



United States
Department of
Agriculture

Food and
Nutrition
Service

3101 Park
Center Drive
Alexandria, VA
22302-1500

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SUBJECT: Questions & Answers on the Final Rule, "Nutrition Standards in the National School Lunch and School Breakfast Programs" (1/25/12)

TO: Regional Directors
Special Nutrition Programs
All Regions

State Directors
Child Nutrition Programs
All States

Attached are Questions & Answers on the final rule to update the school meals offered under the National School Lunch and School Breakfast Programs, as required by the Healthy, Hunger-Free Kids Act of 2010. This guidance addresses the final rule overall, and includes questions on general and specific aspects of the new meal requirements. We will revise this document periodically to issue additional Questions & Answers as they arise during the implementation of the new meal requirements. These Questions & Answers and other materials related to the new meal requirements are available on a special webpage on the FNS website:
<http://www.fns.usda.gov/cnd/Governance/Legislation/nutritionstandards.htm>.

We appreciate all you do for the School Meal Programs and look forward to working with you to improve the nutrition of America's children. States should contact their FNS regional office with additional questions.

Original Signed

Cynthia Long
Director
Child Nutrition Division

Attachment

Final Rule “Nutrition Standards in the National School Lunch and School Breakfast Programs”
Questions & Answers for Program Operators

General:

1. Why is USDA setting new meal patterns and dietary specifications for school meals?

On December 13, 2010, President Obama signed into law Public Law 111-296, the Healthy, Hunger-Free Kids Act of 2010 (HHFKA). This historic legislation marked the most comprehensive changes to the school nutrition environment in more than a generation. The last update to school meals standards was over 15 years ago. Since that time, tremendous advancements in our understanding of human nutrition have occurred. In response to that reality, the HHFKA required USDA to update school meal nutrition standards to reflect the most current dietary science.

The timing of this legislation and USDA’s standards are critically needed to help combat the epidemic of childhood obesity as well as the urgent problem of childhood hunger. Nearly 1 in 3 children are at risk for preventable diseases like diabetes and heart disease due to overweight and obesity. If left unaddressed, health experts tell us that our current generation of children may well have a shorter lifespan than their parents. Additionally, during 2010 over 17 million households in the United States, representing over 32 million adults and over 16 million children, struggled to put enough food on the table. For many of these children, a school meal is the only nutritious source of food they can count on.

2. What are the main differences between the proposed and final rules?

The final rule makes significant improvements to school meals, while modifying several key proposed requirements to address public comments regarding cost, timing/implementation, food waste, and administrative burden. The final rule, in comparison to the proposed rule:

- Phases-in changes to the breakfast program gradually over a three-year period
- Does not require a meat/meat alternate at breakfast daily
- Does not restrict starchy vegetables, and establishes weekly minimums for all vegetable subgroups
- Reduces the required weekly grains amounts at lunch
- Allows students to take smaller portions of the fruits and vegetables components (at least ½ cup of either) under Offer versus Serve
- Provides an additional year for the implementation of the second sodium target
- Requires State agencies to assess compliance with the new meal requirements based on the review of one week of menus (instead of two weeks as proposed)
- Allows schools to continue the current tomato paste crediting practice of crediting by whole food equivalency

3. How are the new meal patterns and dietary specifications different from current requirements?

The key changes to the meals for children in grades K and above are:

NSLP

- A daily serving of fruits
- A daily serving of vegetables plus a weekly requirement for dark green, red/orange, beans/pea (legumes), starchy, and “other” vegetables Increased quantity of combined fruits and vegetables
- Weekly meat/meat alternate ranges plus a daily requirement
- In the first year of implementation, at least half of the grains offered during the school week must be whole grain-rich

SBP

- Meat/meat alternate may be offered after minimum grains requirement is met
- In the second year of rule implementation, at least half of the grains offered during the school week must be whole grain-rich
- In the third year of implementation, fruit quantity increase at breakfast
- Breakfast is included in administrative reviews

NSLP and SBP

- One food-based menu planning approach and same age/grade groups
- Fruits and vegetables are two separate food components
- Daily fruits requirement
- Under Offer versus Serve, student must select at least ½ cup of the fruits or the vegetables component as part of the reimbursable meal
- Weekly grains ranges plus daily minimum requirement
- On the third year of rule implementation, all grains offered during the school week must be whole grain-rich
- Fat-free (unflavored or flavored) and unflavored low-fat milk only
- Calorie minimum and maximum levels
- Intermediate (Target 1 and Target 2) and final sodium reductions
- Trans fat limit
- Limit on saturated fat only (not on total fat)
- 3-year administrative review cycle

4. When will the changes take place?

The new lunch meal pattern is effective July 1, 2012, the beginning of SY 2012-2013. With the exception of the new milk requirement, changes to the breakfast program will be phased-in beginning July 1, 2013 (SY 2013-2014). See the implementation chart in the FNS website,
<http://www.fns.usda.gov/cnd/Governance/Legislation/nutritionstandards.htm>.

