



American Society for Nutrition
Excellence in Nutrition Research and Practice

April 4, 2013

Julie Brewer, Chief
Policy and Program Development Branch, Child Nutrition Division, Food and Nutrition
Service
U.S. Department of Agriculture
P.O. Box 66874
Saint Louis, MO 63166

Re: Docket No. FNS-2011-0019

National School Lunch Program and School Breakfast Program: Nutrition Standards for
All Foods Sold in School as Required by the Healthy, Hunger-Free Kids Act of 2010

Dear Ms. Brewer:

The American Society for Nutrition (ASN) appreciates the opportunity to provide comment on the proposed rule, “Nutrition Standards for All Foods Sold in School as Required by the Healthy, Hunger-Free Kids Act of 2010.” ASN is dedicated to bringing together the world’s top researchers to advance our knowledge and application of nutrition. ASN has nearly 5,000 members working throughout academia, clinical practice, government, and industry, who conduct research to help all Americans live healthier, more productive lives.

ASN commends the USDA on development of the nutrition standards for all foods sold outside the school meal programs, on the school campus, at any time during the school day – also known as competitive foods - and applauds the use of authoritative scientific, evidence-based examples, including the Dietary Guidelines for Americans, to formulate the standards. ASN strongly supports the intent of the proposed rule - that all foods and beverages sold in schools should contribute to an overall healthful eating environment since children consume a significant portion of their daily food and beverage intake at school. The nutrition standards proposed are in line with ASN’s focus on encouraging Americans to make small changes in diet and physical activity in order to enhance efforts to balance energy intake and prevent overweight and obesity.

Availability of Water During the Meal Service

Proposed Rule:

Requires that schools participating in the National School Lunch Program [NSLP] make potable water available to children at no charge in the place where lunches are served during the meal service. Also applies to afterschool snack service claimed through the NSLP. The statute does not specifically require that potable water be served in the School Breakfast Program [SBP], although the availability of water during all meal services is encouraged.

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ASN Recommendation:

ASN recommends that USDA expand the statute to require that potable water be readily accessible to students participating in both the SBP and the NSLP. Water is a healthy, calorie-free option to ensure adequate hydration in children. Studies¹ indicate that children do not drink enough water to meet the recommended Adequate Intake (AI) levels for their age groups.² Dehydration has a number of negative effects on the body, resulting in poor cognition and motor control for example. Requiring that water be readily available during all school meals will help to ensure that children have ready access to the healthiest option to stay hydrated throughout the school day.

Definitions

Proposed rule:

Competitive food is proposed to be defined as 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 CNA.

School campus is proposed to be defined as all areas of the property under the jurisdiction of the school that are accessible to students during the school day.

School day is proposed to be defined as the period from the midnight before, to 30 minutes after the end of the official school day school day

ASN Recommendation:

ASN supports the proposed definitions for competitive food, school campus, and school day. ASN also suggests that the USDA encourage school districts to apply the nutrition standards for competitive foods to field trips and afterschool programs, events and activities directed at students, such as club meetings and practices for sports, drama, band, etc.

¹ Kant AI and Graubard BI. Contributors of water intake in US children and adolescents: associations with dietary and meal characteristics—National Health and Nutrition Examination Survey 2005–2006. *Am J Clin Nutr* 2010;92:(4)887-96.

² National Research Council. *Dietary Reference Intakes for Water, Potassium, Sodium, Chloride, and Sulfate*. Washington, DC: The National Academies Press, 2005.

General Exemption of NSLP and SBP Entrees and Side Dishes

Exemptions

Proposed Rule:

Alternative A1: Menu items provided as part of the NSLP and/or SBP school meal would be exempt from all competitive food standards except the fat and sugar limits.

Alternative A2: All menu items provided as part of the NSLP and/or SBP school meal would be exempt from the competitive food standards except grain based dessert products which must meet all standards in order to be served.

