

Topic	SNA Recommendation		Interim Final Rule
Nature of Rule	Interim Final	Interim Final - Comments on interim final due 120 days after publication	
Definitions	Agree with proposal	<p>...this interim final rule codifies the proposed definitions of Combination foods, Competitive food, School day, and School campus at §210.11(a), without change. In addition, this interim final rule adopts the proposed definition of Entrée item, with an additional exception added for meat snacks, and a technical correction to change “whole grain rich bread” to “whole grain rich food” to ensure that entrées with pasta, rice and other grain items are included as intended. The definition of Entrée item is also moved to §210.11(a) of this interim final rule, as the definition is applicable to several provisions across the competitive food standards.</p>	
General Nutrition Standards	Reduce minimum creditable serving to 1/8 cup	<p>Maintaining the higher ¼ cup fruit/vegetable quantity for combination foods generally supports the availability of more nutritious products and is consistent with the IOM recommendation and the DGA. However, it is possible that combination foods with less than ¼ cup of fruit or vegetable could qualify under the whole grain rich or food group criteria, depending on their composition.</p>	
Exemptions	Support Alternative A2 - but no restriction on frequency	<p>This interim final rule adopts an exemption for NSLP/SBP entrée items only. Side dishes served à la carte would be required to meet all applicable competitive food standards. The exemption for the entrée items is available on the day the entrée item is served in NSLP/SBP, and the following school day.</p>	

<p>Frequency of Service</p>	<p>Once an item is served that meets current meal pattern guidelines, it should be available without frequency restrictions</p>	<p>This interim final rule adopts an exemption for NSLP/SBP entrée items only. Side dishes served à la carte would be required to meet all applicable competitive food standards. The exemption for the entrée items is available on the day the entrée item is served in NSLP/SBP, and the following school day. Entrée items are provided an exemption, but side dishes are not, in an attempt to balance significant commenter opposition to any exemptions for NSLP/SBP menu items and needed menu planning flexibilities. The approach adopted in this interim final rule supports the concept of school meals as being healthful, and provides flexibility to program operators in planning à la carte sales and handling leftovers. The “day after” exemption is provided primarily to accommodate leftovers.</p>
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<p>Naturally Occurring Nutrients</p>	<p>Support providing food items containing 10% of naturally occurring micronutrients of concern, including fortification to obtain the 10%</p>	<p>This interim final rule implements a phased-in approach to identifying allowable competitive food under the general standard. For the initial implementation period in School Year 2014-15, through June 30, 2016, the general food standard will include a criterion that an allowable competitive food may contain 10 percent of the Daily Value of a nutrient of public health concern (i.e., calcium, potassium, vitamin D, or dietary fiber). The specified nutrient may be naturally occurring, which is encouraged, or may be added to the product. Effective July 1, 2016, the criterion for 10 percent of the Daily Value of a nutrient of public health concern will be removed as a general criterion. At that time, competitive food must qualify on the basis of being whole grain rich, having one of the non-grain main food groups as the first ingredient (or second if water is the first ingredient), or a combination food with at least ¼ cup fruit and/or vegetable. This approach will allow three years for product manufacturers to reformulate their products, if desired, to qualify under the other criteria of the general standards. It will also provide a more straightforward method for schools to identify allowable products, both initially and in the long-term. Ultimately this will more closely align the competitive food standards with the DGA, as required by the HHEKA. Should the 2015 DGA identify additional nutrients of concern applicable to school-age children, the Department anticipates allowing these additional nutrients to qualify products until that criterion is removed on July 1, 2016. USDA will closely monitor</p>
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Fruits and Vegetables	Modify standard to allign with NSLP and SBP	<p>USDA agrees that the fruit and vegetable nutrient exemption should be expanded to include fruit packed in light syrup, consistent with what is allowed in school meals. The Department also agrees that this exemption should include canned vegetables to which a small amount of sugars has been added to maintain the structural integrity of the vegetable ... We would like to clarify that frozen fruit with added sugar is also exempt, if it can be considered to be packed in extra light syrup or light syrup.</p>
Grain Items	<p>The whole grains per serving (based on minimum serving sizes specified for grains/breads in FNS guidance) must be <math>\geq 8</math> grams. This may be determined from information provided on the product packaging or by the manufacturer, if available.</p>	<p>Allowing the additional measures for grain suggested by some commenters such as <math>\geq 8</math> grams of whole grain would not ensure that grain products contain at least 50 percent whole grain and would be inconsistent with the DGA. Therefore, this interim final rule adopts the standard as proposed.</p>
Fats	Calculating only saturated fat and total calories	
Fats	<p>Exemption for reduced fat cheese be changed to allow all types of cheese</p>	<p>In response, USDA looked closely at the fat content of cheeses, including part-skim cheeses, to determine if additional exemptions to the fat standards are warranted. Based on our examination, we agree that extending an exemption to the total fat and saturated fat standards for part-skim mozzarella cheese is appropriate, as there is an FDA standard of identity for part-skim mozzarella cheese. In addition, there is a similar fat profile for part-skim mozzarella compared to many reduced fat cheeses. Other part-skim cheese may be exempt if it also meets the FDA requirement as a reduced fat cheese. The reduced-fat cheese (and now part-skim mozzarella) exemptions do not apply to combination foods.</p>

