

# Rules and Regulations

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## DEPARTMENT OF AGRICULTURE

### Food and Nutrition Service

#### 7 CFR Parts 210 and 220

RIN 0584-AC92

#### National School Lunch Program and School Breakfast Program: Identification of Blended Beef, Pork, Poultry or Seafood Products

**AGENCY:** Food and Nutrition Service, USDA.

**ACTION:** Interim rule.

**SUMMARY:** This interim rule addresses the use of products or dishes containing more than 30 parts fully hydrated vegetable protein products to less than 70 parts beef, pork, poultry or seafood in the National School Lunch Program and the School Breakfast Program. To the extent that participating school food authorities identify foods in a menu or on the serving line or through other available means of communicating with program participants, this interim rule requires that school food authorities identify such products or dishes in a manner which does not characterize the product or dish solely as beef, pork, poultry or seafood. This interim rule is intended to ensure that program participants are not misinformed regarding the use of blended products and dishes.

**DATES:** *Effective Date:* This interim rule will become effective July 10, 2000.

*Comment Date:* To be assured of consideration, comments must be postmarked on or before August 7, 2000.

**ADDRESSES:** Comments must be sent to: Robert M. Eadie, Chief, Policy and Program Development Branch, Child Nutrition Division, Food and Nutrition Service, USDA, 3101 Park Center Drive, Alexandria, VA 22302 or via E-Mail at [CNDPROPOSAL@fns.usda.gov](mailto:CNDPROPOSAL@fns.usda.gov). All written submissions will be available for public inspection in Room 1007, 3101

Park Center Drive, Alexandria, Virginia during regular business hours (8:30 a.m. to 5 p.m.) Monday through Friday.

**FOR FURTHER INFORMATION CONTACT:** Mr. William Wagoner or Ms. Janice Fabina, 3101 Park Center Drive, Room 1007, Alexandria, Virginia 22302 or by telephone at (703) 305-2590.

#### SUPPLEMENTARY INFORMATION:

##### Background

##### *What Is the Purpose of This Rule?*

On March 9, 2000, the U.S. Department of Agriculture (USDA or we) published a rule in the **Federal Register** (65 FR 12429) updating the requirements for using vegetable protein products in the Child Nutrition Programs. Among the provisions of that rule, we removed the requirement that the meat/meat alternate component of the food-based menu planning approaches could consist of no more than 30 percent fully hydrated vegetable protein products (of the hydrated soy and meat total).

Subsequent to the publication of the final rule, concerns have been raised about the possibility that blended beef, pork, poultry or seafood products or dishes containing more than 30 percent fully hydrated vegetable protein products (of the hydrated soy and meat total) might be presented as beef, pork, poultry or seafood.

While these blended products and dishes fulfill an essential role in the programs, misrepresentation or misperception of the nature of those products serves neither industry nor program participants well. In addition to the primary mission of providing nutritious meals to school children, the lunch and breakfast programs serve as vehicles for nutrition and consumer education. Children and their parents must be aware of what is in the foods offered in the lunch and breakfast programs if they are to make informed food choices.

Thus, to the extent that school food authorities identify foods in the menu, or on the serving line or through other available means of communicating with program participants, they must identify beef, pork, poultry or seafood products and dishes containing more than 30 percent fully hydrated vegetable protein products (of the hydrated soy and meat total) in a manner which does not characterize the products or dishes solely as beef, pork, poultry or seafood.

This interim rule revises 7 CFR 210.10(h) and 220.8 (m) to effect this change.

##### *How Are Program Participants To Be Advised of the Use of Blended Products and Dishes?*

This interim rule requires school food authorities to advise children and their parents of the use of these blended products and dishes through whatever means they currently use. If a school sends menus home, blended products and dishes must not be portrayed solely as beef, pork, poultry or seafood products or dishes on the menu. If a school uses point of service menu identification, it must not portray blended products and dishes solely as beef, pork, poultry or seafood products or dishes so that students and their parents can make choices that meet their dietary needs.

##### *Miscellaneous*

Commentors will note that the term "vegetable protein product" has been used in the preamble since this term reflects common usage; however, for technical reasons, the term "alternate protein products" is used in the regulatory text. The reasons for this change in terminology are discussed in the preamble to the proposed rule published in the **Federal Register** (64 FR 38839) on July 20, 1999.

##### Public Participation

This action is being issued as an interim rule without prior notice or public comment under authority of 5 U.S.C. 553(b)(3)(A) and (B). The Department has determined in accordance with 5 U.S.C. 553(b) that Notice of Proposed Rulemaking and opportunity for public comments prior to issuing this interim rule is unnecessary and contrary to the public interest. The Department believes that program participants should be given the opportunity to make informed menu choices about the foods they eat without undue delay. However, the Department is encouraging interested parties to comment during the public comment period.

##### Executive Order 12866

This interim rule was determined to be non-significant and is not subject to review by the Office of Management and Budget under Executive Order 12866.

