



The Role that the US Department of Agriculture
Regulatory Process Plays in Reducing
Childhood Hunger and Improving Nutrition and
How You Can Participate

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Introduction

Over the next two years, the US Department of Agriculture (USDA) will be issuing a series of proposed regulations implementing the changes that Congress included in the 2010 Child Nutrition Reauthorization (CNR), the Healthy, Hunger-Free Kids Act. The first proposed rule will raise the nutrition standards for School Lunch and Breakfast meals for the first time in 15 years. Keeping nutrition standards up to date is critical for improving the nutrition and health status of the nation's children since nearly 32 million children eat lunch at school and 11 million children eat breakfast at school. The most recent USDA report on food security in the US found that 50 million Americans, including 17 million children, are food insecure—meaning that they lack consistent access to food. So, 1 in 4 of our children is at risk of hunger. We also know that there is a strong relationship between nutrition and learning. How will our children be able to compete in a global marketplace if they do not receive nutritious meals at school? This is a particularly important issue for low-income children. The 17 million low-income children that currently participate in school lunch programs consume about 30 to 50 percent of their daily calories at school. As Senator George McGovern once pointed out, federal nutrition programs represent “one of the most significant success stories of government in the fight to end childhood hunger”. However, we must insure that these programs are available to all children in need and that the meals served in school have the highest nutritional quality.

This paper will:

- highlight the major changes in nutrition standards for school meals proposed by USDA and how major nutrition and anti-hunger groups and school food service officials view these changes.
- list future nutrition program regulations that the reader may wish to comment upon.
- present a case scenario on how a set of USDA rules were withdrawn reflecting comments received from the general public.
- review how key stakeholders—children, families, teachers, school nurses, school administrators, food service workers, and the food industry—can play a role in this process.

Proposed Nutrition Standards for School Lunch and Breakfast

Why Are the School Lunch and Breakfast Program Regulations Being Updated?

According to USDA, current school meals do generally meet meal requirements and they do provide key nutrients. However, a substantial number of school meals fail to meet all standards, primarily missing the lower standards for fat and saturated fat. Many school meals today offer few whole grains, and starchy and fried vegetables account for a disproportionate amount of the vegetable options on the school lunch menu.

The proposed rule would update school meals menus and greatly increase the nutritional quality of meals served to schoolchildren. According to USDA Secretary Tom Vilsack, the proposed rule would:

- significantly increase fruit and vegetables at lunch--most students would receive a cup more per day—and for the first time, both fruits and vegetables must be served daily.
- double the amount of fruit served at breakfast, and provide both a grain and a protein item for breakfast—previously schools could serve one or the other.
- increase whole grains substantially—currently there is no whole grain requirement; now half of grains served would be whole grain rich.
- serve low fat or nonfat milk with meals—schools can currently serve higher fat milk.
- establish maximum and minimum limits on calories for the first time as a way to address childhood obesity.
- place limitations on saturated fat and trans fats.
- establish standards for the gradual reduction of sodium—there is no current limit on sodium.

Comments are due today on this proposed regulation. The proposed regulation is based upon the Institute of Medicine (IOM) of the National Academies report **School Meals: Building Blocks for Healthy Children**. In response to USDA's request for an IOM study on revised nutrition standards for school meals, the IOM expert committee recommended that USDA adopt new nutrition standards for school meals that:

- increase the amount and variety of fruits, vegetables, and whole grains.
- reduce saturated fat and sodium.
- set a minimum and maximum level of calories.

The proposed regulation addresses all of these recommendations. Additionally, under the proposed rule, schools would be required to follow a food-based menu plan. This approach requires schools to plan their meals around foods (*e.g.*, fruits, vegetables, whole grains) rather than a “nutrient based approach” (*i.e.*, a specific target for vitamins A or B12).

It is important to note that this is a proposed regulation. USDA will receive and evaluate comments and make changes as needed. The final rule will likely be released in January 2012 and will incorporate the viewpoints expressed in the comments into the new meal pattern requirements introduced during the 2012-2013 school year. While individuals with comments will have many substantial and varied recommendations on how to improve these proposed regulations, I believe that increasing the amounts of fruits, vegetables, and whole grains will have a significant impact on decreasing hunger and improving the nutrition and health status of the nation's schoolchildren.

What are Some Likely Comments from Stakeholders?

It is quite likely that most groups will support the general thrust of the proposed rule. But groups will have differing viewpoints on how to maximize student choice, increase the nutritional value of meals, limit plate waste, and allow for some flexibility in implementation of the proposed rule. One general area of concern is that while Congress did provide a 6 cent increase in school lunch meal reimbursements, IOM estimates suggest that schools may need as much as 12 cents in order to produce lunches meeting the new nutrition standards. USDA counters that the 2010 Child Nutrition Reauthorization (CNR) legislation has cost saving provisions that will offset increased school meal production and labor costs.

