

UNITED STATES DEPARTMENT OF AGRICULTURE
FOOD AND NUTRITION SERVICE
CHILD NUTRITION DIVISION
NUTRITION PROMOTION AND TRAINING BRANCH

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FACSIMILE TRANSMITTAL SHEET

TO: Stacy EHRlich

FROM: Tim VAZOVSKY

FAX NUMBER: 2/223-5619

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RE:

- URGENT
- FOR REVIEW
- PLEASE COMMENT
- PLEASE REPLY
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NOTES / COMMENTS:



United States
Department of
Agriculture

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Food and
Nutrition
Service

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22302-1500

Stacy L. Ehrlich
Counsel for The Healthy Beverage Company
Kleinfeld, Kaplan and Becker, LLP
1140 Nineteenth Street, N.W.
Washington, DC 20036-6606

Dear Ms. Ehrlich:

We have received your petition requesting an exemption for five of The Healthy Beverage Company's beverages from the "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 for The Healthy Beverage Company's green tea carbonated beverages - Lemon Dew, Grape, Orange, Root Beer, and Raspberry 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 The Healthy Beverage Company's green tea carbonated beverages - Lemon Dew, Grape, Orange, Root Beer, and Raspberry, one nutrient (vitamin C) is greater than five-percent of the Reference Daily Intake. 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 Department of Agriculture does not prohibit the sale of the above products in a school food service area during meal periods. 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 statement or vitamin C content, this product must be resubmitted for exemption.

A memo will be sent to our regions adding the above The Healthy Beverage Company products to the "Exemptions Under Competitive Foods Regulation" list. If there are additional questions please contact my staff at (703) 305-2609.

Sincerely,

A handwritten signature in black ink, appearing to read "Stanley C. Garnett", written over a horizontal line.

Stanley C. Garnett
Director
Child Nutrition Division

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