**Public Law 104-4**

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104-4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, the Food and Nutrition Service (FNS) generally prepares a written statement, including a cost-benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures to State, local, or tribal governments, in the aggregate, or to the private sector, of \$100 million or more in any one year. When such a statement is needed for a rule, section 205 of the UMRA generally requires FNS to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, more cost-effective or least burdensome alternative that achieves the objectives of the rule.

This interim rule contains no Federal mandates (under regulatory provisions of Title II of the UMRA) for State, local, and tribal governments or the private sector of \$100 million or more in any one year. Thus, this interim rule is not subject to the requirements of sections 202 and 205 of the UMRA.

**Regulatory Flexibility Act**

This interim rule was reviewed with regard to the requirements of the Regulatory Flexibility Act (5 U.S.C. 601 through 612). The Administrator of FNS has certified that this rule will not have a significant economic impact on a substantial number of small entities. This rule makes no changes to the National School Lunch and School Breakfast Program meal patterns. However, when certain products are used, this rule would require schools to use existing methods of communication to advise children and their parents of the use of such products.

**Executive Order 12372**

The National School Lunch Program and the School Breakfast Program are listed in the Catalog of Federal Domestic Assistance under Nos. 10.555 and 10.553, respectively. Each is 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 12988**

This interim rule was reviewed under Executive Order 12988, Civil Justice Reform. This interim rule is intended to have preemptive effect with respect to any State or local laws, regulations or

policies which conflict with its provisions or which would otherwise impede its full implementation. This interim rule is not intended to have retroactive effect unless so specified in the "Dates" section of this preamble. Prior to any judicial challenge to the provisions of this interim rule or the application of the provisions, all applicable administrative procedures must be exhausted. This includes any administrative procedures provided by State or local governments and, for disputes involving procurements by State agencies and sponsors, any administrative appeal procedures to the extent required by 7 CFR Part 3016.

For the National School Lunch Program and School Breakfast Program, the administrative procedures are set forth under the following regulations: (1) School food authority appeals of State agency findings as a result of an administrative review must follow State agency hearing procedures as established pursuant to 7 CFR 210.18(q); (2) school food authority appeals of FNS findings as a result of an administrative review must follow FNS hearing procedures as established pursuant to 7 CFR 210.30(d)(3); and (3) State agency appeals of State Administrative Expense fund sanctions (7 CFR 235.11(b)) must follow FNS Administrative Review Process as established pursuant to 7 CFR 235.11(f).

**Paperwork Reduction Act**

Sections 210.10(h) and 220.8(m) of this interim rule contain third-party disclosure requirements. In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), USDA has submitted a copy of these sections to the Office of Management and Budget for its review.

Written comments must be received on or before July 10, 2000.

Comments concerning the third-party disclosure of this interim rule should be sent to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Room 3208, New Executive Office Building, Washington, DC 20503, Attention: Manish Desai, Desk Officer for FNS. A copy of these comments may also be sent to Mr. Eadie at the address listed in the **ADDRESSES** section of this preamble. Commentors are asked to separate their comments on the third-party disclosure aspects from their comments on the remainder of this interim rule.

OMB is required to make a decision concerning the third-party disclosure aspects contained in this interim regulation between 30 and 60 days after the publication of this document in the

**Federal Register.** Therefore, a comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication. This does not affect the deadline for the public to comment to the Department on the interim regulation.

Comments are invited on: (a) Whether the third-party disclosure is necessary for the proper performance of the functions of the agency, including whether the disclosure will have practical utility; (b) the accuracy of the agency's estimate of the burden of the third-party disclosure aspects, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the third-party disclosure; and (d) ways to minimize the burden of the third-party disclosure, including through the use of appropriate automated, electronic, mechanical, or other techniques.

The title, description, and respondent description of the third-party disclosure are shown below with an estimate of the annual burden. Included in the estimate is the time for making the third-party disclosure.

**Abstract**

In order to give schools enhanced flexibility in planning menus, we now allow them to offer foods that may consist of up to 100 percent vegetable protein products. This interim rule requires that, to the extent a method (such as a menu) is already in place to communicate what foods are offered, school food authorities identify products or dishes with more than 30 percent vegetable protein products in a manner which does not characterize the products or dishes solely as beef, pork, poultry or seafood products or dishes. This is done in the interest of allowing program participants to make informed decisions about their choices under the school meals programs. Please note that we are only requiring this modification for school food authorities that already provide menus or otherwise communicate with program participants. This could include information provided on serving lines. This interim rule does not *require* that school food authorities use menus or other methods of communication.

