

Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Food and Consumer Service

7 CFR Parts 210, 220, 225 and 226

RIN 0584-AC15

National School Lunch Program, School Breakfast Program, Child and Adult Care Food Program and Summer Food Service Program for Children: Meat Alternates Used in the Child Nutrition Programs

AGENCY: Food and Consumer Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Food and Consumer Service of the Department of Agriculture is proposing to amend regulations concerning the meal pattern requirements for the National School Lunch Program (NSLP), School Breakfast Program (SBP), Summer Food Service Program (SFSP) and Child and Adult Care Food Program (CACFP) to allow yogurt to be credited as a meat alternate for all meals. Currently, yogurt may only be credited as a meat alternate for the supplement (snack) meal patterns of the SFSP and CACFP. Under this proposal, four ounces of yogurt would satisfy one ounce of the meat/meat alternate requirement for breakfasts and lunches served under any of the Child Nutrition Programs. This proposal responds to numerous recommendations for additional meat alternates and provides local food service operations with greater flexibility in planning and preparing meals using low-fat meat alternates.

DATES: To be assured of consideration, comments must be postmarked on or before August 19, 1996.

ADDRESSES: Comments may be mailed to Robert M. Eadie, Chief, Policy and Program Development Branch, Child Nutrition Division, Food and Consumer Service, USDA, 3101 Park Center Drive, Alexandria, Virginia 22302.

FOR FURTHER INFORMATION CONTACT: Robert M. Eadie or Charles Heise at the

above address or by telephone at 703-305-2620.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This proposed 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 proposed 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 (FCS) has certified that this rule will not have a significant economic impact on a substantial number of small entities. This rule provides greater flexibility to schools, institutions and homes participating in the NSLP, SBP, SFSP and CACFP rather than imposing more restrictive requirements upon them. The overall types and frequency of service of foods used in the meals served in these four programs would not be significantly affected by this rule. Currently, yogurt may be served as an additional, uncredited food which is used to complement meal pattern requirements to meet regional and ethnic food preferences and as a meat alternate only in the supplement meal patterns of the CACFP and the SFSP.

Catalog of Federal Assistance

The NSLP, SBP, SFSP and the CACFP are listed in the Catalog of Federal Domestic Assistance under Nos. 10.555, 10.553, 10.559 and 10.558, 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 Federal Register (FR) 29112, June 24, 1983.)

Executive Order 12778

This proposed rule has been reviewed under Executive Order 12778, Civil Justice Reform. This proposed 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 proposed rule is not intended to have retroactive effect unless so specified in the "Effective

Date" section of this preamble. Prior to any judicial challenge to the provisions of this proposed rule or the application of the provisions, all applicable administrative procedures must be exhausted. In the NSLP and SBP, 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) and 220.14(e); (2) school food authority appeals of FCS findings as a result of an administrative review must follow FCS hearing procedures as established pursuant to 7 CFR §§ 210.30(d)(3) and 220.14(g); and (3) State agency appeals of State Administrative Expense fund sanctions (7 CFR § 235.11(b)) must follow the FCS Administrative Review Process as established pursuant to 7 CFR § 235.11(f). In the SFSP, (1) Program sponsors and food service management companies must follow State agency hearing procedures issued pursuant to 7 CFR 225.13; and (2) disputes involving procurement by State agencies and sponsors must follow administrative appeal procedures to the extent required by 7 CFR 225.17 and 7 CFR Part 3015. In the CACFP, (1) institution appeal procedures are set forth in 7 CFR 226.6(k); and (2) disputes involving procurement by State agencies and institutions must follow administrative appeal procedures to the extent required by 7 CFR 226.22 and 7 CFR Part 3015.

Information Collection

This proposed rule contains no new information collection requirements which are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35). The programs being amended are approved by OMB under the following control numbers: NSLP, 0584-0006; SBP, 0584-0012; SFSP, 0584-0280; and CACFP, 0584-0055.

