



JUN 29 2007

United States
Department of
Agriculture

Food and
Nutrition
Service

3101 Park
Center Drive

Alexandria, VA
22302-1500

Bill Harrison
VP Sales School Nutrition
Apple & Eve LLC
2 Seaview Blvd.
Port Washington, NY 11050

Dear Mr. Harrison:

We have received your petition requesting an exemption for four of Apple & Eve's Fizz Ed line of pure fruit juice and sparkling water beverages from the soda water category of "foods of minimal nutritional value" as defined in 7 CFR Part 210.11 (a)(2) and Part 220.2 (i-1).

The laboratory nutritional analysis submitted contains all the data required to determine whether or not these products are a food of minimal nutritional value. In addition, it is understood that no discrete nutrients were added to these products before the nutrition testing occurred.

Both "per serving" and "per 100 calories" nutrient analysis show that in Apple & Eve's Fizz Ed Green Apple, Red Raspberry, Orange Mango and Pomegranate one nutrient (vitamin C) is greater than 5% of the Reference Daily Intake (RDI). Therefore, these products are exempt from the "Soda Water" category of "foods of minimal nutritional value" [7 CFR Part 210 Appendix B (a)(1) and Part 220 Appendix B (1)]. The exemption from the soda water category simply allows the products to be sold in competition to the reimbursable meal in the food service area during meal periods. The exempted products may not contribute towards a reimbursable school meal.

The Department of Agriculture does not prohibit the sale of the above products in a school food service area during meal periods. However, State agencies and school food authorities maintain the final right to restrict such sales. If there are any changes to the formulation that would affect the ingredient statements or vitamin C content, these products must be resubmitted for reevaluation and exemption.

A memo will be sent to our regions adding the above Apple & Eve Beverage Group products to the list of *Exemptions Under the Competitive Foods Regulation*.

If you have any questions, please contact my staff at (703) 305-2609.

Sincerely,

for

STANLEY C. GARNETT
Director
Child Nutrition Division