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Department of  
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Food and  
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**DATE:** March 5, 2014

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**SUBJECT:** Questions and Answers Related to the “Smart Snacks” Interim Final Rule

**TO:** Regional Directors  
Special Nutrition Programs  
All Regions

State Agencies  
Child Nutrition Programs  
All States

Attached is the first of a series of Questions and Answers related to the interim final rule titled, “National School Lunch and School Breakfast Program: Nutrition Standards for All Foods Sold in School as Required by the Healthy, Hunger-Free Kids Act of 2010”. This document will be updated periodically as additional questions arise during the implementation of the interim final rule (IFR) during School Year 2014-2015.

As you know, the Smart Snacks nutrition standards are required to be implemented on July 1, 2014. However, the express purpose of publishing an IFR is to ensure that there is the opportunity for continued dialogue as implementation of the Smart Snacks requirements proceeds and issues are identified and evaluated. Our intent is to monitor issues that arise as the Smart Snacks standards are implemented so that we may respond in real time to such issues as well as address them as we move forward.

These Questions and Answers and other information on Smart Snacks in school are available on the Food and Nutrition Service (FNS) website and may be found at <http://www.fns.usda.gov/nslp/policy>. State agencies should distribute this memorandum and attachment to program operators as soon as possible. Local education agencies and school food authorities should contact their State agency for additional information.

State agencies may direct any questions concerning this guidance to the appropriate FNS Regional Office. We look forward to continuing to work with you on improving the nutrition of our Nation's children.

**Original Signed**

Cynthia Long  
Deputy Administrator  
Child Nutrition Programs

Attachment

# **Smart Snacks in School: Questions and Answers Regarding the Interim Final Rule**

## **Combination Foods**

### **1. What is a combination food?**

A combination food is defined as a product that contains two or more components representing two or more of the recommended food groups: fruit, vegetable, dairy, protein or grains. If a combination food does not meet the general standards by being (1) a grain product that contains 50 percent or more whole grains by weight or have whole grains as the first ingredient **or** (2) having one of the non-grain major food groups as a first ingredient (fruits, vegetables, dairy, protein food) **or** (3) a food that contains 10 percent of the Daily Value of a nutrient of public health concern from the DGA (i.e., calcium, potassium, vitamin D or dietary fiber), then such a combination food must contain  $\frac{1}{4}$  cup of fruit and/or vegetable. Combination foods must also meet the specific nutrient standards specified in the Smart Snacks interim final rule.

### **2. What is an example of a combination food?**

One example of a combination food is a blueberry muffin. A blueberry muffin may not meet the general standard if it does not contain 50% or more whole grains by weight or if the first ingredient listed is not a whole grain, fruit, vegetable, dairy or protein item. However, if the muffin contains refined grains and  $\frac{1}{4}$  cup of blueberries, the muffin meets the general standard requirement as a combination food that contains  $\frac{1}{4}$  cup fruit and/or vegetable. (Additionally, the muffin must also meet the specific nutrient standards for fat, sugar, sodium, etc.) Some other examples of combination foods would be the Harvest Stew or Vegetable Chili Boat recipes from the Recipes for Healthy Kids contest. Each of these soups contains at least  $\frac{1}{4}$  cup of vegetable

and meets the nutrient standards and may be allowable under the Smart Snacks standards in appropriate portions.

### **3. Are any combination foods exempt from the nutrient standards?**

There are only two types of combination foods exempt from all or some of the nutrient standards. Canned, fresh, and frozen fruits and vegetables that are combined may be exempt from all of the nutrient standards as long as there are no added ingredients except water. For example, fresh salsa made from tomatoes, onions, and garlic, with no other ingredients, is exempt from each of the nutrient standards.

While combination foods comprised entirely of fruits and/or vegetables are exempt from all the nutrient standards, there are some other combination items that are exempt from a subset of nutrient standards. Specifically, items that are made from only dried fruit, nuts, and/or seeds are one specific type of combination food item that is exempt from the total fat standard, saturated fat standard, and the sugar standard as long as such products contain no added nutritive sweeteners or fats. Such products are still subject to the calorie, trans fat, and sodium standards.

### **4. Would two items packaged together as a snack be considered a combination food as long as the package contains ¼ cup of a fruit or vegetable?**

Yes. For example, a 100-calorie pouch of small chocolate chip cookies (approximately 21 grams) combined with one small banana (approximately 100 grams) is a combination item if packaged and sold together; the cookies contain grain and the small banana is about ½ cup of fruit. The nutrients for this example combination are 190 calories, 3 g of fat (14% calories from

fat), 1 g of saturated fat (5% calories from saturated fat), 0 g trans fat, 95 mg of sodium, and 20 g of sugar (17% sugar by weight).

**5. Would a side salad meet the nutrient standards and/or is it considered to meet the standards as a combination food?**

A side salad may qualify based either on the first ingredient being a vegetable or as a combination food. For example, 1 cup of romaine lettuce, ¼ cup sliced cucumbers, 8 cherry tomatoes, 4 croutons, and 1 tablespoon of low-calorie Caesar dressing that contains 57 calories, 1 gram of fat (16% of calories from fat), 0 g saturated fat, 0 g trans fat, 191 mg of sodium, and 4% sugar by weight would be allowable.

**6. May cheese and crackers be sold?**

To meet the general standard, the first ingredient in cheese and crackers packaged together must be either a dairy food or a whole grain. Cheese and crackers must also meet all of the specific nutrient standards. If the cheese and the crackers are packaged separately and sold as separate items, reduced-fat cheese or part-skim mozzarella would be exempt from the total and saturated fat standard but subject to all other standards, while the crackers would need to have as the first ingredient a whole grain and meet all other Smart Snacks nutrition standards.

