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[FR Doc.77-16800 Filed 6-13-77;8:45 am]

**Title 20—Employees' Benefits**

**CHAPTER III—SOCIAL SECURITY ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE**

[Regs. No. 4]

**PART 404—FEDERAL OLD-AGE, SURVIVORS AND DISABILITY INSURANCE (1950—)**

**Evidence—Death**

**AGENCY:** Social Security Administration, HEW.

**ACTION:** Final rule.

**SUMMARY:** Section 404.704 of Title 20 of CFR, pertaining to evidence of death, is being amended to reflect the repeal of the Missing Persons Act and its replacement by 37 U.S.C. 555, applying to members of the uniformed services and their dependents and 5 U.S.C. 5565, applying to Federal civilian officers and employees and their dependents. The amendment also clarifies that, when a determination of death is made in respect to a missing person under either of these Federal statutes, in absence of evidence establishing a later date, the Social Security Administration shall use the date the person disappeared as the date of death for benefit payments rather than the date of death determined by the other department or agency.

**EFFECTIVE DATE:** This amendment shall be effective on June 14, 1977.

**FOR FURTHER INFORMATION CONTACT:**

William J. Ziegler, Legal Assistant, Office of Policy and Regulations, Social Security Administration, 6401 Security Boulevard, Baltimore, Maryland 21235, telephone 301-594-7415.

**SUPPLEMENTARY INFORMATION:** On August 25, 1976, there was published in the FEDERAL REGISTER (41 FR 35861) a notice of proposed rulemaking with proposed amendments to Subpart H, Regulations No. 4. The proposed amendment related to a finding of death for a person in missing status by an agency or department of the United States authorized by law to make such a determination. A finding of presumptive death made under section 5 of the Missing Persons Act (56 Stat. 143, 50 U.S.C. App. 1005), as amended, was acceptable to the Social Security Administration only as evidence of the fact of death but not of the date of death. The Missing Persons Act was repealed by Pub. L. 89-554, section 8(a), 80 Stat. 651. Members of the uniformed services and their dependents

in a missing status may now be declared dead under 37 U.S.C. 555 (80 Stat. 628). Federal civilian officers and employees and their dependents in a missing status may now be declared dead under 5 U.S.C. 5565 (80 Stat. 492). The enactment of Pub. L. 89-554 resulted in no substantive change when the source law, i.e. section 5 of the Missing Persons Act, 50 U.S.C. App. 1005, was codified in section 5565 of title 5 and in section 555 of title 37 of the U.S.C. As under section 5 of the Missing Persons Act, when a finding of death is made under either 5 U.S.C. 5565 or 37 U.S.C. 555, the finding must include the date death is presumed to have occurred. Although the Federal agency concerned is legally free, upon review of the case, to continue the missing status if there is a reasonable presumption that the individual is alive, should it make a finding of presumed death the date of that death must be set at a time specified by the respective statutes. The date of presumed death is to be either a year and a day after the disappearance or, if the missing status was continued beyond 12 months from the time of the disappearance, a date determined by the agency concerned. These statutes also specify that the date is "for the purpose of the ending of crediting pay and allowances and settlement of accounts" and, in cases involving a member of a uniformed service, for the payment of death gratuities. Therefore, a determination made under these statutes must be accepted by the Social Security Administration as evidence of the fact of death but not of the date of death. The latter date is controlling only with respect to the agency making the determination of presumed death and only for the purposes indicated in the statutes. In the absence of evidence establishing a later date, the Social Security Administration will use the missing date (usually cited in the finding) as the date of death for purposes of benefit payments.

Interested persons were given the opportunity to submit, within 45 days, data, views, or arguments with regard to the proposed changes. The comment period has expired and no adverse comments were received. The proposed amendment is hereby adopted without change and is set forth below.

(Secs. 205, 1102, Social Security Act as amended; 49 Stat. 624 as amended; 49 Stat. 647, as amended, 53 Stat. 1362, as amended; (42 U.S.C. 405, 1302).)

(Catalog of Federal Domestic Program No. 13.805, Social Security Survivors Insurance)

**NOTE:**—The Social Security Administration has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement Under Executive Order 11821 and OMB Circular A-107.

Dated: May 16, 1977.

J. B. CARDWELL,  
Commissioner of Social Security.

Approved: June 8, 1977.

JOSEPH A. CALIFANO, JR.,  
Secretary of Health, Education,  
and Welfare.