School Nutrition Association (SNA)

SNA represents local school food service directors and state child nutrition directors. It has over 50,000 members. Several SNA members were active participants in the IOM committee that prepared the recommendations for USDA on how to improve the quality of school meals by strengthening the nutrition standards of school meals. Hence, the Association will likely support the main findings that seek the inclusion of greater amounts and variety of fruits, vegetables, and whole grains in school meals. However, the proposed regulations do present various financial hurdles for school lunch directors. The food and labor costs of providing meals meeting the new nutrition standards will increase significantly. The 2010 CNR legislation did provide schools with a 6 cent increase in federal meal reimbursement, but some lunch directors might submit comments that suggest that it may cost significantly more to meet the all of the requirements in the proposed regulation. SNA will recommend delaying implementation of the rule until the 2012-2013 school year in order to ensure adequate time to train staff, secure necessary equipment, change menus, identify new suppliers, and help students adapt to new meals. SNA also recommends giving local school lunch programs a financial incentive to timely implementation of the new higher quality meal requirements by giving schools the 6 cent increase in meal reimbursements for the 2011-2012 school year.

Many local school lunch directors support the goal of reducing sodium but are concerned about what they believe are unrealistic caps on sodium in school meals. The proposed regulations would gradually reduce the sodium content of school meals over the next 10 years. Initially this presents some problems in getting students to adjust their taste buds to meals with less sodium, but many commenters believe that the major reductions in future years are simply unrealistic. They will argue that if the food is not to a child's liking, he/she will not eat it and therefore the sodium restriction may be counterproductive to the goal of improving child health. Therefore SNA recommends that USDA make an allowance for naturally occurring sodium in foods like milk and meat.

Some comment letters may suggest that the requirement that a child take a fruit or vegetable (as opposed to offering a fruit or vegetable) is too much food for young children. School lunch directors generally favor providing more fruits and vegetables, but

the amount required by the proposed regulation along with a protein item, whole grain and fluid milk may be too much for some elementary students. It has been the experience of some directors that children in kindergarten through fourth grade will most likely eat their entrée, drink their milk, and if they are full, they will toss the fruit or vegetable in the trash can.

School lunch directors generally support the goal of increasing the amount and variety of whole grains offered in school meals. However, the proposed regulation would add a new requirement that half of grains served would have to be “whole grain rich”. SNA is concerned that some regions of the country have little or no supply of whole grain products at the present time and may have to secure new suppliers. Additionally, there is currently a significant difference between USDA and the Food and Drug Administration regarding the standards that define what qualifies as a “whole grain rich” product.

SNA supports the current standard that school lunches should contain less than 10% of calories from fat rather than a 7% standard, which is likely to be proposed in some other comment letters.

SNA recommends easing the proposed rule’s severe limit on the serving of “starchy vegetables”. The proposed rule limits starchy vegetables in school meals to 1 cup per week. SNA would prefer that schools be allowed to serve green peas, corn, lima beans, and potatoes more often, but restrict the individual serving size to ½ cup per meal and prohibit deep-fried preparation.

School lunch directors will emphasize the point that well funded and well managed school meals programs with sound nutrition standards are the most effective way to reduce childhood obesity. But they will also note that physical activity must play a larger role in children’s lives if we wish to end the obesity epidemic. In addition, SNA argues that schoolchildren need to be given sufficient time to consume their breakfasts and lunches in an atmosphere conducive to relaxation and be with classmates. Currently, many school lunch periods are 20 minutes or less. Many SNA members believe that this is not a sufficient amount of time for children to eat their lunch and socialize with other classmates. Finally, SNA seeks the assistance of parents and the restaurant and food industry in providing children healthier food items with age appropriate portion sizes at home and for food consumed away from home.

Food Research and Action Center (FRAC) and Allied Anti-Hunger Groups

FRAC represents local, statewide and regional anti-hunger groups, including food bank directors, child health advocates, and education and faith-based groups.

FRAC will strongly support the proposed rule but will have recommendations on how to:

- make the regulation more flexible.
- increase student choice options.

- improve the nutritional value of school meals.
- reduce plate waste.

FRAC will support the proposed rule since it agrees with the rationale that Secretary Vilsack stated (see page 2, above). FRAC seeks to have healthy school meals available to the maximum number of students. FRAC agrees with USDA that the proposed rule will increase the nutrient density of school meals and the nutrient intake of participating students. However, the organization believes that children should be allowed the flexibility to choose the fruits and vegetables they want. FRAC opposes requiring children to always take both a fruit and a vegetable since it may lead to an increase in plate waste, particularly among young children. At lunch they recommend that students should be offered the opportunity to take 1 cup (2 servings) and then be required to take 1 serving (1/2 cup) of fruits and vegetables. They argue that this approach will provide students the opportunity to try something new along with encouragement to create new habits, leading to the increased consumption of fruits and vegetables. Allowing children to take their fruit with them (consuming an apple later in the day) is also recommended.