Sugars	Consistency with other USDA programs including the NSLP. Absent that, SNA supports Alternative C2	The interim final rule adopts Alternative C2
Sugars	Standards should include specific dried fruits that require nutritive sweeteners. We would urge that this list be maintained as guidance rather than as part of the rule so that USDA has the flexibility to modify the list as may be warranted without requiring a full rulemaking activity.	USDA supports an additional limited exemption for dried fruit with added nutritive sweeteners only when the added sweeteners are required for processing and/or palatability of the product, such as dried cranberries, tart cherries and blueberries. The portion sizes of these dried fruits would be limited by the calorie standards. ...USDA will issue future guidance on determining which dried fruits with added nutritive sweeteners for processing and/or palatability qualify for the exemption.
Sodium	We urge USDA to not issue any sodium standard inconsistent with that being required for the NSLP.	Sodium content in snacks is limited to 230 mg per item as packaged or served. On July 1, 2016, the sodium standard will move to 200 mg per item as packaged or served. Entrée items must have no more than 480 mg of sodium per item as packaged or served, unless they meet the exemption for NSLP/SBP entrée items.
Calories	SNA supports the 200 calorie limit for snacks and sides.	This interim final rule retains the proposed calorie limits for snacks/side dishes (200 calories per item as packaged or served), and entrée items (350 calories per item as packaged or served), which are consistent with IOM recommendations and some voluntary standards.
Calories	Do not recommend having the same calorie limitations across all age groups as elementary students have different caloric needs than high school students.	
Calories	We recommend a maximum of 400 calories for a la carte entrees.	Entrée items sold à la carte must contain no more than 350 calories including accompaniments, unless they meet the exemption for NSLP/SBP entrée items.

Calories	<p>Recommends that the rule include a definition of breakfast entrée. We urge using, as example of breakfast entrees, items that include 2 components, e.g. 2-ounce equivalents of grains, or 1-ounce equivalent of grain plus a 1-oz equivalent of protein.</p>	<p>At this time, the consequences of modifying the proposed definition of Entrée item or adding a separate definition of “breakfast entrée” are unclear. The Department would appreciate further comment on this issue in the context of the totality of the competitive food standards set forth in this interim final rule, so that we can appropriately address this in future guidance and/or the final rule.</p>
Caffeine	<p>SNA agrees with the standards that are being established for beverages including those established for high school students. We would recommend additional guidance on how access can be provided to students without unfair restrictions due to combined buildings.</p>	<p>Given the lack of authoritative recommendations at this time, this interim final rule will not prohibit caffeine for high school students. However, USDA acknowledges commenters’ concerns and encourages schools to be mindful of the level of caffeine in food and beverages when selecting products for sale in schools, especially when considering the sale of high caffeine products such as energy drinks. USDA will continue to monitor research and recommendations on caffeine in children as we develop a final rule. We will also provide guidance to program operators on what constitutes trace amounts of naturally occurring caffeine, for use at the elementary and middle school levels.</p>
Beverages	<p>SNA supports the elementary beverage provision.</p>	<p>...this interim final rule codifies, in §210.11(m)(1) and (m)(2), the proposed nutrition standards for beverages for elementary schools and middle schools, with the addition of plain carbonated water with no size limit; 100 percent juice diluted with water (with or without carbonation and with no added sweeteners) in the proposed size limit for juice for each grade group; and a change in terminology from plain milk to unflavored milk.</p>