20 CFR Part 404 is amended by revising paragraph (b) (3) of § 404.704 to read as follows:

**§ 404.704 Evidence as to death.**

(b) \* \* \*

(3) A certified copy of an official report or finding of death made by any agency or department of the United States which is authorized or requested to make such report or finding in the administration of any law of the United States, or a statement of the contents of such report or finding certified by an individual designated in § 404.701 (g) (2) or (3), as appropriate; *Provided, however,* That a finding of presumptive death made pursuant to the missing persons provisions of 5 U.S.C. 5565 or 37 U.S.C. 555, shall be accepted only as evidence of the fact of death and not of the date of death. In the absence of evidence establishing a later date, the Social Security Administration shall use the missing date as the date of death for purposes of benefit payments.

[FR Doc.77-16907 Filed 6-13-77;8:45 am]

[Regs. No. 10]

**PART 416—SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED**

**Subpart I—Determination of Disability or Blindness**

**ADDITIONAL MEDICAL CRITERIA FOR DETERMINATIONS OF DISABILITY FOR CHILDREN UNDER AGE 18; CORRECTION**

**AGENCY:** Social Security Administration, HEW.

**ACTION:** Correction notice.

**SUMMARY:** This document corrects FR Doc. 77-7605 that appeared at page 14705 in the FEDERAL REGISTER of March 16, 1977.

**FOR FURTHER INFORMATION CONTACT:**

John W. Modler, Legal Assistant, Office of Policy and Regulations, Social Security Administration, 6401 Security Boulevard, Baltimore, Maryland 21235, telephone 301-594-7337.

**SUPPLEMENTARY INFORMATION:** The following corrections should be made on page 14711:

1. The references in §§ 109.02B2, 109.04B, and 109.05C corrected by changing "§ 100.02B and C" to "§ 100.02A and B."
2. The references in §§ 109.08C, 109.09B, and 109.11C corrected by changing "§ 100.02B or C" to "§ 100.02A or B."
3. The reference in § 109.10 corrected by changing "§ 100.02C" to "§ 100.02B."

Dated: June 8, 1977.

L. DAVID TAYLOR,  
Acting Deputy Assistant Secretary for Management Planning and Technology.

[FR Doc.77-16906 Filed 6-13-77;8:45 am]

## Title 21—Food and Drugs

## CHAPTER I—FOOD AND DRUG ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

## SUBCHAPTER B—FOOD FOR HUMAN CONSUMPTION

[Docket No. 76P-0092]

## PART 155—CANNED VEGETABLES

## Standard of Identity for Canned Mushrooms

AGENCY: Food and Drug Administration.

ACTION: Final rule.

**SUMMARY:** This document provides for optional use of safe and suitable organic acids in processing canned mushrooms where the inside of the container is fully enamel-lined or in glass containers with fully enamel-lined caps. This amendment of the standard of identity for canned mushrooms is based on a proposal issued pursuant to a petition submitted by the Mushroom Processors Association.

**DATES:** Effective August 1, 1977, except as to any provision that may be stated by the filing of proper objections; objections by July 14, 1977.

## FOR FURTHER INFORMATION CONTACT:

Prince G. Harrill, Bureau of Foods (HFF-411), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C Street SW., Washington, D.C. 20204 (202-245-1164).

**SUPPLEMENTARY INFORMATION:** The Commissioner of Food and Drugs issued, in the FEDERAL REGISTER of May 3, 1976 (41 FR 18315), a proposal based on a petition submitted by the Mushroom Processors Association, Box 147, Kennett Square, PA 19348, to amend § 51.990 (21 CFR 51.990), subsequently recodified as § 155.200 by publication in the FEDERAL REGISTER of March 15, 1977 (42 FR 14302), the standard of identity for canned vegetables other than those specifically regulated, to provide for the optional use of safe and suitable organic acids where enamel-lined cans are used as an alternative to the conventional plain tinplate cans for the canning of mushrooms.

Nine comments were received in response to the proposal. Four comments supported and three opposed the proposal as published. Two comments requested modification of the proposal. The comments and the Commissioner's conclusions are as follows:

1. One comment suggested that there be a statement on the label that "discoloration is not harmful."

The discoloration—on the inner surface of the can and resulting from the reaction of the product with the thin tin-coated containers—was fully discussed in the proposal. This type of tin-coating surface discoloration is not considered to be a health hazard. The Commissioner concludes, however, that discoloration could result from conditions that may be hazardous to health, such

as microbial decomposition. Thus, any label statement similar to that suggested by the comment could result in an adulterated and potentially hazardous product being erroneously considered suitable for consumption. Therefore, the Commissioner is not providing for such a label statement.