ASN Recommendation:

ASN supports Alternative A1 with the caveat that USDA tighten the alternative to allow exemptions for menu items as part of the NSLP and/or SBP school meal from all competitive food standards except the *sodium*, fat and sugar limits. Studies have found that school meals currently provide more sodium than is recommended for children.³ Even in young children, too much sodium in the diet can contribute to high blood pressure, a risk factor for cardiovascular and other diseases. If necessary, a phased approach to sodium reduction in entrée menu items could be followed, similar to the phased sodium reduction targets in the final rule on school meals provided through the NSLP and SBP.⁴

Frequency of Allowable Service

Proposed Rule:

Alternative B1: Allows an exemption to the proposed nutrient standards for competitive foods for NSLP and SBP menu items on the same day that the items were served in the school meals program.

Alternative B2: Allows an exemption to the proposed nutrient standards for competitive foods for NSLP and SBP menu items served within four operating days of service in the programs.

³ Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention, Division for Heart Disease and Stroke Prevention. *Under Pressure: Strategies for Sodium Reduction in the School Environment*. 2011. <http://www.cdc.gov/salt/publications.htm>

⁴ Nutrition Standards in the National School Lunch and School Breakfast Programs. 7 *CFR* 210/220. 2012. 4098.

ASN Recommendation:

ASN supports Alternative B1 and recommends that USDA consider broadening Alternative B1 to allow an exemption for competitive foods on the same day *and the day after* menu items were served in the school meals program, to help school districts better manage product inventory and food costs by reducing food item waste.

Naturally Occurring Nutrients

Proposed Rule:

In order to be allowable, food items must contain 10% of the Daily Value (DV) of a naturally occurring nutrient of public health concern: calcium, potassium, vitamin D, and dietary fiber.

ASN Recommendation:

While ASN supports efforts to encourage consumption of nutrients of concern, ASN agrees that it will be difficult for schools to recognize when a nutrient of concern has been added to a product or when the nutrient is naturally occurring since this information is not currently required as a food label or food package declaration. For this reason, ASN believes that food items to which specific nutrients of public health concern have been added should also be allowable (for example, via fortification) if this standard is to be included in the final rule. According to the 2010 *Dietary Guidelines for Americans*,⁵ vitamin-D fortified milk is the major dietary source of vitamin D for most Americans.

It is also important to note that the nutrients of concern highlighted in the proposed rule follow the nutrients of concern noted in the 2010 *Dietary Guidelines for Americans*, which may change with the upcoming release of the 2015 edition of the guidelines. For example, Vitamin D was not included as a nutrient of concern in the 2005 Dietary Guidelines, but was added in 2010 based on new scientific evidence. If nutrients of concern are to be included in the final rule, ASN recommends that the USDA include language to specify that food items must contain 10% of the Daily Value (DV) of nutrients of public health concern as noted in the most recent version of the *Dietary Guidelines for Americans*, rather than specifically listing the four nutrients focused on in the 2010 Dietary Guidelines.

⁵U.S. Department of Agriculture and U.S. Department of Health and Human Services. *Dietary Guidelines for Americans, 2010*. 7th Edition, Washington, DC: U.S. Government Printing Office, 2010.

Fruits and Vegetables

Proposed Rule:

Fresh, frozen and canned fruits and vegetables with no added ingredients except water or, in the case of fruit, packed in 100 percent juice or extra light syrup, are exempt from all the nutrient standards included in the proposed rule.

ASN Recommendation:

ASN recommends that USDA provide an exemption for canned fruit packed in light syrup, as well as canned fruit packed in water, 100% juice or extra light syrup. There is only a minor difference in total calories and sugars provided by canned fruits packed in light syrup versus 100% fruit juice, and in some instances fruit juice contributes higher total calories and sugars than light syrup. This would allow an additional option to increase the availability of fruit for children throughout the school day.

ASN also supports an exemption for certain fruits and vegetables canned with small amounts of added nutritive sweeteners to maintain the structural integrity of the food, as is allowed for certain WIC-eligible food items (e.g., sweet peas).⁶ Small amounts of added nutritive sweeteners can be acceptable if the added sugars are used to increase consumption of otherwise healthy foods. ASN recommends that USDA include this exemption and specify the type and maximum amount of nutritive sweetener allowed in the final rule.