FRAC is very concerned about the cost impact of the proposed rule on School Breakfast programs. FRAC agrees that the proposed rule provides improvements in the quality of school breakfast, but points out that Congress provided no funding to pay for the increased food and labor costs for producing these breakfasts. The increased costs of this rule will grow from an initial 37.1 cents to 51 cents when fully implemented. This could lead to a decrease of schools willing to participate in a nutrition program that they can not afford.

FRAC agrees with SNA that school meals should contain more fruits and vegetables and that there should be a separate vegetable requirement for lunch. Added sugars in fruits should be limited, whole grains should be emphasized, and saturated fat and sodium should be limited while trans fats are minimized.

FRAC wants to see a fair, thorough, and consistent system of certification to enforce the new nutrition standards as required by the Healthy, Hunger Free Kids Act. School meals must meet the new nutrition standards before they are eligible to receive the 6 cent increase in meal reimbursement. FRAC argues that schools that are at risk of failing to receive a certificate such as rural schools or schools in low income communities should be identified early and provided intensive assistance, if necessary, to meet the new standards. FRAC takes the position that state agencies should exercise fiscal action (sanctions) against a school for failing to abide by the saturated fat, trans fat, and sodium limits, as well as the whole grain, vegetable, and milk requirements, after USDA and state agency staff have provided adequate technical assistance and a corrective action plan has been in place.

Center on Science and the Public Interest and Nutrition Policy Groups

The NANA (National Alliance on Nutrition and Activity) groups are led by the Center on Science and the Public Interest. These groups have a focus on nutrition policy. Members include the Society for Nutrition Education, American Dietetic Association, the National Cancer Institute, and United Fresh Produce Association.

NANA will also support the main points that Secretary Vilsack has recommended. These groups believe that USDA should ensure that school food service staff be given training and technical assistance on how to make the necessary changes and improvements required by the proposed rule. NANA also encourages USDA to proactively work in collaboration with partners within USDA and other agencies like the Centers for Disease Control, the Department of Education, and the Department of Defense. All of these agencies have an interest in and resources necessary for the successful implementation of the new nutrition standards.

NANA is likely to differ from SNA and FRAC by seeking a stricter definition of what qualifies as a whole grain item, supporting a 6 gram sugar limit on what cereals are allowed in the School Breakfast Program and, possibly seeking to speed up the schedule for reducing sodium. FRAC and SNA support the IOM definition of whole grains since they believe that children's taste needs to be a factor in implementing this rule. They argue that children will need time to adjust to new products, and products that are too rich in whole grains may not be as readily consumed. They also take the position that the 6 gram limitation on allowable sugar content—while acceptable in the Women, Infants, and Children (WIC) Program (a program targeted to low income, nutritionally at risk participants)—is unnecessary and eliminates too many otherwise acceptable cereal products.

Future Opportunities to Comment on Important Child Nutrition Regulations

Competitive Foods

Foods that “compete with school meals”, *e.g.*, foods purchased from vending machines or through an “a la carte line”, will now be regulated by USDA. The 2010 CNR gave the Secretary of Agriculture the authority to issue a regulation controlling all foods available in schools throughout the school day. USDA Secretary Vilsack has indicated that he supports the IOM report on competitive foods that essentially states that foods offered to schoolchildren in competition with the school meals program should be fruits, vegetables, whole grains, and low fat and nonfat dairy products. A proposed rule will be published in December 2011.

Compliance/Certification for New School Meal Patterns

The good news for local school lunch directors is that for the first time since 1973 Congress has significantly raised school meal reimbursements. The 2010 CNR raised these rates by six cents. These rates were raised as an incentive to schools to “improve the quality” of meals served to schoolchildren. This \$3 billion expenditure was the most expensive provision in the 2010 CNR and demonstrates that USDA and Congress are serious about improving the quality of school meals. Therefore, the legislation requires that schools get “certified “ as having complied with the new nutrition standards for school lunch and breakfast. A proposed rule on how schools will be certified for the higher reimbursement rate will be published by the spring of 2012.

Child and Adult Care Food Program (CACFP)

In November of 2010 the IOM issued a report on CACFP meal patterns similar to their report on school meals. Children in child care centers and family day care homes receive CACFP meals. A proposed regulation similar to the school meals proposed regulation will be issued by USDA in November 2011.

Do Public Comments Matter?

As the former Deputy Director for Special Nutrition Programs at the Food and Nutrition Service (USDA) in the Clinton Administration with jurisdiction over school meals, I can assure the reader that public comments matter. They are read, thought about, and made available to the general public and make an important difference in the lives of the nation’s schoolchildren.