2. One comment argued that many individuals are allergic to foods such as corn and soybeans and as a result are not able to eat either canned fruits containing corn sweeteners or wide varieties of foods containing lecithin derived from soybeans. Further, the comment was of the opinion that even natural food additives should not be permitted in foods.

The Commissioner is aware that some persons are allergic to unpurified derivatives of corn and soybeans. But he is not aware, nor was any information submitted to substantiate the claim, that the acids that would be used for this technological function contain allergens that would be harmful or undesirable.

3. Two comments opposed the exclusion of vinegar as an acidulant. One comment stated that since the flavor of mushrooms acidified with vinegar is unpleasant, its use would be self-limiting. In addition, a second comment stated that no food processor should be statutorily denied the opportunity to use a well-established acidulant.

The Commissioner recognizes that vinegar is commonly used in the manufacture of pickled and spiced mushrooms. He is of the opinion, however, that such foods, because of their distinct flavor, do not purport to be the standardized food. The Commissioner, therefore, concludes that the standard will not provide for the optional use of vinegar for the acidification of canned mushrooms.

4. One comment recommended that the use of safe and suitable organic acids also be permitted with mushrooms processed in glass containers with fully enamel-lined caps.

The Commissioner concurs with the recommendation and is revising the final regulation to so provide.

In consideration of the comments received and other relevant information, the Commissioner concludes that it will promote honesty and fair dealing in the interest of consumers to revise the standard of identity for canned vegetables other than those specifically regulated, as set forth below.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 401, 701 (e), 52 Stat. 1046 as amended, 70 Stat. 919 (21 U.S.C. 341, 371(e))) and under authority delegated to him (21 CFR 5.1), the Commissioner is revising § 155.200(c)(12) to read as follows:

§ 155.200 Certain other canned vegetables.

(c) . . . .

(12) A vinegar or any safe and suitable organic acid for all vegetables (except artichokes, in which the quantity of such optional ingredient is prescribed by the introductory text of paragraph (c) of this section, and except canned mush-

rooms, in which no vinegar is permitted), in a quantity which, together with the amount of any lemon juice or concentrated lemon juice that may be added, is not more than sufficient to permit effective processing by heat without discoloration or other impairment of the article. Organic acid, other than ascorbic acid as provided for in paragraph (c)(7) of this section, shall be used in canning mushrooms only where the inside metal of the container is fully enamel-lined and in glass containers with fully enamel-lined caps.

Any person who will be adversely affected by the foregoing regulation may at any time on or before July 14, 1977, submit to the Hearing Clerk (HFC-20), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Four copies of all documents shall be submitted and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this regulation. Received objections may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

**Effective date:** This regulation shall become effective July 14, 1977, except as to any provisions that may be stayed by the filing of proper objections. Notice of the filing of objections or lack thereof will be given by publication in the FEDERAL REGISTER.

(Secs. 401, 701(e), 52 Stat. 1046 as amended, 70 Stat. 919 as amended (21 U.S.C. 341, 371(e))).

Dated: June 6, 1977.

WILLIAM F. RANDOLPH,  
Acting Associate Commissioner  
for Compliance.

[FR Doc. 77-16656 Filed 6-13-77; 8:45 am]

[Docket No. 76N-0053]

## PART 155—CANNED VEGETABLES

Canned Green Beans and Canned Wax Beans; Amended Standards of Identity and Quality

AGENCY: Food and Drug Administration.

ACTION: Final rule.

**SUMMARY:** These amendments for canned green beans and canned wax beans, based on a proposal responding to comment from a packer, provide for a maximum liquid content requirement for vacuum-pack beans and a method for determining the quantity of liquid in the container. The confirmation of the effective date of revised canned green and wax bean standards is published elsewhere in this issue of the *FEDERAL REGISTER*, under FDA Docket No. 76S-0053.

**EFFECTIVE DATES:** Voluntary compliance, including any labeling changes: August 15, 1977. Mandatory compliance for all products initially introduced into interstate commerce: July 1, 1979. Objections by July 14, 1977.

**ADDRESSES:** Written objections to the Hearing Clerk (HFC-20), Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

**FOR FURTHER INFORMATION CONTACT:**

Prince G. Harrill, Bureau of Foods (HFF-411), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C Street SW., Washington, DC 20204 (202-245-1164).

