

(ii) If the fruit ingredient is a combination of two, three, four, or five fruits, the name is “Preserve” or “Jam”, preceded or followed by the words “Mixed fruit” or by the names or synonyms whereby such fruits are designated in paragraph (b) of this section, in the order of predominance, if any, of the weights of such fruits in the combination.

(2) *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, except that:

(i) The name(s) of the fruit or fruits used may be declared without specifying the particular form of the fruit or fruits used.

(ii) When the optional ingredients listed in paragraphs (c) (3), (4), and (5) of this section are declared on the label, the declaration may be followed by the statement “used as needed” on all preserves or jams to which they are customarily, but not always, added to compensate for natural variations in the fruit ingredients used.

[42 FR 14445, Mar. 15, 1977, as amended at 47 FR 11831, Mar. 19, 1982; 49 FR 10101, Mar. 19, 1984; 54 FR 24895, June 12, 1989; 58 FR 2882, Jan. 6, 1993; 63 FR 14035, Mar. 24, 1998]

## 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 =  

$$\frac{[(\text{Weight of washed and drained cherries}) / (\text{Net weight of pie})] \times 100}{}$$

(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 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://>