
White Chocolate Standard of Identity

U.S. Food and Drug Administration

Printed here in its entirety is the proposed standard of identity for white chocolate as it appeared in the Federal Register on March 10, 1997.

SUMMARY

The Food and Drug Administration (FDA) is proposing to establish a standard of identity for white chocolate. The proposed standard will provide for the use of the term "white chocolate" as the common or usual name of products made from cacao fat, milk solids, nutritive carbohydrate sweeteners, and other safe and suitable ingredients, but containing no nonfat cacao solids. This action responds principally to citizen petitions submitted separately by the Hershey Foods Corp. (Hershey) and by the Chocolate Manufacturers Association of the United States of America (CMA). FDA tentatively concludes that this action will promote honesty and fair dealing in the interest of consumers and, to the extent practicable, will achieve consistency with existing international standards of identity for white chocolate.

Dates: Written comments by May 27, 1997. The agency proposes that any final rule that may be issued

based upon this proposal become effective January 1, 1998.

Addresses: Submit written comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, 12420 Parklawn Dr., Rm. 1-23, Rockville, MD 20857.

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SUPPLEMENTARY INFORMATION:

I. Background

In the Federal Register of June 5, 1992 (57 FR 23989), FDA published a tentative final rule (hereinafter referred to as the 1992 tentative final rule) to amend the standards of identity for cacao products in part 163 (21 CFR part 163). In section II.B. of the 1992 tentative final rule,

FDA noted that it had received a comment that requested that the agency adopt a standard of identity for white chocolate. In support of that request, the comment argued that the absence of a standard of identity for this food had limited the introduction of "white chocolate" products into the market. The comment also noted the likelihood that consumer confusion would develop about the content of products informally referred to as "white chocolate" that may or may not contain any cacao-derived ingredients.

The comment observed that, in the absence of a standard of identity for this product, the term "white chocolate" would be prohibited under the existing standards of identity in part 163. Further, the comment stated that when such products have been introduced, firms have been forced to use alternative names to avoid the labeling constraints in the standards of identity.

In response to the comment, FDA recognized the dilemma faced by U.S. manufacturers of those confections that may be labeled "white chocolate" in other countries but stated that the adoption of a standard of identity for white chocolate was outside the scope of that rule-making. The agency suggested that the manufacturer petition the agency to adopt a standard for this food. FDA pointed out that, in fact, in the Federal Register of September 16, 1991 (56 FR 46798), the agency had granted Hershey a temporary marketing permit (tmp) to test market a product called "white chocolate." The permit provided for the temporary market testing of 23,608 kilograms (kg) (52,000 pounds (lb)) of the product for a period of 15 months. Since publication of the 1992 tentative final rule,