5. Does this rule impact the meals for children with disabilities?

The meals for children with recognized medical disabilities that restrict their diet are not affected by the new meal patterns and dietary specifications and continue to be based on a medical statement from a licensed physician.

Optional accommodations for children with special dietary needs (without recognized medical disabilities) must be consistent with the new meal patterns and dietary specifications.

6. Will schools operating Seamless Summer Option in the summer of 2012 be required to follow the new meal patterns as of July 1, 2012?

Schools offering the SSO this summer have the option to follow new meal requirements or the requirements currently in place in SY 2011-2012.

Fruits and Vegetables:

7. What forms of fruits are required?

Schools may offer fruits that are fresh; frozen without sugar; canned in light syrup, water or fruit juice; or dried. Pasteurized, full-strength fruit juice may also be offered (it is credited to meet no more than one-half of the fruits component). Required quantities are established in the meal patterns for lunch and breakfast.

8. What types of vegetables are required?

Over the course of the week, schools must offer all vegetable subgroups established in the 2010 Dietary Guidelines for Americans: dark green, red/orange, dry beans/peas (legumes), starchy, and “other” vegetables (as defined in the Dietary Guidelines). Required minimum weekly quantities for each subgroup are established in the lunch meal pattern. Pasteurized, full-strength vegetable juice is also allowable (it is credited to meet no more than one-half of the vegetables component). We plan to release additional guidance to assist school food authorities in classifying vegetables in the appropriate subgroup. Vegetables are an option for breakfast.

9. Where are kinds of vegetables in each of the required vegetable subgroups identified?

Section 210.10(c)(2)(iii) of the regulations identifies the required vegetable subgroups. It is important to note that the term “other vegetables” refers to a specific vegetable subgroup that is listed in the 2010 Dietary Guidelines for Americans as well as online under www.ChooseMyPlate.gov.

10. How can schools minimize food waste while requiring students to take a fruit or a vegetable as part of the meal?

Under Offer versus Serve, schools must offer enough for each child to take the full required amount of each component, but a student may take smaller portions of the fruits and vegetables components, if desired. Students must select at least ½ cup daily of the fruits or the vegetables components for a meal to be considered reimbursable under Offer versus Serve in the NSLP and SBP.

Meat/Meat Alternate:

11. Is a daily meat/meat alternate required at breakfast?

No; schools have discretion to offer a meat/meat alternate after the minimum daily grains requirement (1 oz. eq.) is met.

12. Are schools required to offer tofu as part of the lunch menu?

No; the final rule allows schools the option to offer commercially-prepared tofu as a meat alternate.

Grains:

13. How will schools identify whole grain-rich products?

Until the whole grain content of food products is required on a product label by the Food and Drug Administration (FDA), schools must evaluate a grain product using the two-element criterion developed by the Institute of Medicine and set forth in the final rule:

Element #1. A serving of the food item must meet portion size requirements for the Grains/Breads component as defined in FNS guidance.

AND

Element #2. The food must meet at least one of the following:

- a. The whole grains per serving (based on minimum serving sizes specified for grains/breads in FNS guidance) must be ≥ 8 grams. This may be determined from information provided on the product packaging or by the manufacturer, if available. Also, manufacturers currently may apply for a Child Nutrition Label for qualifying products to indicate the number of grains/breads servings that are whole grain-rich.
- b. The product includes the following Food and Drug Administration (FDA)-approved whole grain health claim on its packaging. “Diets rich in whole grain foods and other plant foods and low in total fat, saturated fat and cholesterol may reduce the risk of heart disease and some cancers.”
- c. Product ingredient listing lists whole grain first, specifically:
 - I. Non-mixed dishes (e.g., breads, cereals): Whole grains must be the primary ingredient by weight (a whole grain is the first ingredient in the list)
 - II. Mixed dishes (e.g., pizza, corn dogs): Whole grains must be the primary grain ingredient by weight (a whole grain is the first grain ingredient in the list)

The product ingredient listing (Element #2c of the above criterion) is a practical way for schools to identify whole grain-rich products because manufacturers are not required to provide information about the grams of whole grains in their products, and the FDA whole grain health claim is not mandatory. Detailed instructions for this method appear in the *HealthierUS School Challenge Whole Grains Resource* guide, which is available online at http://teamnutrition.usda.gov/healthierUS/HUSSCkit_pp25-35.pdf. FNS will provide additional guidance as necessary.

14. Does the 51 percent guideline for whole grain-rich apply to the grain content of the product or to the weight of the product?