In accordance with the Paperwork Reduction Act of 1995, the Department is providing the public with the opportunity to provide comments on the third-party disclosure aspects of the interim rule as noted below:

ESTIMATED ANNUAL THIRD-PARTY DISCLOSURE BURDEN

|  | Section         | Annual number of affected entities | Annual frequency | Average burden per disclosure | Annual burden hours |
|--|-----------------|------------------------------------|------------------|-------------------------------|---------------------|
| For the National School Lunch Program, school food authorities modify existing menus, etc. to identify beef, pork, poultry or seafood products or dishes with more than 30 percent vegetable protein products in a manner that does not characterize these products or dishes as solely containing beef, pork, poultry or seafood: |                 |                                    |                  |                               |                     |
| Total existing .....   | 7 CFR 210.10(h) | 0                                  | 0                | 0                             | 0                   |
| Total proposed .....   | 7 CFR 210.10(h) | 10,000                             | 1                | .016                          | 160                 |
| For the School Breakfast Program, school food authorities modify existing menus, etc. to identify beef, pork, poultry or seafood products or dishes with more than 30 percent vegetable protein products in a manner that does not characterize these products or dishes as solely containing beef, pork, poultry or seafood:      |                 |                                    |                  |                               |                     |
| Total existing .....   | 7 CFR 220.8(m)  | 0                                  | 0                | 0                             | 0                   |
| Total proposed .....   | 7 CFR 220.8(m)  | 5,000                              | 1                | .016                          | 80                  |
| Total Third-party Disclosure Burden:   |                 |                                    |                  |                               |                     |
| Total existing .....   |                 | 0                                  |                  |                               |                     |
| Total proposed .....   |                 | +240                               |                  |                               |                     |
| Change .....   |                 | +240                               |                  |                               |                     |

**List of Subjects**

*7 CFR Part 210*

Children, Commodity School Program, Food assistance programs, Grants programs-social programs, National School Lunch Program, Nutrition, Reporting and recordkeeping requirements, Surplus agricultural commodities.

*7 CFR Part 220*

Children, Food assistance programs, Grant programs-social programs, Nutrition, Reporting and recordkeeping requirements, School Breakfast Program.

Accordingly, 7 CFR Parts 210 and 220 are amended as follows:

**PART 210—NATIONAL SCHOOL LUNCH PROGRAM**

1. The authority citation for 7 CFR Part 210 continues to read as follows:

**Authority:** 42 U.S.C. 1751–1760, 1779.

2. In § 210.10, revise the section heading and paragraph (h) to read as follows:

**§ 210.10 What are the nutrition standards and menu planning approaches for lunches and the requirements for afterschool snacks?**

\* \* \* \* \*

(h) *What must schools do about nutrition disclosure?* To the extent that school food authorities identify foods in a menu, or on the serving line or through other available means of communicating with program participants, school food authorities must identify products or dishes containing more than 30 parts fully hydrated alternate protein products (as specified in appendix A of this part) to less than 70 parts beef, pork, poultry or seafood on an uncooked basis, in a

manner which does not characterize the product or dish solely as beef, pork, poultry or seafood. Additionally, FNS encourages schools to inform the students, parents, and the public about efforts they are making to meet the nutrition standards (see paragraph (b) of this section) for school lunches.

\* \* \* \* \*

**PART 220—SCHOOL BREAKFAST PROGRAM**

1. The authority citation for 7 CFR Part 220 continues to read as follows:

**Authority:** 42 U.S.C. 1773, 1779, unless otherwise noted.

2. In § 220.8, revise paragraph (m) to read as follows:

**§ 220.8 What are the nutrition standards and menu planning approaches for breakfasts?**

\* \* \* \* \*

(m) *What must schools do about nutrition disclosure?* To the extent that school food authorities identify foods in a menu, or on the serving line or through other available means of communicating with program participants, school food authorities must identify products or dishes containing more than 30 parts fully hydrated alternate protein products (as specified in appendix A of this part) to less than 70 parts beef, pork, poultry or seafood on an uncooked basis, in a manner which does not characterize the product or dish solely as beef, pork, poultry or seafood. Additionally, FNS encourages schools to inform the students, parents, and the public about efforts they are making to meet the nutrition standards (see paragraph (a) of this section) for school breakfasts.

Dated: June 2, 2000.

**George A. Braley,**

*Acting Administrator, Food and Nutrition Service.*

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**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

**14 CFR Part 39**

[Docket No. 99–NE–07–AD; Amendment 39–1171; AD 2000–11–22]

**RIN 2120–AA64**

**Airworthiness Directives; Allison Engine Company AE 3007A and AE 3007C Series Turbofan Engines**

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Final rule.

**SUMMARY:** This amendment adopts a new airworthiness directive (AD), applicable to Allison Engine Company AE 3007A and AE 3007C series turbofan engines. This AD requires revisions to the Airworthiness Limitations Section of the Allison Engine Company AE 3007A and AE 3007C Engine Manuals to include required enhanced inspection of selected critical life-limited parts at each piece-part exposure. This AD also requires an air carrier’s approved continuous airworthiness maintenance program to incorporate these inspection procedures. Air carriers with an approved continuous airworthiness maintenance program will be allowed to either maintain the records showing the current status of the inspections using the record keeping system specified in the air carrier’s maintenance manual or establish an acceptable alternate method