

# Proposed Rule: Nutrition Standards for All Foods Sold in School

USDA Food and Nutrition Service  
Child Nutrition Division

2013

# Proposed Rule

- Title: *Nutrition Standards for All Foods Sold in School*
- Published: Feb. 8, 2013
- Comment period: Feb. 8 to April 8, 2013

# Law Requirements

- *Section 208- Healthy, Hunger-Free Kids Act of 2010*
  - Nutrition standards
  
- *Section 203- Healthy, Hunger-Free Kids Act of 2010*
  - Potable water requirements

# Presentation Outline

- Requirements for All Foods Standards
- Recordkeeping
- Next Steps

# Background

- A significant portion of calories consumed by children are consumed at school.
- Federal child nutrition programs are an important source of nutritious, balanced meals.
- Despite progress in meal quality, work remains to improve children's diets.
- Research has consistently shown that American children do not meet current national dietary recommendations.

# Background

Improving the nutritional profile of all foods sold in school is critical to:

- improve diet and overall health of American children
- ensure children from all income levels adopt healthful eating habits that will enable them to live productive lives.

# Healthy, Hunger-Free Kids Act

- USDA has **new authority** to establish nutrition standards for all foods and beverages sold outside of the Federal child nutrition programs in schools.
- The provisions specify that the nutrition standards shall apply to all foods sold:
  - outside the school meal programs;
  - on the school campus; and
  - at any time during the school day.

*Section 208, HHFKA*

# Healthy, Hunger-Free Kids Act

Requires standards be **consistent with most recent Dietary Guidelines for Americans**

Directs the Secretary to consider:

- authoritative scientific recommendations,
- existing school nutrition standards,
- current State and local standards,
- practical application of standards and
- exemptions for school-sponsored fundraisers.



# Impact on students

The proposed changes are intended to:

- improve the health of the Nation's children,
- increase consumption of healthful foods during the school day and
- create an environment that reinforces the development of healthy eating habits.

# Minimum Standards

- The nutrition standards for all foods sold in school are minimum standards.
- Additional State or local standards are allowed if consistent with the final rule.

# Proposal Development

USDA considered a wide range of information available on competitive foods, including:

- Recommendations of the 2007 Institute of Medicine (IOM) Report;
- USDA's HUSSC standards;
- Existing State and local standards;
- Existing voluntary standards and recommendations; and
- Input from nutrition program stakeholders.

# Further Considerations

- The practical application of standards in school settings;
- Context of new meal patterns for the Federal school meal programs;
- Support of the federally- reimbursed school nutrition programs as the major source of foods and beverages offered at school;

# Importance of Public Comments

USDA requests public consideration and comment on the relative merits of each proposed provision.

Note that some provisions contain specific alternatives for comment.

# Definitions

# Definitions

Nutrition standards for competitive foods apply to all foods and beverages sold:

- outside the school meals programs;
- on the school campus; and
- at any time during the school day.

# Proposed Definitions

Competitive food: all food and beverages sold to students on the School campus during the School day, other than those meals reimbursable under programs authorized by the NSLA and the CNA.



# Proposed Definitions

School campus: all areas of the property under the jurisdiction of the school that are accessible to students during the school day.

# Proposed Definitions

School day: the period from the midnight before, to 30 minutes after the end of the official school day.

# Applicability

**The proposed standards apply to all foods and beverages sold on campus during the school day.**

- a la carte,
- in school stores,
- snack bars,
- vending machines

# Summary of Proposed Standards

# Structure of Proposed Rule

- General Standards for Food
- Specific Standards for Food
- Exemptions to General Standards
- Specific Standards for Beverages

# Standards for Foods

- Apply to All Grades
- Both General Standards and Specific Nutrient Standards
- Provide exemptions to Nutrient Standards for Specific Foods
- Allow broader Exemptions for F/V and NSLP/SBP foods

# General Standard for Food

To be allowable, a competitive food item **MUST**:

meet all of the proposed competitive food  
nutrient standards

**AND**

# General Standard (cont'd)

Include one of the following:

- Be either a fruit, a vegetable, a dairy product, a protein food or a whole-grain rich product

**OR**

- Contain 10% of the Daily Value of a naturally occurring nutrient of public health concern (i.e., calcium, potassium, vitamin D or dietary fiber)

**OR**

- Be a combination food that contains  $\frac{1}{4}$  cup of fruit or vegetable.