The 51 percent guideline for whole grain-rich requires that if the food item is a grain-based product (bread, cereal, etc), it must contain 51 percent or more whole grains by weight *or* have a whole grain listed as the first ingredient on the ingredient label. If the food item is a mixed dish product (lasagna, stir fry, etc), a whole grain must be the primary *grain* ingredient by weight.

15. Will the Child Nutrition Labeling program specify if whole grains are in a product?

Yes; the Child Nutrition Labeling program is being updated to report the whole grain-rich contributions to the grains component.

Milk:

16. What types of milk are allowed?

Only fat-free (unflavored and flavored) and low-fat (1%) milk (unflavored) may be offered as part of the reimbursable meal.

17. Does the final rule impact the current provision on non-dairy milk substitutes for children with special dietary needs?

No. Required (disability accommodations) and optional (parent requested) milk substitutes are considered meal exceptions and are not subject to this final rule. Milk substitutes must meet the regulatory standards outlined in 7 CFR 210.10(d)(3), which do not address fat or flavor/sugar restrictions.

However, milk substitutes offered as part of the reimbursable meal must be included in weighted nutrient analysis and, therefore, are subject to the overall weekly average fat limit and calorie ranges. We do not expect that they are offered frequently enough to have a significant impact on the overall nutrient analysis.

Sodium:

18. What is the sodium requirement and when will schools have to meet it?

See the following chart for deadlines and corresponding maximum limits. Implementation of the second and final targets is subject to USDA’s review of data on the relationship between sodium intake and human health, as required by the FY 2012 Agriculture Appropriations Act.

Sodium Limits and Timeline		
<p>Target I: SY 2014-15 Lunch ≤1230mg (K-5); ≤1360mg (6-8); ≤1420mg (9-12)</p> <p>Breakfast ≤540mg (K-5); ≤600mg (6-8); ≤640mg (9-12)</p>	<p>Target 2: SY 2017-18 Lunch ≤935mg (K-5) ≤1035mg (6-8); ≤1080mg (9-12)</p> <p>Breakfast ≤485mg (K-5); ≤535mg (6-8); ≤570mg (9-12)</p>	<p>Final target: 2022-23 Lunch ≤640mg (K-5); ≤710mg (6-8); ≤740mg (9-12)</p> <p>Breakfast ≤430mg (K-5); ≤470mg (6-8); ≤500mg (9-12)</p>

19. How is USDA facilitating implementation of the sodium requirement?

The final rule extends the timeline to meet the second intermediate sodium target (Target 2). With this change, program operators have five years instead of four (until the School Year beginning July 1, 2017) to reach the second intermediate sodium target. Extending the timeline to meet Target 2 also gives the food industry more time to reformulate products, and gives school children more time to grow accustomed to foods with less salty flavor.

USDA is also facilitating implementation of the sodium requirement by offering low-sodium products through USDA Foods. For example, the USDA Foods program offers reduced sodium canned beans and vegetables at no more than 140 mg per half-cup serving, which is in line with the requirement to reduce sodium in school meals. The sodium content in most cheese products has been reduced, and there is wide availability of frozen vegetables and meats without added salt.

Offer versus Serve (OVS):

20. How will OVS be implemented under the final rule?

OVS continues to be a requirement in the NSLP for senior high schools, and is an option for lower grade schools. It is also an option for the school food authority for all schools in the SBP. Under OVS, schools must offer all the required food components and quantities, and students are required to select at least 3 full components in the NSLP and SBP, with exceptions as noted below:

- NSLP: In the NSLP, schools must offer 5 food components (milk, fruits, vegetables, grains, meat/meat alternates). Students are allowed to decline 2 of the 5 required food components, but must select at least ½ cup of either a fruit or vegetable. Students must select the other food components in the quantities planned.
- SBP: In order to carry out the OVS option in the SBP, schools must offer 3 food components (milk, fruits and grains) that consist of a minimum of 4 food items. Students are allowed to decline 1 food item but must select at least ½ cup of fruit. Students must select the other food components in the quantities planned.

USDA Foods:

21. Will the products provided by USDA Foods enable schools to offer meals that meet the new requirements?

USDA Foods are better than ever. Fruits, vegetables, whole grains, and healthy sources of protein are available to help schools create meals that are consistent with the new meal requirements. For example, the USDA Foods program offers reduced sodium canned beans and vegetables at no more than 140 mg per half-cup serving, which is in line with the requirement to reduce sodium in school meals. A variety of frozen fruits and

vegetables without added sugar or salt are also available. The program also offers reduced sodium and reduced-fat processed and blended cheeses (including cheddar and mozzarella), fajita strips, and beef products. Other healthy food choices available from USDA Foods are listed on their website: www.fns.usda.gov/fdd

Schools can convert their USDA Foods into ready-to-use end products. Establishing the nutrient standards for processed end products, and sharing their standards with processors, is the responsibility of the school/SFA that orders the end product.