Background

Sections 9(a), 13(f) and 17(g) of the National School Lunch Act (42 U.S.C. 1758(a); 1761(f); and 1766(g) and Section 4(e)(1)(A) of the Child Nutrition Act of 1966 (42 U.S.C. 1773(e)(1)(A)) require the Secretary of Agriculture to set minimum nutritional requirements

for meals and supplements served in the Child Nutrition Programs. The Department meets these requirements by requiring the use of menu planning alternatives for lunches and breakfasts designed to enable these meals, over time, to provide approximately one-third and one-fourth of the Recommended Dietary Allowances (RDA) for key nutrients, respectively. Although SFSP and CACFP meal patterns are not designed to satisfy a particular percentage of daily required nutrients, the program requirements are designed to provide nutritious and well-balanced meals and supplements.

On June 13, 1995, the Department published a final rule (60 FR 31188) to update the nutrition standards for the school meals programs and to provide local schools with a variety of menu planning systems to choose from in meeting these standards. Under the School Meals Initiative for Healthy Children, beginning in School Year 1996/1997, school lunches must provide over a week's time one-third of the RDA for key nutrients as well as one-third of the Recommended Energy Intake (calories) needed by children (7 CFR 210.10(b)(1) and (2)). The meals must also comply with the recommendations of the 1990 *Dietary Guidelines for Americans*, including limits on calories from fat (no more than 30 percent of total calories) and saturated fat (less than 10 percent of total calories) (42 U.S.C. 1758(f); 7 CFR 210.10(b)(3)). Breakfasts must provide one-fourth of the RDA and calories and meet the recommendations of the Dietary Guidelines (7 CFR 220.8(a)).

The updated regulations also provide school meal planners with various menu planning options: Nutrient Standard Menu Planning (NuMenus), Assisted Nutrient Standard Menu Planning (Assisted NuMenus) and a food-based system. Subsequent to publication of the updated regulation, section 2 of Public Law 104-149, the Healthy Meals for Children Act, provided for additional food-based alternatives. The Department will discuss the effects of this law when it issues guidance for implementation.

Since NuMenus and Assisted NuMenus require that schools analyze the nutrient content of meals rather than consider specific food components, the crediting rules applicable to meal patterns are no longer relevant for these meal planning options. As long as the nutrition standards are achieved, meal planners have wide latitude in determining the foods they will serve and the size of the portions. Crediting rules continue to be necessary under any food-based systems, however, to

ensure that all components are available to children in sufficient quantities to meet all of the nutrition standards. The nutrition requirements and NuMenus and Assisted NuMenus options of the School Meals Initiative for Healthy Children are not currently applicable to meals and supplements served in the SFSP or CACFP.

Crediting of Yogurt

One long-standing crediting issue involves the appropriate use of yogurt in the Child Nutrition Programs' meal patterns. In 1981 (46 FR 44452, September 4, 1981), in response to requests from program participants (principally child care providers) and the food industry, the Department proposed that yogurt be allowed, at local option, to meet either the milk or meat/meat alternate requirement in the Child Nutrition Programs. This proposed provision, which was included as part of a larger proposed rulemaking dealing with crediting issues, generated responses from over 1,000 commenters, many of whom were concerned about sugar content, cost, acceptability and the lower iron levels in yogurt relative to other meat alternates. Ultimately, the Department decided to withdraw the entire proposed rulemaking (46 FR 48688, October 2, 1981).

The issue of yogurt resurfaced in 1985 when a proposed rule (50 FR 49933, December 6, 1985) to allow certain nuts and seeds (and any nut or seed butter) to be credited as meat alternates also solicited comments on crediting yogurt as a meat alternate. In part, the Department requested comments on this program modification for a second time due to findings that the use of yogurt as or in main dish items was becoming increasingly popular in the diets of various segments of the population. That proposal requested comments on recommendations to permit plain or flavored yogurt, but not frozen yogurt. The Department stated that frozen yogurt was most commonly used as a dessert and, therefore, should not be allowed as a meat alternate (50 FR 49935).

The Department received 56 comments on this issue, 82 percent of which were in favor of allowing yogurt as a meat alternate in meals served in Child Nutrition Programs. However, while commenters were generally in favor of yogurt, some expressed the opinion that only "plain" yogurt should be allowed. The consensus opinion was that yogurt would be a nutritious addition to the meat alternates (comparable to cheese and cottage cheese) and a good source of calcium for

lactose intolerant children while providing variety and flexibility to meals.