<p>Beverages</p>	<p>We support D2 with the modification to 80 calories per 12 ounce serving.</p>	<p>. In this interim final rule, we are allowing calorie-free beverages with a maximum container size of 20 fluid ounces, as proposed but with the technical changes requested by commenters. We are also adopting proposed Alternative D1 for lower-calorie beverages, which allows up to 40 calories per 8 ounces and 60 calories per 12 ounces, with the maximum proposed 12 ounce limit. This standard allows a great variety of popular beverage choices to be available for sale in high schools, while also limiting the calories these beverages could provide. Limiting the maximum container size to 12 ounces for these lower calories beverages also reinforces the important concept of appropriate serving sizes for items with calories.</p>
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<p>Beverages</p>	<p>SNA recommends that the same standards for beverages be applied regardless of the point of sale.</p>	<p>USDA agrees with commenters that the distinction on when and where beverages can be sold in high schools during the school day may be unnecessary. The beverage standards adopted in this interim final rule allow a variety of beverage choices in high school, while limiting their calories. Therefore, we are removing the “time and place” restrictions for “other” beverages in high schools, as set forth in the proposed rule. Therefore, this rule does not restrict the sale of any allowable beverage, at any grade level, throughout the school day anywhere on the school campus. However, USDA will monitor this provision to ensure that the sale of such competitive beverages in the food service area does not negatively impact consumption of milk, an excellent source of calcium. USDA will continue monitoring milk sales and consumption in schools in periodic studies. State agencies or school districts could choose to prohibit sale of these other beverages in food service areas.</p>
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<p>Beverages</p>	<p>We urge using only two groups – elementary and secondary.</p>	<p>A few commenters suggested that USDA use only two grade groups for the beverage standards - elementary and secondary - to ease implementation. Some commenters stated that it would be difficult and/or costly to administer the proposed beverage requirements in combined grade campuses, such as 7-12 or K-12. In response, USDA appreciates that implementation could be more difficult in schools with overlapping grade groups, but considers it important to maintain the three grade groupings proposed. These groupings reflect IOM's recommendations and appropriately provide additional choices to high school students, based on their increased level of independence. USDA will provide technical assistance and facilitate the sharing of best practices during implementation.</p>
<p>Fundraisers</p>	<p>SNA requests a definition of what is a school sponsored fundraiser.</p>	

Fundraisers	<p>We support Alternative E2, and urge USDA to provide guidance with respect to allowable "frequency." We also suggest the definition require an official approval of fundraisers by a school authority as a part of a local wellness policy.</p>	<p>USDA believes that the most appropriate approach to specifying the standards for exempt fundraisers is to allow State agencies to set the allowed frequency (proposed Alternative E1). If a State agency does not specify the exemption frequency, no fundraiser exemptions may be granted. As noted in the preamble to the proposed rule, USDA's expectation is that State agencies will ensure that the frequency of such exempt fundraisers on school grounds during the school day does not reach a level to impair the effectiveness of the competitive food requirements in this rule. It is not USDA's intent that the competitive food standards in this interim final rule apply to fundraisers in which the food sold is clearly not for consumption on the school campus during the school day. It is important to note that school districts may implement more restrictive competitive food standards, including those related to the frequency with which exempt fundraisers may be held in their schools, and further restrictions on the areas and times when exempt fundraisers may occur.</p>
Fundraisers	<p>We also urge that non-compliant, exempted food and beverage fundraisers not be conducted during the school day, including fundraisers that provide free food/beverage items as a condition of a sale such as a free cupcake with the purchase of a t-shirt, class ring, or yearbook.</p>	

