

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

### ★ USDA Seeks Public Comment on Proposed Standards

The Healthy Hunger Free Kids Act of 2010 (HHFK) requires the Secretary of Agriculture to establish standards for foods sold in schools other than those provided as part of the National School Lunch Program or School Breakfast Program. According to the HHFK, these standards are to be consistent with the Dietary Guidelines for Americans and the development process should take into account existing state, local, and voluntary standards and the practical application of the standards.

Below is an outline of the proposed standards that USDA published in the Federal Register on February 8, 2013. The public is asked to provide comment during a 60-day period, ending April 9, 2013. It is important for the voice of state board of education members to be heard, since as proposed, the state education agency (SEA) will be involved in monitoring compliance in most cases.

The proposed standards apply to:

- All foods sold outside of the school meals programs;
- The full school day (midnight before to 30 minutes after the end of the official school day); and

- The entire school campus (all areas of the property under the jurisdiction of the school that are accessible to students).

Under the proposed rule, compliance with the nutrition standards would be the responsibility of the school and, as noted above, the SEA would oversee monitoring and compliance (except in a few states where another state agency is involved). USDA has proposed that the competitive food nutrition standards become a part of the administrative review process to which the school food service program is already subjected. Though it is understood that the food service program does not manage the sale of all food items in all parts of the school, it would be expected that, at a minimum, upon request they could provide nutrition information for all products sold in order to ensure compliance.

The proposed standards would prohibit fundraisers in the meal service area during meal times that include food not meeting these standards. USDA has proposed that state agencies set definitions for a “limited number” of food-based fundraisers that would be exempted.

### FOOD

All foods sold must meet all of the proposed competitive food nutrient standards and:

- Be either a fruit, vegetable, dairy product, protein food, or a “whole-grain rich” product (50% or more grains by weight, or list grains as the first ingredient)
- Or, a combination food that contains at least ¼ cup of fruit or vegetables
- Or, it must contain 10% of the daily value of calcium, potassium, vitamin D or fiber while still meeting all of the other requirements

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| <b>Fat</b> | Less than 35% of total calories   |
|            | Saturated fat must be less than 10% of total calories   |
|            | Trans fat must be 0g as stated on the label   |
|            | Exemptions exist for reduced fat cheese, nuts/seeds, nut/seed butters without other ingredients, dried fruit with nuts/seeds with no added nutritive sweeteners, and seafood with no added fat as long as they are not served with any other item. (For example, cheese and crackers is not exempt from the fat standards.) |

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| <b>Sodium</b>         | Snack items must be less than 200 mg  |
|                       | Entrée items must be less than 480 mg   |
| <b>Sugar</b>          | <p>Two proposed alternatives:</p> <ul style="list-style-type: none"> <li>• C1: no more than 35% of calories can come from sugar</li> <li>• C2: no more than 35% of the total weight can be sugar</li> </ul> <p>Exemptions exist for fresh, frozen, and canned fruits and vegetables with no added sweeteners except for fruits packed in 100% juice or extra light syrup; dried whole fruits and vegetables, dried whole fruit and vegetable pieces, and dried dehydrated fruits and vegetables with no added nutritive sweeteners; and low fat and nonfat yogurt with less than 30 grams per 8 ounces.</p> |
| <b>Calories</b>       | Snack items must be less than 200 calories per portion as sold  |
|                       | Entrée items must be less than 350 calories for entrées outside the National School Lunch and School Breakfast Programs   |
| <b>Accompaniments</b> | Must be pre-portioned   |
|                       | Are considered a part of the nutrition profile of the foods they accompany  |

## BEVERAGES

All beverages must be plain water, plain low fat milk, plain or flavored fat-free milk and milk alternatives (permitted by the National School Lunch Program and the School Breakfast Program), or 100% fruit/vegetable juice.