The commenters who were against allowing yogurt as a meat alternate were concerned about the nutritional equivalency of yogurt to meat (especially for iron) and the prevalence of sweetened yogurt. Several of these commenters suggested that yogurt might be more appropriate as a supplement item. Also, some commenters mentioned that yogurt is generally considered an alternative to milk as opposed to meat. The Department concluded that the responses to the 1985 proposal did not provide any new nutritional data or sufficient support for allowing yogurt as a meat alternate, and the decision was made to continue studying the issue.

The issue of yogurt's potential role in Child Nutrition Program meal patterns was not revisited again until 1989 when final regulations were published (54 FR 27151, June 28, 1989) to allow yogurt to be credited as a meat alternate for supplements in the CACFP and the SFSP. The Department limited the crediting of yogurt to snacks because of findings that yogurt was less appropriate as a meat alternate in other meals due to the sugar content of the majority of the yogurt products, the likelihood of decreased fluid milk consumption when yogurt was served in meals which required milk as a beverage, and yogurt's inherently low iron content (54 FR 27152).

Since the 1989 rulemaking, the Department has continued to receive requests from Program participants and the food industry to allow yogurt as a creditable food for other meals. Most recently, the Department received a number of comments on the proposed rules to implement the School Meals Initiative for Healthy Children urging that yogurt be authorized as a meat alternate in the food-based menu planning systems. In response to these comments, the Department stated in the preamble to the June 13, 1995, rule (60 FR 31206) that it would consider a future rulemaking on the role of yogurt in the Child Nutrition Programs.

Nutrition Issues

It is important to emphasize that yogurt made with lowfat milk can offer a low fat, low cholesterol source of protein and carbohydrates, while providing high levels of calcium, riboflavin and phosphorous.

In addition, the increasing popularity of yogurt (the per capita consumption in the United States has increased over 100% during the past decade) makes it an attractive addition to the meal

patterns for administrators and participants in the Child Nutrition Programs. The addition of yogurt as a meat/meat alternate may increase participation in programs and would certainly provide variety in the meal patterns while providing another non-meat option. Yogurt is also an excellent source of calcium for lactose intolerant individuals. Yogurt with active cultures is one of the few calcium-rich foods that is easily digested by most children. Finally, yogurt is an easy food to serve in that no preparation is needed; it comes pre-packaged. There are, however, several issues that need to be recognized.

Lower levels of some key nutrients—Yogurt is inherently low in two essential nutrients, iron and niacin, generally provided by the meat/meat alternate component. Yogurt, like other dairy products, is nutritionally inferior to meat or bread in these nutrients. Nevertheless, the Department recognizes that cheese and most of the fish used as a meat/meat alternate in the NSLP are also not major sources of iron. The crediting of an additional dairy product as a meat/meat alternate in the meal pattern may further reduce the iron level in the meals unless care is taken in menu planning or a nutrient analysis performed.

While recognizing these deficiencies, the Department is proposing that 4 ounces of flavored or unflavored yogurt be credited as 1 ounce of meat alternate in the NSLP, SBP, SFSP and CACFP. For example, under the enhanced food-based menu planning alternative (§ 210.10(k)), schools could serve 8 ounces of yogurt to fulfill the total 2 ounce meat/meat alternate requirement for children in grades 7–12 for lunch, or they might wish to use a 4 ounce portion of yogurt (one-half the meat/meat alternate requirement) served with a sandwich, hearty soup or salad which would have to contain a 1 ounce equivalent portion of a meat/meat alternate. For a school breakfast, 4 ounces of yogurt might be served to fulfill the 1 ounce meat/meat alternate for grades K–12. Used in these ways, yogurt could provide food service managers with additional variety of foods in their menus that would reflect changing food consumption habits and recognize the diversity of regional, cultural and ethnic food preferences.