<p>Fundraisers</p>	<p>SNA recommends exemptions for fundraisers not be included until the rules on penalties pursuant to Section 303 of HHFKA are promulgated and finalized.</p>	<p>The Department would like to assure commenters that we see technical assistance and training as the first approach to non-compliance, however, we recognize that egregious, repeated cases of non-compliance may require a more aggressive approach. In this regard, section 303 of the HHFKA amended section 22 of the NSLA (42 U.S.C. 1769c) to provide the Department with the authority to impose fines against any school or school food authority failing to comply with program regulations. This authority will be addressed in a forthcoming proposed rule addressing a number of integrity issues related to local educational agencies administering the Child Nutrition Programs. As with the proposed administrative rule, interested parties will have an opportunity to address these issues during a public comment period following publication of that proposed integrity rule.</p>
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<p>Accompaniments</p>	<p>SNA does not support pre-portioning since it is cost prohibitive to food programs on both the labor and product fronts.</p>	<p>USDA acknowledges that pre-portioning of accompaniments could add some cost and complication to competitive food service in some schools. We maintain, however, as many commenters did, that it is important to account for the dietary contribution of accompaniments in determining whether a food item may be served as a competitive food. Therefore, this rule removes the proposed requirement for pre-portioning of competitive food accompaniments but retains the requirement that accompaniments be included in the nutrient profile of foods. Schools may determine the average serving size of the accompaniments at the site of service (e.g., school district). This is similar to the approach schools have used in conducting nutrient analysis of school meals in the past. USDA will provide guidance and technical assistance as needed during implementation.</p>
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<p>Recordkeeping and Monitoring Requirements</p>	<p>SNA is concerned about the need to train and educate non-SFA personnel as to how to comply with the regulation. We encourage FNS to be mindful about the budget and labor constraints SFAs already face. Absent additional funding for this training activity, we expect many will be depending upon FNS to provide clear, concise, and helpful materials. Specialized technical assistance and guidance will be needed because many SFAs will effectively be put in a position of training people with little or no food service background or experience.</p>	<p>The Department does not necessarily expect the responsibility to rest solely with the nonprofit school food service. School food service personnel are expected to have a clear understanding of the nutrition profile of foods purchased using nonprofit school food service funds for reimbursable meals, à la carte offerings, etc. Retaining receipts, nutrition labels or product specifications for foods purchased with nonprofit school food service funds is a part of doing business. Yet their authority and responsibilities are typically limited to the nonprofit school food service. Local educational agencies are responsible for ensuring that all entities involved in food sales within a school understand that the local educational agency as a whole must comply with these requirements. ... The Department acknowledges the first year of implementation may be challenging as groups work together to establish a healthy school nutrition environment; however, if the local school wellness designee(s), school food service and other entities and groups work together to share information on allowable foods, we believe that implementation in future years will be greatly streamlined. As always, State agencies and the Department will provide technical assistance to facilitate implementation of the competitive food nutrition standards. Further, since implementation is not required until July 1, 2014, local educational agencies have time to sort out implementation issues and ensure all parties are well trained. Delayed implementation combined with the <i>ongoing funding for public comment provided by this iteration</i></p>
<p>Recordkeeping and Monitoring Requirements</p>	<p>With FNS assistance, States develop a hotline for handling compliance issues as it would alleviate time and labor burden for SFA staff during the transition time.</p>	

<p>Availability of Water During Meal Service</p>	<p>SNA requests that USDA remove afterschool snack from this water requirement due to the complexity of service locations and service of snacks.</p>	<p>USDA agrees with many commenters that the potable water requirement be added to the breakfast meal service. ... In addition, we understand that afterschool snack service could present logistical difficulties in compliance. Therefore, we are not requiring that free potable water be made available during afterschool programs, though we would strongly encourage program operators to do so, to the extent possible, particularly if milk or juice is not offered as part of the snack.</p>
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<p>Other food programs in schools</p>	<p>Establish a level playing field between SFAs and other school food sellers such as stores, culinary arts programs, fundraisers, and vending machines.</p>	<p>Career centers and culinary arts programs present a more challenging issue. These programs often make and sell foods to students. These programs are providing vocational training for culinary art careers. Students are preparing to enter the workforce where the nutritional standards and requirements may vary widely from those required under the NSLP and SBP. Applying the nutrition standards for competitive food to these programs may limit the skill development necessary for careers in the food industry. Section 12(c) of the NSLA (42 U.S.C. 1760(c)) and section 11(a) of the CNA (42 U.S.C. 1780(a)) prohibit the Secretary from imposing any requirement with respect to teaching personnel, curriculum, instructions, methods of instruction, and materials for instruction in any school. However, section 10 of the CNA, as amended by section 208 of the HHFKA requires any food sold outside of the school meal programs, on the school campus and at any time during the school day to meet the competitive food nutrition standards set forth in this interim final rule. Therefore, in recognition of the potential conflict of legislative intent, the Department is willing to consider each situation on a case by case basis, and provide a waiver where appropriate. State agencies are advised to contact FNS' Regional Offices as situations arise.</p>
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