Total Sugars

Proposed Rule:

Alternative C1: In order to be considered an allowable competitive food item, no more than 35% of calories shall be derived from total sugars in foods.

Alternative C2: Allowable food items shall not contain more than 35% of their weight from total sugars in foods.

Exemptions: (1) Dried whole fruits or vegetables; dried whole fruit or vegetable pieces; and dried dehydrated fruits or vegetables with no added nutritive sweeteners are exempt from the sugar standard, but are subject to the calorie, total fat, saturated fat, trans fat and sodium standards; (2) Products that consist of only dried fruit with nuts and/or seeds with no added nutritive sweeteners or fat are exempt from the total fat and sugar standard, but are subject to the calorie, trans fat, saturated fat and sodium standards; and (3) Flavored and unflavored nonfat

⁶ U.S. Department of Agriculture, Food and Nutrition Service. *WIC Food Packages – Regulatory Requirements for WIC-Eligible Foods*. Last modified 2/17/12.
http://www.fns.usda.gov/wic/benefitsandservices/foodpkgregs.htm#FRUITS_and_VEGETABLES_

and low-fat yogurt with no more than 30 grams of total sugars per 8 ounce serving are exempt from the sugar standards, but are subject to the calorie, total fat, saturated fat, trans fat and sodium standards.

ASN Recommendation:

ASN supports Alternative C1: In order to be considered an allowable competitive food item, no more than 35% of calories shall be derived from total sugars in foods, which follows the Institute of Medicine's recommended nutrition standards for foods in schools.⁷

As discussed in the Fruits and Vegetables section above, ASN supports an exemption for certain food items canned with small amounts of added nutritive sweeteners to maintain the structural integrity of the food, as is allowed for certain WIC-eligible food (e.g., kidney beans, sweet peas). ASN recommends that USDA specify the type and maximum amount of nutritive sweetener that would be allowed as part of this exemption in the final rule.

ASN also recognizes that certain dried fruits may be dehydrated using a sugar-water solution as a dehydrating agent or a fine coating of sugar may be applied to keep the dried fruits from sticking to one another and clumping.⁸ ASN supports an exemption for dried fruits and vegetables prepared with small amounts of nutritive sweeteners to promote the consumption of otherwise healthy dried food items, but recommends that USDA specify the type and maximum amount of nutritive sweetener that would be allowed as part of this exemption in the final rule.

ASN does not support the current exemption for yogurt, but recommends that it be amended to allow an exemption for flavored and unflavored nonfat and low-fat yogurt with no more than 20 grams of total sugars per 6 ounce serving. Most single-serve yogurts available in the marketplace are 6 ounces, and light versions of both nonfat and low-fat single-serve yogurt typically contain less than 20 grams of total sugars per serving. ASN believes this is a feasible model to decrease the amount of added sugars found in yogurt offered in schools to promote yogurt as a healthy school snack.

⁷ Institute of Medicine. *Nutrition Standards for Foods in Schools: leading the Way Toward Healthier Youth*. Washington, D.C.: The National Academies Press, 2007.

⁸ California Department of Education. *Competitive Food Frequently Asked Questions*. Last reviewed 1/24/13. <http://www.cde.ca.gov/ls/nu/he/compfoodsfaq.asp#q23>

Calories

Proposed Rule:

To be considered allowable, snack items shall contain no more than 200 calories per portion as packaged including any accompaniments such as butter, cream cheese, salad dressing etc. A la carte snack items/side dishes served in the same or smaller portion size as served in the NSLP or the SBP during specific periods would be exempt from this calorie restriction.

Entrees items sold a la carte shall contain no more than 350 calories per portion as served and meet all of the other nutrition standards specified. Entrée items are exempt from this calorie requirement if the entrée items sold a la carte are NSLP or SBP entrees that are to be offered during specific periods as part of the reimbursable school meal and are served in the same or smaller portion size as offered in the NSLP or SBP.

ASN Recommendation:

ASN supports USDA's proposed calorie limits for snacks and side dishes (≤ 200 calories) and entrees (≤ 350 calories) for middle and high school students, but recommends that the USDA limit calories for elementary school students given their lower calorie needs. ASN recommends that the USDA limit total calories from snacks and side dishes to 150 calories for elementary school students, the same as the Alliance for a Healthier Generation's competitive food guidelines⁹, and entrees to 300 calories.