**SUPPLEMENTARY INFORMATION:** The Commissioner of Food and Drugs issued in the *FEDERAL REGISTER* of April 19, 1976 (41 FR 16475), a proposal to amend the standards of identity (21 CFR 51.10) and quality (21 CFR 51.11) for canned green beans and canned wax beans to provide for a maximum liquid content requirement for vacuum-pack beans and a method for determining the quantity of liquid in the container. Sections 51.10 and 51.11 were subsequently combined and redesignated as § 155.120 (a) and (b), respectively, by recodification published in the *FEDERAL REGISTER* of March 15, 1977 (42 FR 14302).

No comments were received in response to the proposal.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 401, 701 (e), 52 Stat. 1046 as amended, 70 Stat. 919 (21 U.S.C. 341, 371(e))) and under authority delegated to the Commissioner (21 CFR 5.1), Part 155 is amended in § 155.120 by revising paragraphs (a) (4) (ii) and (b) (2) (i) to read as follows:

§ 155.120 Canned green beans and canned wax beans.

(a) \* \* \*

(4) \* \* \*

(b) The following shall be included as part of the name or in conjunction with the name of the food:

(a) A declaration of any flavoring that characterizes the product as specified in § 101.22 of this chapter.

(b) A declaration of any spice, seasoning, or garnishing that characterizes the product, e.g., "with added spice" or, in lieu of the word "spice," the common name of the spice, e.g., "seasoned with green peppers."

(c) The words "vacuum pack" or "vacuum packed" when the weight of the liquid in the container, as determined by the method prescribed in paragraph (b)

(2) (i) of this section is not more than 25 percent of the net weight, and the container is closed under conditions creating a high vacuum in the container.

(d) The name of the optional style of bean ingredient as set forth in paragraph (a) (2) (iii) of this section or, if a product consists of a mixture of such styles, the words "mixture of \_\_\_\_\_" the blank to be filled in with the names of the styles present, arranged in the order of decreasing predominance, if any, by weight of such ingredients. If the product consists of whole beans and the pods are packed parallel to the sides of the container, the word "whole" may be preceded or followed by the words "vertical pack," or if the pods are cut at both ends and are of substantially equal lengths, the words "asparagus style" may be used in lieu of the words "vertical pack." If the product consists of short cuts or diagonal short cuts, a numerical expression indicating the predominant length of cut in the finished food may be used in lieu of the word "short," e.g., "½ inch cut."

(b) \* \* \*

(2) \* \* \*

(i) Determine the gross weight of the container. Open and distribute the contents of the container over the meshes of a U.S. No. 8 circular sieve with openings of 2.36 millimeters (0.0937 inch), which has been previously weighed. The diameter of the sieve is 20.3 centimeters (8 inches) if the quantity of the contents of the container is less than 1.36 kilograms (3 pounds) and 30.5 centimeters (12 inches) if such quantity is 1.36 kilograms (3 pounds) or more. The bottom of the sieve is woven-wire cloth that complies with the specifications for such cloth set forth in the "Definitions of Terms and Explanatory Notes," p. xviii of the "Official Methods of Analysis of the Association of Official Analytical Chemists," 12th ed., 1975. Without shifting the material on the sieve, incline the sieve 17 to 20 degrees to facilitate drainage. Two minutes after drainage begins, weigh the sieve and the drained material. Record in grams (ounces) the weight so found, less the weight of the sieve, as the drained weight. Dry and weigh the empty container and subtract this weight from the gross weight to obtain the net weight. Calculate the percent of drained liquid in the net weight.

Any person who will be adversely affected by the foregoing regulation may at any time on or before July 14, 1977, submit to the Hearing Clerk (HFC-20), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regu-

\* Copies may be obtained from: Association of Official Analytical Chemists, P.O. Box 540, Benjamin Franklin Station, Washington, DC 20044.

lation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Four copies of all documents shall be submitted and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this regulation. Received objections may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

**Effective date:** Except as to any provisions that may be stayed by the filing of proper objections, compliance with these regulations, including any required labeling changes, may begin August 15, 1977, and all products initially introduced into interstate commerce on or after July 1, 1979, shall comply. Notice of the filing of objections or lack thereof will be published in the *FEDERAL REGISTER*.

(Secs. 401, 701(e), 52 Stat. 1046 as amended, 70 Stat. 919 as amended (21 U.S.C. 341, 371(e)).)

Dated: June 8, 1977.