# Grain Product Requirement

- **Must include** 50% or more whole grains by weight or have whole grains as the first ingredient.
- **Consistent** with NSLP meal pattern standards and the HUSSC whole grain requirement.
- **Practical** because it can be easily identified by reading a product label.



# Specific Nutrient Standards for Food

# Calories

- **Snack items/Side dishes (Non-NSLP/SBP):**
  - $\leq 200$  calories per portion as sold (*including any added accompaniments such as butter, cream cheese, salad dressing etc.*)
- **Entrée items sold a la carte (Non-NSLP/SBP):**
  - $\leq 350$  calories for non NSLP/SBP entrée items

# Sodium

**Sodium per portion as packaged for non NSLP/SBP items:**

- **Snack and side items:  $\leq 200$  mg**
- **Entrée items:  $\leq 480$  mg**

# Total Fat

- **≤35% of total calories from fat per portion as packaged.**
- Exemptions include:
  - Reduced fat cheese;
  - Nuts and seeds and nut/seed butters;
  - Dried fruit with nuts and/or seeds with no added nutritive sweeteners or fat;
  - Seafood with no added fat.

# Saturated Fat

- **<10% of total calories per portion as packaged.**
  - Exemption for reduced fat cheese

# Trans Fat

**Zero grams of trans fat per portion  
as packaged**

# Total Sugars

## First Alternative

**$\leq 35\%$  of calories from  
total sugars in  
foods**

## Second Alternative

**$\leq 35\%$  of weight from  
total sugars in foods**



# Sugar Exemptions

- Fresh, frozen and canned fruits/vegetables with no added nutritive sweeteners except for fruits packed in 100% juice or extra light syrup;
- Dried whole fruits/vegetables, dried whole fruit/vegetable pieces; and dried dehydrated fruits/vegetables with no added nutritive sweeteners;
- Low fat/nonfat yogurt with less than 30 grams of sugar per 8 ounces.

# Accompaniments

- Must be pre-portioned and included in nutrient profile as a part of item served and meet all proposed standards
- Examples include:
  - Dressings with salads
  - Butter or jelly on muffins
  - Cream cheese on bagels
  - Garnishes, etc.

# Caffeine

## Elementary and Middle School

Foods and beverages must be **caffeine-free**, with the exception of trace amounts of naturally-occurring caffeine substances.

## High School

No caffeine restrictions.



# Exemptions for General Nutrition Standards for Food

# Fruit and Vegetable Exemption

- Fresh, frozen and canned vegetables with no added ingredients except water **and**
- Fresh, frozen and canned fruit packed in 100 percent juice or extra light syrup

Would be exempt from all the nutrient standards

# NSLP/SBP A La Carte Exemption

## First Alternative

**NSLP/SBP** items sold **a la carte** are **exempt** from all standards **except**:

- fat standards
- sugar standards and
- may be served on any day.

# NSLP/SBP A La Carte Exemption

## Second Alternative

**NSLP/SBP entrees and side dishes** (*except grain based desserts*) sold a la carte **exempt** from all standards but limited in terms of days of service.

- **Sold on the same day the items served in the NSLP/SBP**
- or
- **Sold within four operating days of service in the NSLP/SBP.**



# Specific Nutrition Standards for Beverages



# Standards for Beverages

- Vary by Grade Level
- Identify Types of Beverages Allowed
- Address Container Size

# Beverages: Elementary School

- Plain water (no size limit);
- Low fat milk, plain ( $\leq 8$  oz);
- Non fat milk, plain or flavored ( $\leq 8$  oz), including nutritionally equivalent milk alternatives; and
- 100% fruit/vegetable juice ( $\leq 8$  oz).

