope). Weigh the U.S. No. 8 sieve and the washed and drained cherries to the nearest 0.01 ounce.

(viii) The weight of the washed and drained cherries is the weight of the sieve and the cherry material less the weight of the sieve. Calculate the percent of the cherry content of each pie with the following formula, and then calculate the average percent of the entire random sample:

Percent of the cherry content of the pie = [(Weight of washed and drained cherries) / (Net weight of pie)] × 100.

(3) If the quality of the frozen cherry pie falls below the standard of quality prescribed by paragraph (b)(1) of this section, the label shall bear the general statement of substandard quality specified in § 130.14(a) of this chapter, in the manner and form specified therein; but

in lieu of the words prescribed for the second line inside the rectangle, the label may bear the alternative statement "Below standard in quality _____", the blank being filled in with the following words, as applicable: "too few cherries", or "blemished cherries". Such alternative statement shall immediately and conspicuously precede or follow, without intervening written, printed, or graphic matter, the name of the food as prescribed by paragraph (a) of this section.

[42 FR 14449, Mar. 15, 1977, as amended at 58 FR 2882, Jan. 6, 1993]

PART 155—CANNED VEGETABLES

Subpart A—General Provisions

Sec.

155.3 Definitions.

Subpart B—Requirements for Specific Standardized Canned Vegetables

- 155.120 Canned green beans and canned wax beans.
- 155.130 Canned corn.
- 155.131 Canned field corn.
- 155.170 Canned peas.
- 155.172 Canned dry peas.
- 155.190 Canned tomatoes.
- 155.191 Tomato concentrates.
- 155.194 Catsup.
- 155.200 Certain other canned vegetables.
- 155.201 Canned mushrooms.

AUTHORITY: 21 U.S.C. 321, 341, 343, 348, 371, 379e.

SOURCE: 42 FR 14449, Mar. 15, 1977, unless otherwise noted.

Subpart A—General Provisions

§ 155.3 Definitions.

For the purposes of this part:

(a) The procedure for determining drained weight is set forth in the "Official Methods of Analysis of the Association of Official Analytical Chemists," 13th Ed. (1980), sections 32.001–32.003, which is incorporated by reference. Copies are available from the Association of Official Analytical Chemists International, 481 North Frederick Ave, suite 500, Gaithersburg, MD 20877–2504, or available for inspection at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(b) *Compliance* means the following: Unless otherwise provided in a standard, a lot of canned vegetables shall be deemed in compliance for the following factors, to be determined by the sampling and acceptance procedure as provided in paragraph (c) of this section, namely:

(1) *Quality*. The quality of a lot shall be considered acceptable when the number of defectives does not exceed the acceptance number (c) in the sampling plans.

(2) *Fill of container*. A lot shall be deemed to be in compliance for fill of container (packing medium and vegetable ingredient) when the number of defectives does not exceed the acceptance number (c) in the sampling plans.

(3) *Drained weight*. A lot shall be deemed to be in compliance for drained weight based on the average value of all samples analyzed according to the sampling plans.

(c) The *sampling and acceptance procedure* means the following:

(1) *Definitions*—(i) *Lot*. A collection of primary containers or units of the same size, type, and style manufactured or packed under similar conditions and handled as a single unit of trade.

(ii) *Lot size*. The number of primary containers or units in the lot.

(iii) *Sample size*. The total number of sample units drawn for examination from a lot.

(iv) *Sample unit*. A container, a portion of the contents of a container, or a composite mixture of product from small containers that is sufficient for the examination or testing as a single unit. For fill of container, the sample unit shall be the entire contents of the container.

(v) *Defective*. Any sample unit shall be regarded as defective when the sample unit does not meet the criteria set forth in the standards.

(vi) *Acceptance number (c)*. The maximum number of defective sample units permitted in the sample in order to consider the lot as meeting the specified requirements.

(vii) *Acceptable quality level (AQL)*. The maximum percent of defective sample units permitted in a lot that will be accepted approximately 95 percent of the time.