

Rule 327.6 Food and Food Ingredients Definitions

“Food and food ingredients” is defined in Part II of the Library of Definitions, along with definitions of “candy,” “dietary supplements,” and soft drinks” which are subcategories of “food and food ingredients.” A member state may choose to exclude “candy,” “dietary supplements” and “soft drinks” from the definition of “food and food ingredients.”

Rule 327.6.1 Candy Definition

- A. “Candy” is defined in Part II of the Library of Definitions to mean a preparation of sugar, honey, or other natural or artificial sweeteners in combination with chocolate, fruits, nuts or other ingredients or flavorings in the form of bars, drops, or pieces. “Candy” shall not include any preparation containing flour and shall require no refrigeration.
- 1) **Bars, drops or pieces.** The term “bars, drops or pieces” does not include loose mixtures or combinations of ingredients to produce a single product, such as cereal. There is no size limit on the term “Bars, drops or pieces.” For example, a pound of chocolate in the form of a single item is a bar or a piece.
 - 2) **Flour.** The term “flour” includes white, whole wheat, rice, corn, or brown flour, or any other types of flour. “Flour substitutes” are not “flour.” The product label must specifically list “flour” as one of the ingredients.
 - 3) **Other ingredients or flavorings.** “Other ingredients or flavoring” as used in this definition does not include spices, seasonings or herbs.
 - 4) **Sweeteners.** The term “natural or artificial sweeteners” includes, but is not limited to, corn syrup, dextrose, invert sugar, sucrose, fructose, sucralose, saccharin, aspartame, stevia, fruit juice concentrates, molasses, evaporated can juice, rice syrup, barley malt, honey, and artificial sweeteners. Natural flavor or flavor essence are not sweeteners.
 - 5) **Refrigeration.** A product that otherwise meets the definition of “candy” is not “candy” if it requires refrigeration, including products that require refrigeration after being opened. (Note: A product that otherwise meets the definition of “candy” is “candy if the product is **not required** to be refrigerated, but is sold refrigerated for the convenience or preference of the customer.)
- B. 1) Many products that are commonly thought of as “candy” contain flour and therefore are specifically excluded from the definition of “candy.” Ingredient labels must be examined to determine which products contain flour and which products do not contain flour.
- 2) There are products that meet the strict reading of the definition of “candy,” but which are not considered to be “candy” Including breakfast cereal, canned fruits and vegetables, meat products and snack items. The attached chart, (Appendix ??), provides examples of the

types of products that are within the definition of “candy” and examples of products that are “food and food ingredients,” but which are not “candy.”

- 3) Each member state shall follow the classification of products within each of the defined terms as indicated in Appendix ????. If a product is not included in the list in Appendix ??,, member states shall use the list as guidance in classifying products within each of the defined terms.
- C. Bundled transactions. “Bundled transaction” is defined in Part I of the Library of Definitions as the retail sale of two or more products, except real property and services to real property, where (1) the products are otherwise distinct and identifiable and (2) the products are sold for one non-itemized price.
- 1) Products that are a combination of items that are defined as “candy” and items that are defined as “food and food ingredients” are “bundled transactions” when the items are distinct and identifiable and are sold for one non-itemized price. For example, the sale of a bag of individually wrapped bars, some of which meet the definition of “candy” and some of which meet the definition of “food and food ingredients” is a “bundled transaction.” For purposes of determining whether a “bundled transaction” is the sale of “candy” or the sale of “food and food ingredients,” the following rules applies:
 - a) If the product label on the package lists “flour” as an ingredient, the product is defined as “food and food ingredients.”
 - b) If the product label on the package does not list “flour” as an ingredient, the product is defined as “candy.”
 - 2) Products that are a combination of food ingredients that do not meet the definition of “candy” along with food ingredients that do meet the definition of “candy,” such as breakfast cereal and trail mix with candy pieces, are considered “food and food ingredients.” Sales of these products are not considered “bundled transactions” as that term is defined in Part I of the Library of Definitions, because there are not two or more distinct and identifiable products being sold. The combination of the ingredients results in a single product. Examples of combination products are included in the list in Appendix ??.