Consumption of fluid milk—The Department has some concerns about the effects of yogurt service on fluid milk consumption. Fluid milk consumption could decrease if both milk and yogurt are served in the same meal. While another dairy food, cheese, has been allowed to be credited as a

meat alternate for years, it is more likely to be consumed with fluid milk due to organoleptic differences. In a case study: *Yogurt Introduction in Michigan in Public Schools*, published in August 1991 by the Michigan Milk Producers Association, 120 students were observed in order to assess the willingness of the students to select and consume yogurt and the effects that choice would have on the selection of other NSLP items. Fifty-three percent chose milk, 49 percent chose yogurt and only 2 percent chose both.

Cost—Cost is also a consideration for programs that might choose to serve yogurt as a meat/meat alternate. In the Michigan study cited above, one of the objectives was to assess the willingness of food service directors to place yogurt on the menu as an alternate to milk. School district participation was much lower than anticipated by the research team. In the initial survey, 29 schools indicated a willingness to be included in the study. After contact with each school, only seven actually participated. The cost of serving yogurt was the reason schools gave for their inability and refusal to participate.

Conclusion

The Department wishes to stress that yogurt is being proposed as a meat/meat alternate in response to numerous requests from food service professionals and participants for increased flexibility in menu planning and to meet regional and ethnic food preferences. There are numerous products and formulations available in the yogurt market, and some may be more appropriately utilized as a meat alternate than others. The Department is aware that many of the yogurt products that could satisfy the regulatory requirements as the meat/meat alternate portion of the meal are actually more like dessert items. In proposing this rule, the Department fully expects that schools and institutions will exercise good judgment in the type of yogurt products selected.

Finally, this proposed rule applies only to commercially prepared products which meet the Standard of Identity for yogurt as established by the Food and Drug Administration in the Code of Federal Regulations for yogurt, lowfat yogurt and nonfat yogurt, 21 CFR 131.200, 21 CFR 131.203 and 21 CFR 131.206, respectively. As in the 1989 final rule permitting yogurt as a meat alternate for snacks in the SFSP and CACFP, the Department's proposal does not apply to noncommercial and/or nonstandardized yogurt products, such as frozen yogurt, homemade yogurt, yogurt flavored products, yogurt bars,

yogurt covered fruit and/or nuts or similar products.

List of Subjects

7 CFR Part 210

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

7 CFR Part 220

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

7 CFR Part 225

Food assistance programs, Grant programs—health, infants and children, Reporting and Recordkeeping requirements.

7 CFR Part 226

Day care, Food assistance programs, Grant programs—health, infants and children, Surplus agricultural commodities.

Accordingly, the Department proposes to amend 7 CFR Part 210, 220, 225 and 226 as follows:

PART 210—NATIONAL SCHOOL LUNCH PROGRAM

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

Authority: 42 U.S.C. 1751–1760, 1779.

2. In § 210.2 a new definition for *Yogurt* is added in alphabetical order to read as follows:

§ 210.2 Definitions.

* * * * *

Yogurt means commercially prepared coagulated milk products obtained by the fermentation of specific bacteria, that meet milk fat or milk solid requirements and to which flavoring foods or ingredients may be added. These products are covered by the Food and Drug Administration's Standard of Identity for yogurt, lowfat yogurt, and nonfat yogurt, 21 CFR 131.200, 21 CFR 131.203, 21 CFR 131.206, respectively.

3. In § 210.10

a. the meat or meat alternate section in the first column of the table in paragraph (k)(2) is amended by adding a new entry for yogurt after the entry for "Peanut Butter or other nut or seed butters";

b. new paragraph (k)(3)(iii) is added;

c. paragraph (n)(3)(iv) is amended by removing the words "in the snack only"

from the first sentence of footnote 4 in the "Meal Supplement Chart for Children".

The additions read as follows:

§ 210.10 Nutrition standards for lunches and menu planning methods.

* * * * *

(k) *Food-based menu planning.* * * *

(2) *Minimum quantities.* * * *

Meal component	Minimum quantities required for				Option for
	Ages 1–2	Preschool	Grades K–6	Grades 7–12	Grades K–3
* * * * *					
Meat or Meat Alternate (quantity of the edible portion as served): * * *					
Yogurt, plain or flavored, unsweetened or sweetened.	4 oz. or ½ cup	6 oz. or ¾ cup	8 oz. or 1 cup	8 oz. or 1 cup	6 oz. or ¾ cup.