# Beverages: Middle School

- Plain water (no size limit);
- Low fat milk, plain ( $\leq 12$  oz);
- Non fat milk, plain or flavored ( $\leq 12$  oz) including nutritionally equivalent milk alternatives; and
- 100 % fruit/vegetable juice ( $\leq 12$  oz).

# Beverages: High School

- *Allowed Any Time:*
  - Plain water (no size limit);
  - Low fat milk, plain ( $\leq 12$  oz.);
  - Non fat milk, plain or flavored ( $\leq 12$  oz.), including nutritionally equivalent milk alternative; and
  - 100% fruit/vegetable juice ( $\leq 12$  oz.).

# Beverages: High School (cont.)

- *Allowed but not during meal service:*
  - Calorie-free, flavored and/or unflavored, caffeinated or non-caffeinated carbonated water ( $\leq 20$  oz);
  - Other calorie free caffeinated or non-caffeinated beverages that comply with the FDA standard of less than 5 calories/serving. ( $\leq 20$  oz.); and

# Beverages: High School (cont.)

- Other caffeinated or non-caffeinated “lower calorie” beverages that include two alternatives up to 12 ounce portion sizes:
  - $\leq 40$  calories/8 oz serving or ( $\leq 60$  calories/12 oz serving) or
  - $\leq 50$  calories/8 oz serving or ( $\leq 75$  calories/12 oz serving)

# Potable Water Requirement

- Schools must make potable water available to children at no charge
  - in the place where lunches are served (also encouraged at breakfast) and
  - during the meal service.
- Requirement and guidance further outlined in:
  - *Section 203, HHFKA*
  - *Policy Memo 28-2011* available at [www.usda.fns.gov/cnd/governance/policy.htm](http://www.usda.fns.gov/cnd/governance/policy.htm)

# Fundraisers

- All foods that meet the proposed standards may be sold at fundraisers during school hours.
- The proposed standards would not apply to items sold during non-school hours, weekends, or off-campus fundraising events.



# Fundraisers Exemption

- The HHFKA allows the Secretary discretion to exempt a limited number of school-sponsored fundraisers.
- Such exempt fundraisers would be prohibited during the school meal service.

