§ 106.3 Definitions.

The definitions and interpretations contained in section 201 of the act are applicable to such terms when used in this part. The following definitions shall also apply:

(a) Indicator nutrient. An indicator nutrient is a nutrient whose concentration is measured during the manufacture of an infant formula to confirm complete addition and/or uniform distribution of a premix or other substance of which the indicator nutrient is a part.

(b) In-process batch. An in-process batch is a combination of ingredients at any point in the manufacturing process before packaging.

(c) Manufacturer. A manufacturer is a person who prepares, reconstitutes, or otherwise changes the physical or chemical characteristics of an infant formula and/or packages the product in a container for distribution.

(d) Nutrient. A nutrient is any vitamin, mineral, or other substance required in accordance with the table set out in section 412(g) of the act or by regulations promulgated under section 412(a)(2)(A) of the act.

(e) Nutrient premix. A nutrient premix is a combination of ingredients containing two or more nutrients. A nutrient premix either may be received from a supplier or be prepared by an infant formula manufacturer.

§ 106.25 In-process control.

(a) For each infant formula, a master manufacturing order shall be prepared and approved by a responsible official of the manufacturer. The manufacturer shall establish a quality control system that assures and verifies the addition of each ingredient specified in the manufacturing order.

(b) Unless each batch of finished product is analyzed as specified in §106.30(b)(1), the manufacturer shall analyze each in-process batch for:

(1) Solids;

(2) Protein, fat, and carbohydrates (carbohydrates either by analysis or by mathematical difference);

(3) The indicator nutrient(s) in each nutrient premix;

(4) Each nutrient added independently of nutrient premixes during formulation of the product, except for linoleic acid, vitamin D, vitamin K, choline, inositol, and biotin; and
§ 106.30 Finished product evaluation.

(a) The manufacturer shall establish criteria for sampling and testing to ensure that each batch of infant formula meets the nutrient requirements of section 412(g) of the act or of regulations promulgated under section 412(a)(2) of the act before release of product for commercial or charitable distribution.

(b)(1) Immediate analysis. Before release of product for commercial or charitable distribution, the manufacturer shall analyze representative samples of each batch of finished product for:

(i) Specific nutrient(s) to assess process degradation; and

(ii) All nutrients not previously analyzed for by the manufacturers, unless each in-process batch is analyzed for nutrients as specified in §106.25(b) and the ingredients are analyzed as specified in §106.20(b). No analyses are needed for linoleic acid, vitamin D, vitamin K, choline, inositol, and biotin; and for nutrients that are added as a part of a nutrient premix analyzed by the manufacturer or having a supplier’s guarantee or certification and for which an indicator nutrient(s) was analyzed by the manufacturer.

(2) Periodic analysis. The manufacturer shall sample at least one newly processed finished product batch every 3 months and shall analyze representative samples for all nutrients except those that the manufacturers measured in the immediate analysis of that product batch.

(3) Stability analysis. Using representative samples collected from finished product batches, the manufacturer shall conduct stability analysis for selected nutrients with sufficient frequency to substantiate the maintenance of nutrient content throughout the shelf life of the product.

(c) The manufacturer shall evaluate new formulations and the effect of changes in ingredients or processing conditions that could affect the level of nutrients by means of a testing program designed to confirm uniformity of batches and to determine the effects of such changes. The following shall apply:

(1) A minor change is a minor reduction in nutrient levels, a minor increase in levels of nutrients that are subject to maximum limits established under section 412(g) of the act or in regulations established under section 412(a)(2) of the act, or any other change where experience or theory would not predict a possible significant adverse impact on nutrient levels or nutrient availability. After a minor change the manufacturer shall analyze representative samples for all nutrients so changed and those possibly affected by the change.

(2) A major change is any new formulation, or any change of ingredients or processes where experience or theory would predict a possible significant adverse impact on levels of nutrients or availability of nutrients. After a major change the manufacturer shall analyze representative samples for osmolality, all nutrients, and the biological quality of the protein. A protein biological quality analysis is not necessary for a formulation change that is not expected to have an adverse effect on the biological quality of the protein. Vitamin D shall be determined by the rat bioassay method as prescribed in “Official Methods of Analysis of the Association of Official Analytical Chemists” (AOAC), 13th Ed. (1980), sections 43.195–43.208, “Vitamin D (30)—Official Final Action,” which is incorporated by reference. Copies are available from the AOAC INTERNATIONAL, 481 North Frederick Ave., suite 500, Gaithersburg, MD 20877, or available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: http://www.archives.gov/federal_register/ code_of_federal_regulations/ibr_locations.html. Before release of the product for commercial or charitable distribution, the manufacturer shall have completed all appropriate analyses except that shipment of the product need not be delayed until results of