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| <b>Portion Size</b>     | Elementary schools—8 ounce portions   |
|                         | Middle and high schools—12 ounce portions   |
| <b>Caffeine</b>         | Elementary and middle schools—only naturally occurring trace amounts  |
|                         | High schools—no limitations   |
| <b>High School Only</b> | Calorie-free flavored and/or unflavored carbonated water and other calorie-free beverages may be served in portions of up to 20 ounces.   |
|                         | <p>Available only outside of the meal service area, and outside of meal service periods, up to 12 ounce portions of beverages with one of two proposed limits:</p> <ul style="list-style-type: none"> <li>• D1: 40 calories/8 ounces (60 calories/12 ounces), or</li> <li>• D2: 50 calories/8 ounces (75 calories/12 ounces)</li> </ul> |

## ALTERNATIVES TO CONSIDER / PLACES FOR INPUT

In certain areas of the proposed regulations, USDA has proposed two possible alternatives and is seeking public comment about which should be chosen for the final rule. They have also pointed out other specific places where they would like the public to provide input.

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| <b>Naturally Occurring Versus Added Nutrients</b> | In regards to the need for food items to contain at least 10% of the daily value of calcium, potassium, vitamin D, or dietary fiber—should this only be naturally occurring, or should added nutrients be allowable? |
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| <b>À la Carte Items</b>                | A1: Items served as part of the reimbursable meals must meet only the limits on fat and sugar (not calories or sodium) to be served in the à la carte line.  |  |
|  | A2: Items served as a part of the reimbursable meals are exempt from all competitive food standards (except for grain based desserts, which have to meet all standards), as long as they are served in the same or smaller portions in the à la carte lines.   |  |
|  | B1: The exemption in A2 only in effect if the à la carte item is being served as part of the reimbursable meal on the same day.  | B2: The exemption in A2 is only in effect if the à la carte item has been served as a part of the reimbursable meal within four operating days of service. |
| <b>Sugar</b>                           | C1: No more than 35% of calories can come from sugar.  |  |
|  | C2: No more than 35% of the total weight can be sugar.   |  |
| <b>Exemptions for Some Dried Fruit</b> | Should there be an exception to the sugar limits for specific dried fruits that require the addition of nutritive sweeteners for processing and palatability? (for example, dried cranberries)   |  |
| <b>High School Beverages</b>           | D1: For high schools only, beverages sold outside the food service area and outside of meal times, in up to 12 ounce servings, can have up to 40 calories/8 ounces (60 calories/12 ounces).  |  |
|  | D2: For high schools only, beverages sold outside the food service area and outside of meal times, in up to 12 ounce servings, can have up to 50 calories/8 ounces (75 calories/12 ounces).  |  |
| <b>Serving Sizes for Beverages</b>     | The serving size limits for juice and milk (8 ounces and 12 ounces) are larger than what is recommended by the IOM and other voluntary standards that have been widely adopted. This is because the Dietary Guidelines Advisory Committee Report did not find clear evidence that intake of 100% fruit juice is associated with increased fat, and milk also helps with necessary calcium, potassium, and Vitamin D. |  |
| <b>Fundraisers</b>                     | State agencies will define what it means to allow a "limited number" of fundraisers.   | Subject to USDA approval, State agencies will define what it means to allow a "limited number" of fundraisers.   |
|  | Comments about how to conduct exempt fundraisers (non-food or food items that meet these standards) are also welcome.  |  |
| <b>Accompaniments</b>                  | All accompaniments (salad dressing, butter or jelly for muffins, cream cheese for bagels, etc.) must be pre-portioned in amounts that ensure the overall item meets the standards. This may have an impact on the operations of school food service.   |  |

The deadline for making comments on the proposed rule is April 9, 2013. Comments can be submitted through [www.regulations.gov](http://www.regulations.gov) (search for "Nutrition Standards for All Foods Sold in School"). Comments can also be mailed to: Julie Brewer; Chief, Policy and Program Development Branch; Child Nutrition Division, Food and Nutrition Services; PO Box 66874, Saint Louis, MO 63166.

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