# Fundraisers Exemption

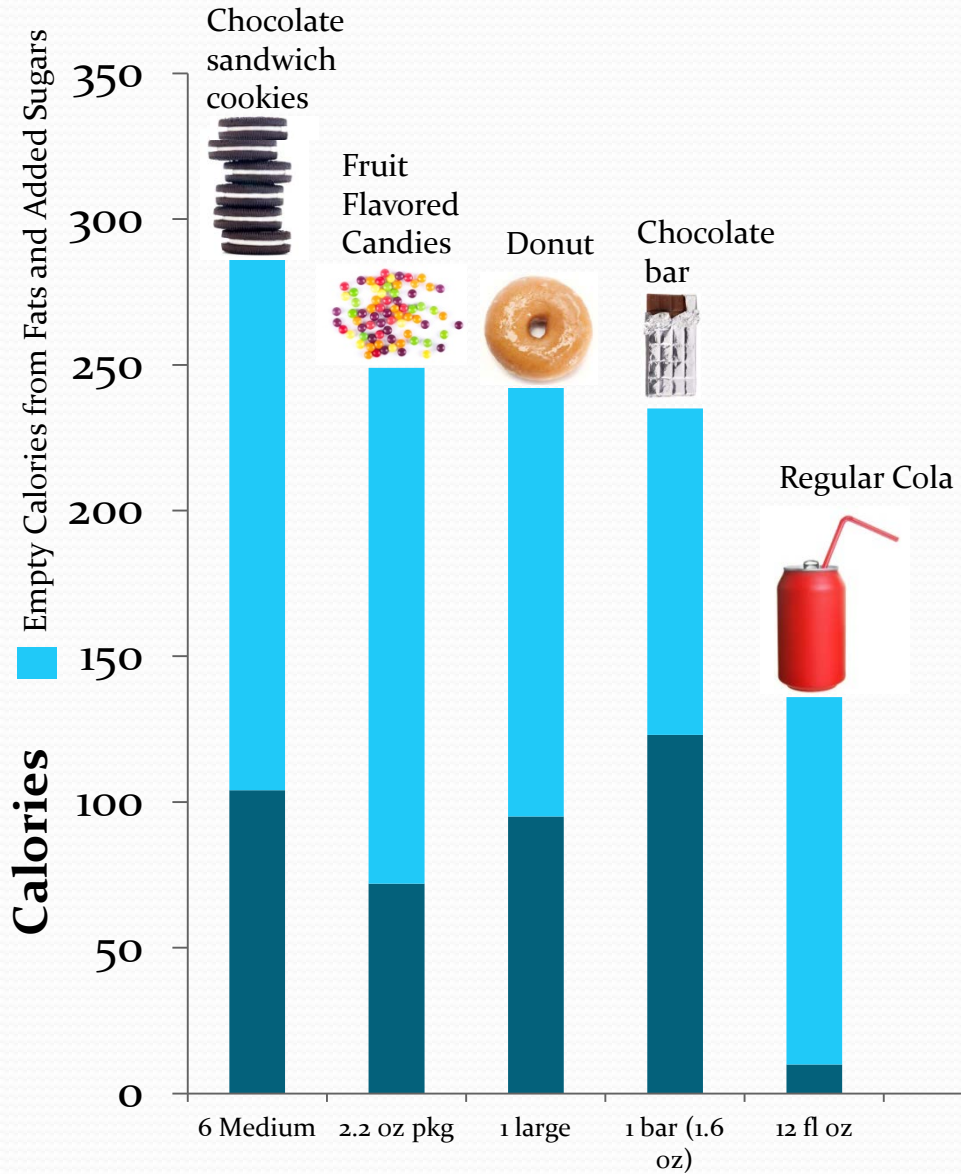
## First Alternative

Allows State agencies the discretion to establish limitations on the number of exempt fundraisers that may be held during the school year.

## Second Alternative

Allows State agencies to set exempt fundraising frequency standards, subject to USDA approval.

