

Memorandum of Understanding (MOU)
Between
The Department of Agriculture (USDA) Food and Nutrition Service (FNS)
and the
USDA Agricultural Marketing Service (AMS)
and the
USDA Food Safety and Inspection Service (FSIS)
and the
Department of Commerce (USDC) National Marine Fisheries Service (NMFS)
October 15, 2009

Name of Program

The Child Nutrition (CN) Labeling Program

Purpose and Scope

The CN Labeling Program is a voluntary Federal program offered by FNS in conjunction with the AMS, NMFS, and FSIS as a service to school food authorities. The program was developed and implemented in 1984 to aid CN program operators in determining the contribution that commercial products make toward CN meal pattern requirements. The existence of a CN label on a product provides school food authorities and other CN program operators with a guarantee that the product contributes to the meal pattern requirements as printed on the label. This means that when CN Program operators such as the School Food Authorities for the National School Lunch Program purchase a CN labeled product and use it in accordance with the manufacturer's directions, the school or institution will not have an audit claim filed against them for the CN labeled product for non-compliance with the meal pattern requirements. The CN Labeling Program is limited to products that contain food items contributing to the meat/meat alternate component of the meal pattern, along with juice drinks and juice drink products.

In addition to obtaining formulation and label approval, manufacturers are required to develop and maintain an approved Quality Control (QC) program prior to producing CN labeled products. The appropriate USDA or USDC Federal Inspection Program reviews all major ingredients contributing toward the meal pattern requirements of Food Based Menu Planning in order to certify that all CN labeled products are manufactured according to an approved QC program that meets FNS requirements and to certify the CN crediting statement.

The CN Labeling Program requires:

1. A review of a manufacturer's product formulation to determine the contribution a serving makes toward meal pattern requirements;
2. A quantitative control inspection for all major ingredients contributing toward the meal pattern requirements;
3. A review of the CN label statement to ensure its accuracy;

4. CN labeled products to be produced under an appropriate USDA or USDC Federal Inspection Program.

Authorities

USDA Authority:

USDA enters into this MOU under the Department of Agriculture's programmatic authority to participate in such activities pursuant to statutory authorities including the Richard B. Russell National School Lunch Act, as amended (42 U.S.C. 1751 *et seq.*), and the Child Nutrition Act of 1966, as amended (42 U.S.C. 1771 *et seq.*).

USDC Authority:

USDC enters into this MOU under the Department of Commerce's programmatic authority to participate in such activities pursuant to statutory authorities including the Agricultural Marketing Act of 1946, as amended (7 U.S.C. 1621 *et seq.*), the Fish and Wildlife Act of 1956, as amended (16 U.S.C. 742a *et seq.*) and Reorganization Plan No. 4, dated 1970 (84 Stat. 2090).

Objective

The objective of this memorandum is to identify each agency's responsibility in carrying out their respective service for the CN Labeling Program. In addition, it is each agency's responsibility to ensure that the CN label on the end-product meets the policies and regulations set forth by FNS. (See, Appendix C in 7 CFR §§ 210, 220, 225 and 226). The following services will be performed for all CN labeled products:

1. CN Label statement and formulation review and approval;
2. Industry QC Program Approval; and
3. Product Formulation Control Review.

FNS shall:

1. Transfer the management and coordination of the CN label review function to AMS and NMFS.
2. Provide AMS staff training and continuous technical support related to the label review function.
3. Provide to AMS a total of \$400,000 through a reimbursable agreement (\$200,000 in fiscal year 2009 and \$200,000 in fiscal year 2010) to assume the CN Labeling Program review activities.
4. Collaborate and provide technical support to assist AMS and NMFS in implementing the criteria for industry QC programs.
5. Continue to establish policies and regulations associated with CN meal patterns and nutrition requirements which will also require changes in the CN Labeling Program.

AMS shall:

1. Establish a CN Labeling Program Operations Office under the supervision of the Processed Products Branch (PPB).
 - a. PPB shall appoint a CN Labeling Program Coordinator who shall:
 - i. Serve as the lead for AMS and NMFS for the CN Labeling Program;
 - ii. Serve as the lead liaison with FNS on CN policy and regulatory issues;
 - iii. Coordinate the CN label review process with manufacturers;
 - iv. Maintain all records pertaining to CN label review and approvals; and
 - v. Maintain AMS formulation review schedules and coordinate all CN Labeling Review activity through AMS program management.
2. Review and approve industry QC programs for all plants processing CN labeled products except for USDC inspected plants.
3. Perform product formulation control reviews in accordance with the established schedules for all CN labeled products, except products inspected by USDC.