* * * * *

(3) * * *

(iii) Yogurt may be used to meet all or part of the meat/meat alternate requirement. Yogurt served may be either plain or flavored, unsweetened or sweetened. Noncommercial and/or nonstandardized yogurt products, such as frozen yogurt, homemade yogurt, yogurt flavored products, yogurt bars, yogurt covered fruit and/or nuts or similar products shall not be credited. Four ounces (weight) or ½ cup (volume)

of yogurt fulfills the equivalent of one ounce of the meat/meat alternate requirement in the meal pattern.

* * * * *

4. In § 210.10a:

a. the meat or meat alternate section in the first column of the table in paragraph (c) is amended by adding a new entry for yogurt after the entry for "Peanut Butter or other nut or seed butters";

b. new paragraph (d)(2)(iii) is added;

c. paragraph (j)(3) is amended by removing the words "in the snack only" from the first sentence of footnote 4 in the "Meal Supplement Chart for Children."

The additions read as follows:

§ 210.10a Lunch components and quantities for the meal pattern.

* * * * *

(c) *Minimum required lunch quantities.* * * *

School Lunch Pattern—Per Lunch Minimums

Food components and food items	Minimum quantities				Recommended quantities: Group V, 12 years and older (7–12)
	Group 1, ages 1–2, (preschool)	Group II, ages 3–4 (Preschool)	Group III, ages 5–8 (K–3)	Group IV, age 9 and older (4–12)	
* * * * *					
Meat or Meat Alternate (quantity of the edible portion as served): * * *					
Yogurt, plain or flavored, unsweetened or sweetened.	4 oz. or ½ cup	6 oz. or ¾ cup	6 oz. or ¾ cup	8 oz. or 1 cup	12 oz. or 1½ cup.

* * * * *

(d) *Lunch components.* * * *

(2) *Meat or meat alternate.* * * *

(iii) Yogurt may be used to meet all or part of the meat/meat alternate requirement. Yogurt served may be either plain or flavored, unsweetened or sweetened. Noncommercial and/or nonstandardized yogurt products, such as frozen yogurt, homemade yogurt, yogurt flavored products, yogurt bars, yogurt covered fruit and/or nuts or similar products shall not be credited. Four ounces (weight) or ½ cup (volume) of yogurt fulfills the equivalent of one ounce of the meat/meat alternate requirement in the meal pattern.

* * * * *

PART 220—SCHOOL BREAKFAST PROGRAM

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

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

2. In § 220.2 a new paragraph (bb) is added to read as follows:

§ 220.2 Definitions

* * * * *

(bb) *Yogurt* means commercially prepared coagulated milk products obtained by the fermentation of specific bacteria, that meet milk fat or milk solid requirements and to which flavoring foods or ingredients may be added.

These products are covered by the Food and Drug Administration's Standard of Identity for yogurt, lowfat yogurt, and nonfat yogurt, 21 CFR 131.200, 21 CFR 131.203, 21 CFR 131.206, respectively.

3. In § 220.8, the meat or meat alternate section in the first column of the table in paragraph (g)(2) is amended by adding a new entry for yogurt after the entry for "Nut and/or seeds" to read as follows:

§ 220.8 Nutrition standards for breakfast and menu planning alternatives.

* * * * *

(g) *Food-based menu planning.* * * *

(2) *Minimum quantities.* * * *

Minimum Quantities Required For				Option for grades 7–12
Meal component	Ages 1–2	Preschool	Grades K–12	
* * *	*	*	*	*
Meat or Meat Alternates * * *				
Yogurt, plain or flavored, unsweetened or sweetened.	2 oz. or ¼ cup	2 oz. or ¼ cup	4 oz. or ¼ cup	4 oz. or ½ cup.

* * * * *

4. In § 220.8a, the meat or meat alternate section in the first column of the table in paragraph (a)(2) is amended

by adding a new entry for yogurt after the entry for “Nuts and/or seeds” to read as follows:

§ 220.8a Breakfast components and quantities for the meal pattern.