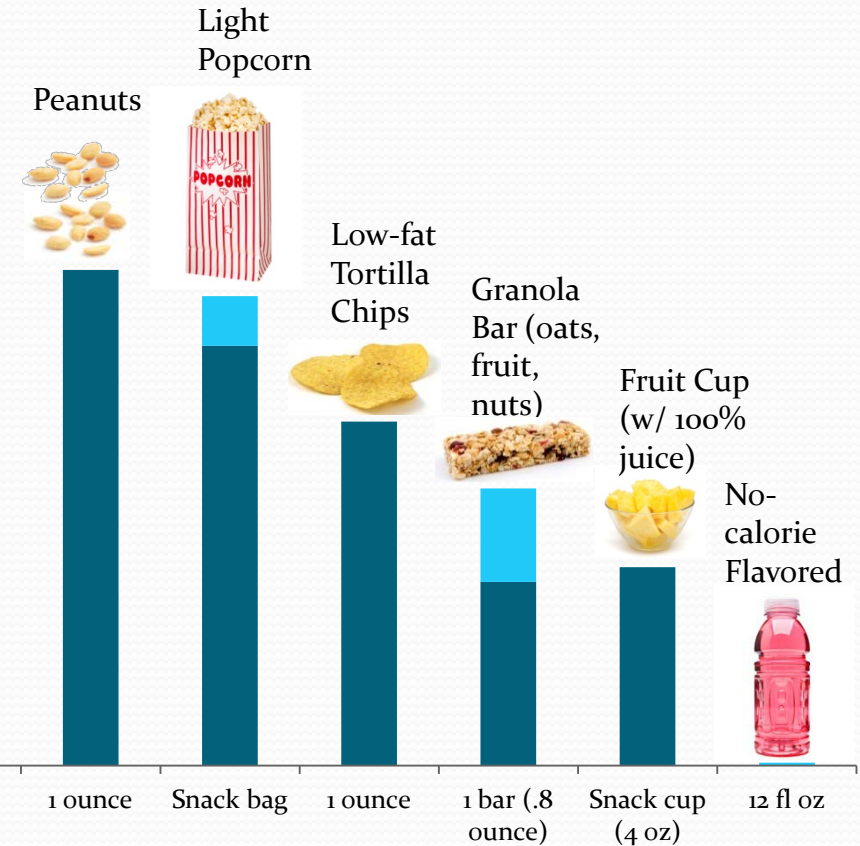
# Snacks Not Meeting Standards



# Snacks Under New Standards

\*There are existing products meeting standards

**Fewer empty calories from fats and added sugars**



# Administrative Provisions

# Recordkeeping

Records must be maintained by those designated as responsible for any competitive food service in the school.

# State Agency Monitoring

- State agencies will monitor compliance with the standards through a review of local educational agency records as part of the State agency administrative review.
- If violations have occurred, corrective action plans would be required to be submitted to the State agency.

# Implementation and Support

- Schools will have at least one school year from date of publication of the final rule to implement these standards.
- FNS will provide technical assistance upon publication of final rule.
- FNS will provide guidance to State agencies and local educational agencies.

# Next Steps



# Reviewing the Rule

- Federal Register
- FNS Website
  - [www.fns.usda.gov/](http://www.fns.usda.gov/)

# Instructions for Commenting

- **When to comment:** 60-day comment period from date of publication
- **Where to comment:**
  - **Online:**
    - <http://www.regulations.gov>
  - **By mail:**

Julie Brewer, Chief, Policy and Program Development Branch  
Child Nutrition Division, Food and nutrition Service  
P.O. Box 66874  
Saint Louis, MO 63166

# Instructions for Commenting

The screenshot shows the homepage of regulations.gov. At the top, there is a navigation bar with links for Home, Help, Resources, and Feedback and Questions. Below this is a search bar and buttons for Browse and Learn. The main content area features a 'Participate Today!' section with a search box and a 'What's Trending' section. On the right, there is a 'Are you new to the site?' section with helpful links and a 'A Commenter's Checklist' section with a checklist graphic and links for Site Enhancements and President's Executive Order. Two blue callout boxes with arrows point to specific elements: one points to the 'Submit your comment online by visiting' text, and the other points to the search box.

Submit your comment online by visiting

Search for the proposed rule by using the Docket ID: FNS-2011-0019 or by the title Nutrition Standards for All Foods Sold in School

regulations.gov  
Your Voice in Federal Decision-Making

Home Help Resources Feedback and Questions

Search Browse Learn

**Participate Today!**

Submit your comments on proposed regulations and related documents published by the U.S. Federal government. You can also use this site to search and review original regulatory documents as well as comments submitted by others.

Help improve Federal regulations by **submitting your comments**.

SEARCH for: Rules, Comments, Adjudications or Supporting Documents:

Search

» Advanced Search

**What's Trending**

Trending is currently unavailable.

Regulations With Comments Due Soon

Newly Posted Regulations

Are you new to the site?

Click the links below to get started.

- ▶ What can I find on this site?
- ▶ How do I find a rule?
- ▶ How do I submit a comment?
- ▶ How do I find my comment?
- ▶ Do my comments make a difference?

**A Commenter's Checklist**

View More Tips for Effective Commenting

Site Enhancements

President's Executive Order

# USDA's Next Steps

- Review and consider public comments
- Develop implementing rule
- Develop technical assistance materials



# Questions?