WILLIAM F. RANDOLPH,  
Acting Associate Commissioner  
for Compliance.

**NOTE:**—Incorporation by reference provisions approved by the Director, Office of the Federal Register, March 11, 1976. The referenced materials are on file in the Federal Register library.

[FR Doc. 77-16784 Filed 6-13-77; 8:45 am]

[Docket No. 76S-0053]

#### PART 155—CANNED VEGETABLES

Canned Green Beans and Canned Wax Beans; Confirmation of Effective Date of Amendments and Further Amendments

**AGENCY:** Food and Drug Administration.

**ACTION:** Final rule.

**SUMMARY:** This document confirms the effective date of revised standards of identity and quality for canned green beans and canned wax beans, published in the *FEDERAL REGISTER* of April 19, 1976 (41 FR 16454), to more closely conform the standards to international standards. (Appearing elsewhere in this issue of the *FEDERAL REGISTER* is a regulation, FDA Docket No. 76N-0053, amending the standards for canned green beans and canned wax beans to provide for "vacuum pack" bean products.)

**EFFECTIVE DATES:** Voluntary compliance, including labeling changes: June 14, 1977. Mandatory compliance for all products initially introduced into interstate commerce: July 1, 1979.

## FOR FURTHER INFORMATION CONTACT:

Prince G. Harrill, Bureau of Foods (HFF-411), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C Street SW., Washington, D.C. 20204 (201-245-1164).

## SUPPLEMENTARY INFORMATION:

The Commissioner of Food and Drugs issued in the FEDERAL REGISTER of April 19, 1976 (41 FR 16454) a final regulation revising the standards of identity (21 CFR 51.10) and quality (21 CFR 51.11) for canned green beans and canned wax beans in consideration of the "International Standard for Canned Green Beans and Canned Wax Beans" submitted to the United States by the Food and Agriculture Organization/World Health Organization Codex Alimentarius Commission. The final regulation specified the types and styles of beans that may be packed under the names "canned green beans" and "canned wax beans," listed the optional ingredients that may be used, and designated how the products are to be labeled. In addition, the standard of quality listed the types of defects and numbers of defects that may not be exceeded if the products are to be marketed without being labeled substandard.

Sections 51.10 and 51.11 were combined and redesignated as § 155.120 (a) and (b), respectively, by recodification published in the FEDERAL REGISTER of March 15, 1977 (42 FR 14302). Discussion of the amendments below is referenced to the current format.

Three comments were received in response to the April 19, 1976, final regulation. These were from Agripac, Inc., the National Canners Association, and the Food Science Department, Oregon State University. None of those responding requested a hearing, but merely suggested several changes in the final regulation.

The suggested changes and the Commissioner's conclusions about them are as follows:

1. Section 155.120(a)(2)(iii)(b) defines the style of pack "shoestring or sliced lengthwise or French style" as "pods sliced lengthwise or at an angle of less than 45° to the longitudinal axis." One comment said that snap beans "sliced at an angle of 30° cut" should more properly be labeled as "diagonal cuts." It maintained that the appearance and flavor of a pack cut at 30° vary considerably from beans sliced lengthwise. It further maintained that most buyers would not accept beans cut at even 15° as French style. The comment proposed that shoestring or sliced lengthwise or French style beans be defined simply as "sliced lengthwise." It also proposed to change the "less than 45°" to "less than 15°" as an acceptable, though less desirable, alternative.

The definition of the style "shoestring or sliced lengthwise or French style" set forth in the final regulation was adopted to be consistent with the Codex definition of the style. But the Commissioner

agrees that beans sliced at an angle of less than 45° to the longitudinal axis would be more properly labeled in the United States as diagonal cuts. Therefore, he is deleting the phrase "or at an angle of less than 45° to the longitudinal axis" from the definition set forth in § 155.120(a)(2)(iii)(b). The definition will read "pods sliced lengthwise."

2. One comment pointed out that, in contrast to the earlier FDA standards for green beans, the recently revised standard does not specifically provide for naming the variety of beans in connection with the name of the food. It stated that this omission is a matter of particular concern to canners of "Blue Lake" beans. The comment submitted that the failure to provide for the varietal name in conjunction with the term "beans" under the revised standard of identity for green beans is unreasonable and probably represents a drafting oversight. Therefore, it suggested that § 51.10 (d)(3)(ii) (now § 155.120(a)(4)(iii)(b)) be revised to read: "The name of the optional varietal type as specified in paragraph (b)(2) [(a)(2)(ii)] of this section, or the specific varietal name, e.g., 'Blue Lake Green Beans' or both."