22. How quickly will the USDA Foods catalog be updated to provide foods that support the new meal requirements?

FNS is working with the Agricultural Marketing Service (AMS) and the Farm Service Agency (FSA) to revise specifications as necessary, and update the fact sheets to reflect those changes. Over the past few years, FNS has improved product specifications to reduce sodium, fat and added sugars to help schools meet their nutrition goals as well as the Healthier US School Challenge criteria. For more information and resources, please visit FDD's webpage: www.fns.usda.gov/fdd.

23. Will State agencies have an opportunity to adjust USDA Foods orders already placed for School Year 2013?

Yes. State agencies will have an opportunity to adjust School Year 2013 orders placed prior to the final rule publication up until April 1, when the first solicitations occur.

Implementation:

24. How will FNS assist with implementation of the new meal requirements?

FNS is committed to helping State and local operators implement these changes. We will provide training and technical assistance to program operators through a variety of methods, including webinars, special training sessions, and conference presentations. In the upcoming months, we will disseminate information at national events such as the School Nutrition Association (SNA) Legislative Action Conference, SNA's Annual National Conference, Food Research Action Center/Feeding America's Anti-Hunger Conference, the American Commodity Distribution Association annual conference, and School Board and Administrators' meetings. Interactive training on the new meal requirements, developed by FNS and the National Agriculture Library, will be available online shortly. The training presentations, webinars, fact sheets, Q&As, guidance and technical assistance materials designed to assist program operators with implementation of the new meal requirements will be available on the FNS website for easy access. In addition, USDA will provide additional funds to State agencies to support implementation of the rule.

FNS is also updating the Food Buying Guide and other essential resources, and collaborating with the National Food Service Management Institute to develop new

resources. The Child Nutrition Database is currently being updated and nutrient analysis software systems available from industry will be reevaluated to assist State agencies with monitoring calories, saturated fat, and sodium in the meals offered to students in grades K through 12 during the administrative review. The Child Nutrition Labeling Program is also being updated to report whole grain-rich contributions to the grains component and to provide standardized crediting claims.

All materials related to the new school meal patterns will be housed on a special webpage on the FNS website:

<http://www.fns.usda.gov/cnd/Governance/Legislation/nutritionstandards.htm>

25. Are schools allowed to implement the meal requirements in the SBP in SY 2012-2013?

Yes. Schools that have the ability to implement any or all of the phased-in SBP meal requirements in SY 2012-2013 may do so with the approval of the State agency.

Monitoring:

26. How will State agencies monitor compliance with the new meal requirements?

State agencies will monitor compliance with the new meal requirements through administrative reviews. The final rule ends the School Meals Initiative reviews previously authorized under 7 CFR 201.19, and amends 7 CFR 210.18 to include monitoring of the new meal requirements (meal patterns and dietary specifications) as part of the administrative reviews. SFAs are not required to conduct a nutrient analysis because they are expected to follow the meal pattern to meet nutrient targets.

27. How many weeks of menus/production records must be reviewed?

State agencies will continue to assess compliance with the meal requirements based on a nutrient analysis of one week of menus, instead of two (as proposed).

28. When does the new 3-year review cycle begin?

The 3-year administrative review cycle begins SY 2013-2014. This allows State agencies to complete the current 5-year Coordinated Review Effort (CRE) cycle and prepare for the new review cycle. FNS will develop additional guidance on the implementation of the new administrative review cycle.

29. How will State agencies determine if school food authorities have planned menus that meet the new requirements in order to receive the additional 6 cents reimbursement rate increase?

Requirements for certification of school food authorities for the 6 cents reimbursement will be provided in a forthcoming interim rule, expected to be published in Spring 2012.

30. How does the rule address compliance with the new meal patterns and dietary specifications?

Technical assistance and corrective action continue to be the key tools used by the State agencies to seek compliance with the new meal requirements. However, as currently done, State agencies must apply immediate fiscal action if the meals offered are completely missing a required food component. State agencies must also take fiscal action for repeated violations of the vegetable subgroup and milk type requirements. State agencies have discretion to take fiscal action for repeated violations of the food quantity and whole grain requirements, and for repeated violations of the dietary specifications (calories, saturated fat, sodium, and trans fat).

Miscellaneous:

31. The final rule established three age/grade groups for the NSLP and SBP. Does this mean that schools cannot offer the same meal to all grade levels?

Correct. In individual cases where a school district has an unusual grade configuration that prevents the use of the required age/grade groups, it may serve the same lunch and breakfast to children in grades K-5 and 6-8 as the requirements overlap. However, the school district would have to be very careful to meet the sodium and calorie requirements for each grade group. An example of this accommodation is provided in the rule preamble.