(a) * * *

(2) * * *

SCHOOL BREAKFAST PATTERN

[Required minimum serving sizes]

Food components/items	Ages 1 and 2	Ages 3, 4, and 5	Grades K–12
* * *	*	*	*
Meat/Meat Alternates: * * *			
Yogurt, plain or flavored, unsweetened or sweetened.	2 oz. or ¼ cup	2 oz. or ¼ cup	4 oz. or ½ cup

* * * * *

PART 225—SUMMER FOOD SERVICE PROGRAM

1. The authority citation for Part 225 continues to read as follows:

Authority: Sec. 9, 13 and 14, National School Lunch Act, as amended (42 U.S.C. 1758, 1761 and 1762a).

2. In § 225.16.

a. the Meat and Meat Alternates (Optional) section of the table in paragraph (d)(1) is amended by adding the word “or” and a new entry for yogurt after the entry for “Peanut Butter or an equivalent quantity of any combination of meat/meat alternate”;

b. the Meat and Meat Alternates section of the table in paragraph (d)(2) is amended by adding the word “or” and a new entry for yogurt after the entry for “Peanuts or soynuts or tree nuts or seed”.

The additions read as follows:

§ 225.16 Meal service requirements.

* * * * *

(d) * * *

Breakfast

(1) * * *

Food components	Minimum amount
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Food components	Minimum amount
* * *	*
Meat and Meat Alternates (Optional) * * * or Yogurt, plain or flavored, unsweetened or sweetened	4 oz. or ½ cup.
* * * * *	

Lunch or Supper

(2) * * *

Food components	Minimum amount
* * *	*
Meat and Meat Alternates * * * or Yogurt, plain or flavored, unsweetened or sweetened.	8 oz. or 1 cup.
* * * * *	

PART 226—CHILD AND ADULT CARE FOOD PROGRAM

1. The authority citation for Part 226 continues to read as follows:

Authority: Secs. 9, 11, 14, 16, and 17, National School Lunch Act, as amended (42 U.S.C. 1758, 1759a, 1762a, 1765 and 1766).

2. In § 226.20:

a. new paragraph (a)(2)(ii)(C) is added;
b. the Meat and Meat Alternates sections in the first column of the tables

in paragraphs (c)(2) and (c)(3) are amended by adding the word “or” and a new entry for yogurt after the entries for “Peanuts or soynuts or tree nuts or seeds”;

c. paragraph (d)(1) is amended by adding a semicolon and the words “or 4 oz of yogurt;” after the words “peanut butter”.

The additions read as follows:

§ 226.20 Requirements for meals.

(a) * * *

(2) * * *

(ii) * * *

(C) Yogurt may be used to meet all or part of the meat/meat alternate requirement. Yogurt served may be either plain or flavored, unsweetened or sweetened. Noncommercial and/or nonstandardized yogurt products, such as frozen yogurt, homemade yogurt, yogurt flavored products, yogurt bars, yogurt covered fruit and/or nuts or similar products shall not be credited. Four ounces (weight) or 1/2 cup (volume) of yogurt fulfills the equivalent of one ounce of the meat/meat alternate requirement in the meal pattern.

* * * * *

(c) * * *

Lunch

(2) * * *

Food Components	Age 1 and 2	Age 3 through 5	Age 6 through 12 ¹	Adult Participants ⁹
* * * * *	*	*	*	*
Meat and Meat Alternates or Yogurt, plain or flavored, unsweetened or sweetened	4 oz. or 1/2 cup	6 oz. or 3/4 cup	8 oz. or 1 cup	8 oz. or 1 cup.
* * * * *	*	*	*	*

* * * * *
(3) * * * * *

Food components	Children ages 1 and 2	Children ages 3 through 5	Children ages 6 through 12 ¹	Adult participants
Meat and Meat Alternates or Yogurt, plain or flavored, unsweetened or sweetened	4 oz. or 1/2 cup	6 oz. or 3/4 cup	8 oz. or 1 cup	8 oz. or 1 cup.
* * * * *	*	*	*	*

* * * * *

Dated: June 27, 1996.