Caffeine

Proposed Rule:

Competitive foods and beverages served to elementary and middle school-aged children must be caffeine-free, with the exception of trace amounts of naturally occurring caffeine substances. Caffeine is not proposed to be restricted to high school-aged students.

ASN Recommendation:

ASN supports the proposal to allow only caffeine-free beverages for elementary and middle school students, with the exception of trace amounts of naturally occurring caffeine substances.

Since the science regarding safe levels of caffeine intake in adolescents is currently evolving, ASN supports the allowance of caffeinated beverages for high school-aged students but encourages the USDA to consider setting a maximum allowable limit for

⁹ Alliance for a Healthier Generation. Competitive Foods Guidelines.
<http://www.healthiergeneration.org/companies.aspx?id=2540> Accessed March 28, 2013.

caffeinated beverage consumption by high school students. ASN also urges the USDA to relook at this statute once evidence-based findings are more readily available, particularly with regards to the impact of caffeinated energy drink consumption on adolescents.

Beverages

Proposed Rule:

Allowable beverages and maximum portion sizes for such beverages for each age group:

Beverage	Maximum Serving Size by: Elementary School	Middle School	High School
Plain water	n/a	n/a	n/a
Low fat milk, plain	≤8 fluid ounces	≤12 fluid ounces	≤12 fluid ounces
Non fat milk, plain or flavored	≤8 fluid ounces	≤12 fluid ounces	≤12 fluid ounces
Nutritionally equivalent milk alternatives as permitted by school meal requirements	≤8 fluid ounces	≤12 fluid ounces	≤12 fluid ounces
100% fruit or vegetable juice	≤8 fluid ounces	≤12 fluid ounces	≤12 fluid ounces
Calorie-free, flavored and/or carbonated water, but not in the meal service area during meal service periods	-	-	≤20 fluid ounces
Other beverages that comply with the FDA requirement for bearing a “calorie free” claim of less than 5 kcals/serving allowed, but not in the meal service area during meal service periods	-	-	≤20 fluid ounces
<i>Alternative DI: 40 calories per 8 ounce</i>	-	-	≤12 fluid ounces

<p>serving of other beverages (or no more than 60 calories per 12 ounce serving of such beverages)</p> <p><i>Alternative D2:</i> 50 calories per 8 ounce serving of other beverages (or no more than 75 calories per 12 ounce serving of such beverages)</p>			
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ASN Recommendation:

ASN supports the proposed allowable beverages and maximum portion sizes for such beverages for each age group. Regarding alternatives for other beverages, ASN supports Alternative D1 which limits the total calories provided by other beverages to no more than 60 calories per 12-ounce serving for high school students.

Other Proposed Standards

Accompaniments

Proposed Rule:

It is proposed that the use of accompaniments be limited when food is sold to students in school. All accompaniments shall be pre-portioned and must be included in the nutrient profile as part of the item served as well as meet all of the proposed standards. For example, dressings served with salads shall be pre-portioned in amounts appropriate to ensure that the competitive food standards are met and shall be included in the nutrient profile of the item.

ASN Recommendation:

ASN supports that the use of accompaniments should be limited when food is sold to students in school. ASN believes that requiring accompaniments to be pre-portioned will likely create increased costs, food waste and burden for school systems and therefore does not believe this is a feasible option. ASN does support efforts to educate students on the appropriate serving sizes of accompaniments, as well as entrees and side items, so that students can make healthful choices when items are not able to be pre-portioned for them.

ASN hopes these comments are useful as implementation of nutrition standards for all foods sold in school moves forward. We look forward to the opportunity to assist the USDA Food and Nutrition Service in any other way deemed appropriate. Please contact Sarah Ohlhorst, M.S., R.D., Director of Government Relations, at 301.634.7281 or sohlhorst@nutrition.org if ASN may provide further assistance.

Sincerely,

A handwritten signature in cursive script that reads "Teresa A Davis".

Teresa A Davis, Ph.D.
2012-2013 President