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

USDA Food and Nutrition Service

Child Nutrition Division

2013

USDA United States Department of Agriculture Food and Nutrition Service

# Proposed Rule

- Title: ***Nutrition Standards for All Foods Sold in School***
- Published: Feb. 8, 2013
- Comment period: Feb. 8 to April 9, 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

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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

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

# Proposed Definitions

<u>School day:</u> 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 <u>nutrient</u> standards

**AND**

# General Standard (cont'd)

Include <u>one</u> 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 ¼ 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):**
  - ≤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):**
  - ≤350 calories for non NSLP/SBP entrée items

# Sodium

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

- **Snack and side items:** ≤200 mg
- **Entrée items**: ≤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**

**≤35% of <u>calories</u> from total sugars in foods**

**Second Alternative**

**≤ 35% of <u>weight</u> 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 | High School |
| --- | --- |
| Foods and beverages must be **caffeine-free**, with the exception of trace amounts of naturally-occurring caffeine substances. | 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

<u>or</u>

- 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 (≤8 oz);
- Non fat milk, plain or flavored (≤8 oz), including nutritionally equivalent milk alternatives; and
- 100% fruit/vegetable juice (≤8 oz).

# Beverages: Middle School

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

# Beverages: High School

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

# Beverages: High School (cont.)

- ***Allowed but not in the meal service area during meal service:***
  - Calorie-free, flavored and/or unflavored, caffeinated or non-caffeinated carbonated water (≤20 oz);
  - Other calorie free caffeinated or non-caffeinated beverages that comply with the FDA standard of less than 5 calories/serving. (≤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:
  - ≤ 40 calories/8 oz serving or (≤60 calories/12 oz serving) **or**
  - ≤ 50 calories/8 oz serving or (≤ 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

# 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.

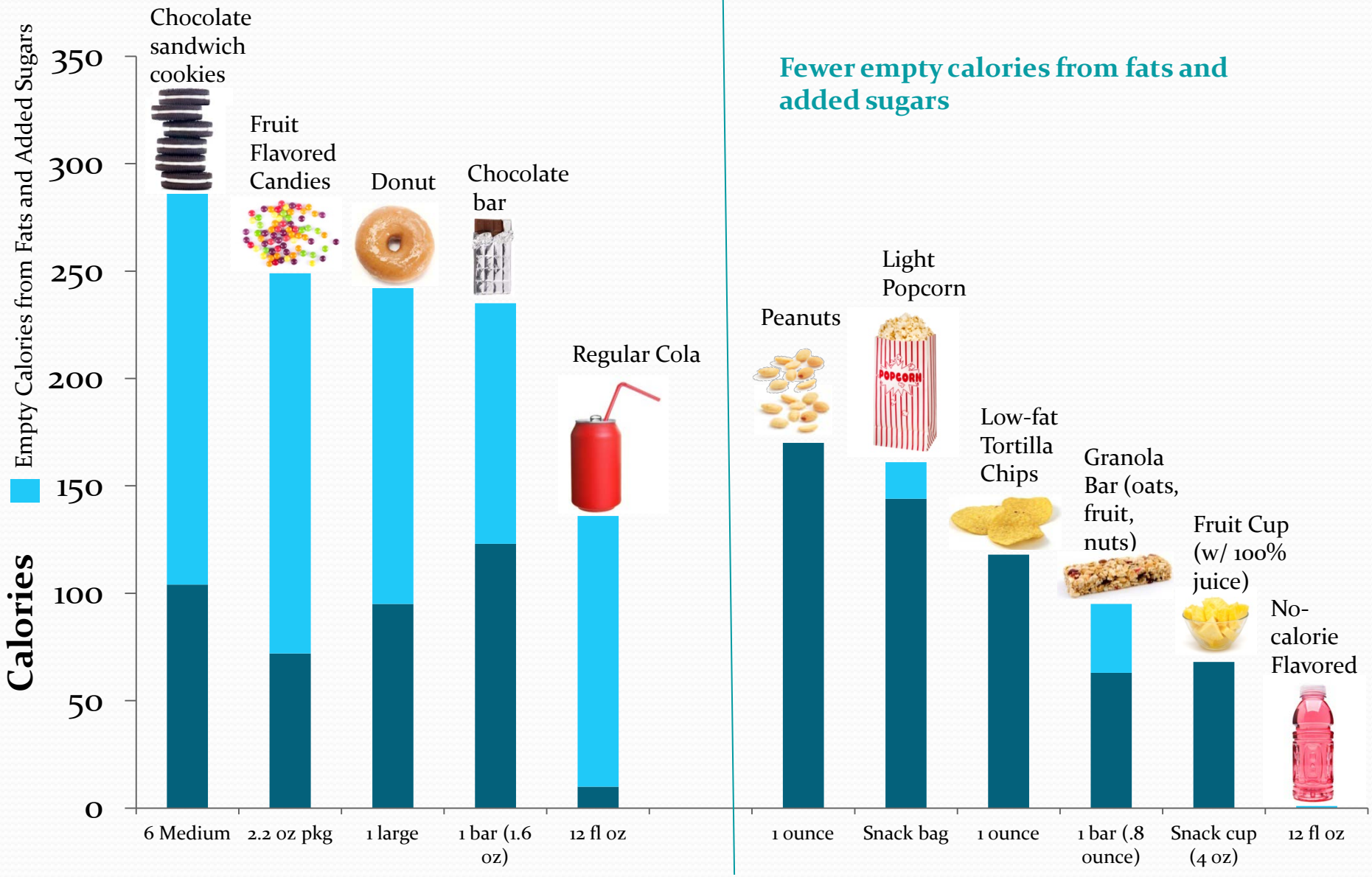
## Second Alternative

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



# 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
  - http://www.fns.usda.gov/cnd/Governance/Legislation/CNR_2010.htm

# 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
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    P.O. Box 66874
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# Instructions for Commenting

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

# USDA's Next Steps

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

# Questions?