FSIS shall:

1. Provide inspection oversight for meat, poultry, and egg products, amenable to the Federal Meat Inspection Act, the Poultry Products Inspection Act, and the Egg Products Inspection Act, to ensure properly labeled, wholesome, and unadulterated product is being produced.
2. Notify AMS when FSIS observes that an establishment is producing product carrying the CN logo without an approved label application or an AMS-approved QC program on file.

NMFS shall:

1. Review and approve industry CN label applications and QC programs independently of AMS for all USDC inspected plants processing CN labeled product.
2. Perform product formulation control reviews for all CN labeled products manufactured in USDC inspected plants.

It is mutually understood and agreed by FNS, AMS, NMFS, and FSIS:

1. All CN label requests will be presented to the PPB CN Labeling Program Coordinator. The AMS or NMFS coordinator will ensure all CN label statements are approved in accordance with policies and regulations set forth by FNS.
2. AMS and NMFS will complete all Paperwork Reduction Act responsibilities for the CN Labeling Program information collection activity conducted by their respective CN Labeling Programs, including any new OMB information collection requirements.
3. Fees for the CN Labeling Program shall be established by AMS and NMFS.
 - a. Fees for the CN label review and approval conducted by PPB shall be established by PPB.

- b. Fees for CN label/QC program review and approval shall be established by the AMS or NMFS program performing the service.
 - c. Fees for CN product formulation control reviews shall be established by the AMS or NMFS program performing the service.
 - d. Each AMS or NMFS program shall bill manufacturers for services independently.
4. All manufacturers processing CN labeled product are required to have an approved QC program prior to production.
 5. AMS and NMFS program coordinators shall ensure industry QC programs are approved and formulation control reviews are performed according to FNS requirements, available at: <http://www.fns.usda.gov/cnd/CNlabeling/default.htm>.
 6. Each AMS and NMFS program will be responsible for designating the appropriate personnel to review and approve industry QC programs in accordance with established QC guidelines available at <http://www.fns.usda.gov/cnd/CNlabeling/default.htm>.
 7. Formulation control reviews performed by AMS programs and NMFS under a process of cross utilization will be performed in accordance with the approved QC program and established review procedures.
 8. AMS and NMFS inspectors/graders will have the authority to divert product as non-CN labeled, if a plant facility fails to meet requirements as outlined in their approved QC program.
 9. All non-compliance issues related to the safety of meat, poultry, and egg products will be reported to FSIS.
 10. AMS and NMFS will have the authority to allow manufacturers to resume the use of CN labels. All non-conformances shall be directed through the CN Labeling Program Operations Office in PPB.
 11. All AMS or NMFS inspection/grading programs shall provide completed QC and CN formulation review results to the AMS or NMFS CN Labeling Program Operations Office within 15 business days of receipt of the review request.

FNS Memorandum of Understanding for Label Review,
 Quality Control (QC) Approval and Quantitative Control Inspection
 Under USDA/AMS, FSIS and USDC/NMFS for the
 Child Nutrition Labeling Program

Amendment

This Food and Nutrition Service (FNS) Memorandum of Understanding (MOU) replaces the MOU for inspection or acceptance services under the Agricultural Marketing Service (AMS) and the Food and Safety Inspection Service (FSIS) of the Department of Agriculture (USDA) and National Marine Fisheries Service of the Department of Commerce (USDC) for all product produced for the Child Nutrition (CN) Labeling Program. This amendment updates the label review, QC control and inspection control for CN labeled products.

Original Signed

Ronald Vogel
 Associate Administrator
 Special Nutrition Program
 Food and Nutrition Service

10-28-2009
 Date

Original Signed

Timothy Hansen
 Director
 Seafood Inspection Program
 National Marine Fisheries Service

11-20-2009
 Date

Original Signed

David Shipman
 Associate Administrator
 Agricultural Marketing Service

11-12-2009
 Date

Original Signed

Kenneth Peterson
 Deputy Administrator
 Meat and Poultry Inspection Operations
 Food Safety and Inspection Service

11-23-2009
 Date