The Commissioner agrees that the regulation should provide for the optional use of the varietal name of the green bean or wax bean in conjunction with the name of the food, and § 155.120 (a)(4)(iii)(b) is revised accordingly.

3. One comment pointed out that there may be conflict in the standard of quality (§ 51.11 (now § 155.120(b))) between the statement of minimum standard of quality for tough strings, § 51.11 (a)(2) (now § 155.120(b)(1)(ii)), and the final sentence of the method for determining tough strings, § 51.11(b)(7) (now § 155.120(b)(2)(vii)). The comment suggested that § 51.11(a)(2) (now § 155.120(b)(1)(ii)), which states, "Not more than 5 percent by weight of the units may possess strings that will support the weight of 250 g (8.8 oz) for 5 seconds or longer," is correctly stated. It pointed out, however, that the last sentence of the official method set forth in § 51.11(b)(7) (now § 155.120(b)(2)(vii)) requires that the tough strings be assayed in terms of a count of strings per sample weight rather than by percent per sample weight. The comment also pointed out that the sample string count has no validity unless based on a standard unit count per unit sample. It suggested that the wording in the procedure for tough-string determination in § 51.11 (b)(6) and (b)(7) (now § 155.120(b)(2)(vi) and (vii)) be revised to retain bean unit and string identity so that as the individual strings are tested as tough, the corresponding units can be categorized as bean units containing tough strings.

The Commissioner agrees that, due to an oversight, the statement of minimum standard of quality for tough strings in § 51.11(a)(2) (now § 155.120(b)(1)(ii)) was expressed in terms of percent by weight as proposed by Codex, whereas the method described in § 51.11(b)(6) and (7) (now § 155.120(b)(2)(vi) and (vii)) required that tough strings be

assayed in terms of a count of strings per sample weight as set out in the standard being amended. He recognizes that the provisions are inconsistent and that one or the other must be changed. However, he has no data on the percentage method, so he cannot compare the two methods. Therefore, he is changing the language of § 51.11(a)(2) (now § 155.120 (b)(1)(ii)) back to the original sample string count method (as set out in the standard being amended) to be consistent with the term used in § 51.11(b)(6) (now § 155.120(b)(2)(vi)). He realizes that this action results in creating a deviation from the Codex standard. If interested persons have data in regard to determining tough strings in beans on a percentage basis, the Commissioner invites submission of an appropriate petition supported by such data proposing a change in the method.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 401, 701(e), 52 Stat. 1046 as amended, 70 Stat. 919 as amended (21 U.S.C. 341, 371(e)) and under authority delegated to the Commissioner (21 CFR 5.1), Part 155 is amended in § 155.120 by revising paragraphs (a)(2)(iii)(b), (a)(4)(iii)(b), and (b)(1)(ii) to read as follows:

§ 155.120 Canned green beans and canned wax beans.

- (a) \* \* \*
- (2) \* \* \*
- (iii) \* \* \*
- (b) Shoestring or sliced lengthwise or French style. Pods sliced lengthwise.

- \* \* \*
- (4) \* \* \*
- (iii) \* \* \*

(b) The name of the optional varietal type as specified in paragraph (a)(2)(ii) of this section, or the specific varietal name, e.g., "Blue Lake Green Beans", or both.

- \* \* \*
- (b) \* \* \*
- (1) \* \* \*

(ii) In case there are present pods or pieces of pods 10.7 mm ( $\frac{7}{16}$ -inch) or more in diameter, there are not more than 12 strings per 340 gm (12 ounces) of drained weight which will support 227 gm (one-half pound) for 5 seconds or longer.

Effective date: Compliance with §§ 51.10 and 51.11 promulgated in the FEDERAL REGISTER of April 19, 1976 (41 FR 16454), and subsequently recodified as § 155.120 (a) and (b), respectively (42 FR 14302), as amended herein, may begin June 14, 1977, and all products initially introduced into interstate commerce on or after July 1, 1979, shall fully comply.

(Secs. 401, 701(e), 52 Stat. 1046 as amended, 70 Stat. 919 as amended (21 U.S.C. 341, 371 (e)).)

Dated: June 8, 1977.

WILLIAM F. RANDOLPH,  
Acting Associate Commissioner  
for Compliance.

[FR Doc. 77-16785 Filed 6-13-77; 8:45 am]