One example of the importance of public comments on school meals regulations was the 1981 issuance of the school meal pattern regulations now known as the infamous “Ketchup-as-a-Vegetable Regulation”. In 1981, the Reagan Administration and Congress embarked on a campaign of “entitlement reform”. This is “Washington speak” for:

- ending the entitlement status of federal nutrition programs.
- lowering or terminating national nutrition standards.
- reducing federal nutrition program eligibility standards and program benefits.

Child nutrition program funding was cut by Congress by 28% in 1981, mainly through lowering eligibility standards and reducing school meal reimbursements. However, the entitlement status (guaranteeing that benefits are made available to all eligible children) and national nutrition standards were retained and exist today for one reason only: **8000 school lunch stakeholders** wrote comment letters (over a 2 week period) to USDA and forced the withdrawal of the “Ketchup-as-a-Vegetable Regulation”. These letters were from children participating in school lunch programs, parents, teachers, school administrators, school nurses, janitors, school food service directors, commodity groups

and private sector food companies. All of these stakeholders were greatly disturbed that the government was actually going to lower national nutrition standards as a way to enforce budget cuts.

How did this situation occur? From 1946 to September 1981, USDA regulations required that lunches served at school provide a child with 1/3 of what were then called RDAs (Recommended Dietary Allowances). On September 4, 1981, USDA issued school lunch regulations reducing that national nutrition standard to 1/4 of the RDA. USDA was caught between a “rock and a hard place”. The agency knew that school lunch directors could not produce a lunch that met the 1/3 RDA nutrition standard with a 28% cut in program funding. So, the agency decided to lower the nutrition standard, reducing portion sizes for milk, fruits and vegetables, grains, and protein items and, among other things, allowing certain condiments to be “credited” as reimbursable vegetable servings. The Food Research and Action Center produced a meal that met the new nutrition standards: **one-fourth of a quarter pound beef patty on a single slice of white bread, 6 grapes, 9 french fries, and a 6 ounce glass of milk.** The New York Times and Washington Post published stories about the “new school lunch menu” and school lunch stakeholders wrote letters to USDA stating that they wanted to “save their school lunches”. The regulations were withdrawn.

In a few weeks Congress will take up “entitlement reform” once again. The recently released House Budget Committee’s FY 2012 Budget Resolution contains a proposal to block grant the SNAP program. This approach is similar to the child nutrition program cutbacks in 1981. It would eliminate the entitlement status of SNAP and all national standards for eligibility, nutrition, and benefit levels. So, sending your letters to elected officials and to USDA can make a real difference as to whether or not this proposal is accepted or rejected by Congress.

How Can Concerned Stakeholders Participate in the Regulation Process and Its Implementation?

USDA prefers that comments be made through the Federal eRulemaking portal at <http://www.regulation.gov>. Once on the site, individuals can follow the online instructions for submitting comments. Another way to submit comments is by mail or hand delivery to:

Julie Brewer
Chief of Policy and Program Development Branch, Child Nutrition Division, Food and Nutrition Service
Department of Agriculture
3101 Park Center Drive, Room 640
Alexandria, Virginia 22302-1594.

Students

If you do not already have a Student School Meals Menu Review Committee, then you should establish one. This activity will allow you to interact with fellow students in assisting school food service staff in planning healthy meals that will be attractive and consumed by schoolchildren. It also will make it possible for you to evaluate what kind of “competitive foods” are available in your school and will serve as a basis for comment in the upcoming USDA rule on competitive foods.

Parents

The school wellness rules for the National School Lunch Program make it possible for students and parents to become active participants in determining what types of meals are served at your local school. Schools are now required to have a school wellness plan and parents and students are encouraged to offer suggestions on how the plan is developed and implemented. This process will allow parents to examine the nutritional quality of meals being offered to their children and what other foods are available to their children at school, outside of the cafeteria.

Food Industry

Food companies selling their products to schools should consider participating in the annual SNA Industry Symposium, Legislative Action Conference and Annual Meeting. These meetings and conferences offer the opportunity to meet directly with school food service directors, and state agency child nutrition directors and staff, to view products that are “hot” and nutritionally acceptable for school meals. It also presents an opportunity to meet with USDA officials and discover the latest news on school lunch and breakfast nutrition standards and regulations.

School Nurses

School nurses have been on the front line in schools preventing childhood hunger for many years. The National Association of School Nurses has been an active member of the Child Nutrition Forum, an organization that fosters policies and legislative proposals for well funded and well managed child nutrition programs. The Association can provide materials and leadership on child nutrition programs.

Teachers and School Administrators

Both groups have strong state and national organizations that can work with their members in designing strategies that can ensure that local members’ points of view are heard by USDA and Congress.