

contains not less than 35 percent by weight of chocolate liquor complying with the requirements of §163.111 and calculated in the same manner as set forth in paragraph (a)(2) of this section.

(4) Cacao fat is determined by the method prescribed in §163.5(b).

(b) *Optional ingredients.* The following safe and suitable ingredients may be used:

- (1) Cacao fat;
- (2) Nutritive carbohydrate sweeteners;
- (3) Spices, natural and artificial flavorings, ground whole nut meats, ground coffee, dried malted cereal extract, salt, and other seasonings that do not either singly or in combination impart a flavor that imitates the flavor of chocolate, milk, or butter;
- (4) Dairy ingredients:
 - (i) Cream, milkfat, butter;
 - (ii) Milk, concentrated milk, evaporated milk, sweetened condensed milk, dried milk;
 - (iii) Skim milk, concentrated skim milk, evaporated skim milk, sweetened condensed skim milk, nonfat dry milk;
 - (iv) Concentrated buttermilk, dried buttermilk; and
 - (v) Malted milk; or
- (5) Emulsifying agents, used singly or in combination, the total amount of which does not exceed 1.0 percent by weight.

(c) *Nomenclature.* The name of the food is "sweet chocolate", "sweet chocolate coating", "semisweet chocolate", "semisweet chocolate coating", "bittersweet chocolate", or "bittersweet chocolate coating", as appropriate.

(1) When optional alkalizing ingredients are used in the preparation of the chocolate liquor or the cacao nibs from which the chocolate was prepared, the label shall bear the statement "Processed with alkali", or "Processed with _____", the blank being filled in with the common or usual name of the specific alkali ingredient used in the food.

(2) When optional neutralizing agents are used in the preparation of the chocolate liquor or the cacao nibs from which the chocolate was prepared, the label shall bear the statement "Processed with neutralizing agents", or "Processed with _____", the blank being filled in with the common or

usual name of the specific neutralizing agent used in the food.

(3) When one or more of the spices, flavorings, or seasonings specified in paragraph (b)(3) of this section are used in the breakfast cocoa, the label shall bear an appropriate statement, e.g., "Spice added", "Flavored with _____", or "With _____ added", the blank being filled in with the common or usual name of the spice, flavoring, or seasoning used, in accordance with §101.22 of this chapter.

(4) When two or more of the statements set forth in this paragraph are required, such statements may be combined in a manner that is appropriate, but not misleading.

(5) Whenever the name of the food appears on the label so conspicuously as to be easily seen under customary conditions of purchase, the statements prescribed in this paragraph showing optional ingredients used shall precede or follow such name without intervening printed or graphic matter.

(d) *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.

§ 163.130 Milk chocolate.

(a) *Description.* (1) Milk chocolate is the solid or semiplastic food prepared by intimately mixing and grinding chocolate liquor with one or more of the optional dairy ingredients and one or more optional nutritive carbohydrate sweeteners, and may contain one or more of the other optional ingredients specified in paragraph (b) of this section.

(2) Milk chocolate contains not less than 10 percent by weight of chocolate liquor complying with the requirements of §163.111 as calculated by subtracting from the weight of the chocolate liquor used the weight of cacao fat therein and the weights of alkali, neutralizing and seasoning ingredients, multiplying the remainder by 2.2, dividing the result by the weight of the finished milk chocolate, and multiplying the quotient by 100. The finished milk chocolate contains not less than 3.39 percent by weight of milkfat and not less than 12 percent by weight of total milk solids based on those dairy

ingredients specified in paragraph (b)(4) of this section, exclusive of any added sweetener or other dairy-derived ingredient that is added beyond that amount that is normally present in the specified dairy ingredient.

(b) *Optional ingredients.* The following safe and suitable ingredients may be used:

- (1) Cacao fat;
- (2) Nutritive carbohydrate sweeteners;
- (3) Spices, natural and artificial flavorings, ground whole nut meats, ground coffee, dried malted cereal extract, salt, and other seasonings that do not either singly or in combination impart a flavor that imitates the flavor of chocolate, milk, or butter;
- (4) Dairy ingredients:
 - (i) Cream, milkfat, butter;
 - (ii) Milk, concentrated milk, evaporated milk, sweetened condensed milk, dried milk; and
 - (iii) Skim milk, concentrated skim milk, evaporated skim milk, sweetened condensed skim milk, nonfat dry milk; or
- (5) Emulsifying agents, used singly or in combination, the total amount of which does not exceed 1.0 percent by weight.

(c) *Nomenclature.* The name of the food is "milk chocolate" or "milk chocolate coating".

(1) When optional alkali ingredients are used in the preparation of the chocolate liquor or the cacao nibs from which the milk chocolate was prepared, the label shall bear the statement "Processed with _____", the blank being filled in with the common or usual name of the specific alkali ingredient used in the food.

(2) When optional neutralizing agents are used in the preparation of the chocolate liquor or the cacao nibs from which the milk chocolate was prepared, the label shall bear the statement "Processed with neutralizing agents", or "Processed with _____", the blank being filled in with the common or usual name of the specific neutralizing agent used in the food.

(3) When one or more of the spices, flavorings, or seasonings specified in paragraph (b)(3) of this section are used in the breakfast cocoa, the label shall

bear an appropriate statement, e.g., "Spice added", "Flavored with _____", or "With _____ added", the blank being filled in with the common or usual name of the spice, flavoring, or seasoning used, in accordance with §101.22 of this chapter.

(4) When two or more of the statements set forth in this paragraph are required, such statements may be combined in a manner that is appropriate, but not misleading.

(5) Whenever the name of the food appears on the label so conspicuously as to be easily seen under customary conditions of purchase, the statements prescribed in this paragraph showing optional ingredients used shall precede or follow such name without intervening printed or graphic matter.

(d) *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.

§ 163.135 Buttermilk chocolate.

(a) *Description.* Buttermilk chocolate is the food that conforms to the standard of identity, and is subject to the requirements for label declaration of ingredients for milk chocolate in §163.130, except that:

(1) The optional dairy ingredients are limited to sweet cream buttermilk, concentrated sweet cream buttermilk, dried sweet cream buttermilk, and any combination of these; and

(2) The finished buttermilk chocolate contains less than 3.39 percent by weight of milkfat and not less than 12 percent by weight of sweet cream buttermilk solids based on those dairy ingredients specified in paragraph (a)(1) of this section, exclusive of any added sweetener or other dairy-derived ingredient that is added beyond that amount that is normally present in the specified dairy ingredient.

(b) *Nomenclature.* The name of the food is "buttermilk chocolate", "buttermilk chocolate coating", "sweet buttermilk chocolate", "sweet buttermilk chocolate coating", "sweet cream buttermilk chocolate", or "sweet cream buttermilk chocolate coating".