William E. Ludwig,

Administrator, Food and Consumer Service.

[FR Doc. 96-16992 Filed 7-3-96; 8:45 am]

BILLING CODE 3410-30-P

Food Safety and Inspection Service

9 CFR Parts 319 and 381

[Docket No. 95-056N]

Public Health Hazard Analysis Board Report; Availability

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Notice of availability of report; request for comments.

SUMMARY: The Food Safety and Inspection Service (FSIS) is announcing the availability of a report prepared by the Public Health Hazard Analysis Board on "Bone Particles and Foreign Material in Meat and Poultry Products." The report contains an executive summary by the Public Health Hazard Analysis Board, which includes the Board's conclusions on the establishment of criteria for determining the safety of meat and poultry products containing bone particles and foreign materials such as glass, metal and plastic; a list of Board members and other participants; and a bibliography. FSIS is seeking comments on the need for and nature of any additional regulatory actions beyond those provided for in its meat and poultry regulations that should be taken regarding bone particle size and foreign material, such as glass, metal, and plastic, in boneless meat and poultry products deboned by hand or other means.

DATES: Comments will be accepted through August 19, 1996.

ADDRESSES: Interested persons may submit an original and two copies of written comments and requests for single copies of the report to: FSIS Docket Clerk, DOCKET #95-056N, Room 4352 South Agriculture Building, Washington, DC 20250-3700. Oral comments, as provided by the Poultry Products Inspection Act, can be given to Dr. Jill Hollingsworth, (202) 205-0293. The report and comments will be available for public inspection in the FSIS Docket Room from 8:30 a.m. to 1:00 p.m. and from 2:00 p.m. to 4:30 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Dr. Jill Hollingsworth, Deputy Director, Epidemiology and Emergency Response Program, Food Safety and Inspection Service, U.S. Department of Agriculture, Room 2168 South Building, Washington, DC 20250-3700, (202) 205-0293.

SUPPLEMENTARY INFORMATION: FSIS is announcing the availability of a report prepared by the Public Health Hazard Analysis Board (the Board) on "Bone Particles and Foreign Material in Meat and Poultry Products." The Board consists of public health, medical, and food safety experts in FSIS and other government agencies. Private medical specialists were contacted by the Board for additional information on the subject. The Board was charged with determining health and safety concerns related to bone particles or foreign material in boneless meat and poultry products. Consequently, the Board provided criteria for use by the Agency to determine the existence of a potential safety hazard, due to bone particles or foreign material, such as glass, metal, and plastic, in meat or poultry products, that warrant recall of the affected

product in order to protect the public health.

The Board determined that bone particles less than 0.4 inches (10 mm) would not be considered a safety hazard. Bone particles from 0.4 to 0.8 inches (10 to 20 mm) may present a discomfort, but would be a low risk for a safety hazard, and bone particles greater than 0.8 inches (20 mm) have the potential to be a safety hazard and may cause injury to consumers. According to the Board, any occurrence of foreign material, such as glass, metal, and plastic, in meat or poultry products, has the potential to be a safety hazard and should be evaluated on a case-by-case basis to determine whether it presents such a hazard.

The Board agreed that boneless product produced in accordance with the provisions in 9 CFR 319.5 for mechanically-separated meat (MSM) and provisions in 9 CFR 381.173 (59 FR 62629, December 6, 1994, and 59 FR 55962, November 3, 1995) for mechanically-separated poultry (MSP) to be effective on November 4, 1996, does not present a safety hazard. Regulatory requirements limit bone particle size in MSM and MSP which is produced by crushing or grinding of bone before removal of edible tissue. Provisions in 9 CFR 319.5 for MSM require that at least 98 percent of bone particles present in MSM be no greater than 0.2 inches (5 mm) in their greatest dimension, with no bone particles larger than 0.034 inches (0.85 mm) in their greatest dimension. Similar provisions in 9 CFR 381.173 for MSP require that at least 98 percent of bone particles present in MSP be no greater than 0.06 inches (1.5 mm) in their greatest dimension, with no particles greater than 0.08 inches (2 mm) in their greatest dimension. FSIS has concluded that