## **Beverages**

**7. Now that the restrictions on the sale of other beverages during the meal service have been eliminated in the interim final rule, may a student select juice or a diet soda instead of milk for a reimbursable meal?**

No, the Smart Snacks Interim Final rule does not change the meal pattern and nutrition standards for the National School Lunch Program (NSLP) or the School Breakfast Program (SBP). Milk is one component of a reimbursable meal. The milk component may be declined in the case of offer vs. serve. However, beverages, other than juice and smoothies offered as the fruit or vegetable component of the reimbursable meal, would have to be purchased a la carte.

**8. How can I tell if my 20 fl oz beverage may be sold in high schools?**

Use the nutrition facts panel as the guide. Beverages with  $\leq 10$  calories per 20 fl oz may be sold in containers up to 20 fl oz. Additionally, if a beverage is labeled as  $< 5$  calories per 8 fl oz, and there are not more than 2.5 servings in the 20 oz container, it may be sold.

## **Soy Products**

**9. How do you determine if a soy product meets the general standard?**

Soy products, such as tofu and textured vegetable protein (TVP), are considered protein foods. If tofu, TVP, or soybean is listed as the first ingredient, the product meets the general standard and then will need to be evaluated to ensure that the product meets the Smart Snacks nutrient standards.

Soy nuts are **dried** soybeans that fall into both the protein group and vegetable group. Since the fruit and vegetable Smart Snacks requirements exempt only “fresh, frozen and canned vegetables

with no added ingredients except water”, soy nuts would **not** be exempt from the nutrient standards. However, even though soy nuts would *not* be exempt from all nutrient standards as a vegetable, they **would be** exempt from the total fat, saturated fat, and sugar standards (if they have no added nutritive sweeteners or fat) under the nut/seeds exemption. Remember, soy nuts are still subject to the calorie, trans fat and sodium standards.

Fortified soy-beverages are allowable milk alternatives in schools, and, therefore, only need to adhere to the appropriate beverage standards for Smart Snacks.

### **Entrees**

#### **10. Is a cheese sandwich or a peanut butter sandwich considered an entrée item?**

Yes. A combination meat/meat alternate and whole grain-rich food meets the definition of an entrée item. Cheese or peanut butter alone is not considered to be an entrée; however, when combined with whole grain-rich bread, these sandwiches are entrée items. Unless served as an entrée in the NSLP on that day or the day after, all entrée items must also meet the Smart Snacks general and nutrient standards.

#### **11. How often may entrees served as part of a reimbursable meal that do not meet the Smart Snacks standards be sold a la carte to students?**

The interim final rule provides that entrees that have been served as part of the NSLP or SBP reimbursable meal are exempt from the Smart Snacks food standards on the **day of service** in the NSLP and SBP, as well as the **day after** such an entrée is served in the NSLP or SBP as part of the reimbursable meal. This means that such entrée items may be sold to students a la carte on

the same day that they are served as part of the reimbursable meal, as well as the day after such an entrée item has been served as part of the NSLP or SBP meal.

## Nutrition Standards

### 12. How do I calculate the percentage of calories from fat contained in an item?

There are two methods of calculating this percentage based on the information found on the nutrition facts panel. Both are acceptable, though they may yield slightly different results (see Q. 13). The nutrition facts panel includes total fat in two places: (1) listed as calories from fat near the top, and (2) listed in grams with the other nutrients.

The percent of calories from fat may be calculated using either number.

To calculate using the calories from fat information, take the calories from fat listed on the label and divide by the total calories, then multiply by 100. Using the nutrition facts panel example shown here to calculate the calories from fat method, the calculation would be as follows: 50 calories ÷ 140 calories x 100 = 35.7 percent of calories from fat.

<b>Nutrition Facts</b>	
Serving Size 1 oz (28g)	
Serving Per Container 1	
<b>Amount Per Serving</b>	
<b>Calories</b> 140	Calories from Fat 50
<b>% Daily Values*</b>	
<b>Total Fat</b> 5g	<b>8%</b>
Saturated Fat 0.5g	<b>3%</b>
Trans Fat 0g	
<b>Sodium</b> 200mg	<b>8%</b>
<b>Total Carbohydrate</b> 18g	<b>6%</b>
Dietary Fiber 3g	<b>12%</b>
Sugars 2g	
<b>Protein</b> 3g	<b>6%</b>
*Percent Daily Values are based on a 2,000 calorie diet.	

To use the grams of total fat method, take the grams of fat on the label and multiply by 9 (the calories in each gram of fat), divide that result by the total calories, then multiply by 100. Using the nutrition facts panel example here, the calculation would be: 5 grams x 9 calories ÷ 140 calories x 100 = 32.14 percent of calories from fat.

**13. It appears that these two methods may give different results when calculating the percentage of calories from fat. If so, which calculation should be used?**

These two methods will often provide slightly different results because the FDA has different rounding rules for the labeling of each of these nutrients on the nutrition facts panel. However, if either method results in less than or equal to 35 percent of calories from fat (do not round the result), the product will meet the total fat standard. The example above could be sold since the result, using the grams of total fat, is less than or equal to 35 percent of calories from fat.

**14. Must I always use both methods to calculate the percentage of calories from fat?**

We recommend you start by using the calories from fat listed at the top of the nutrition facts panel. If the result is less than or equal to 35 percent of calories from fat, there is no need to do the calculation with the total fat grams. If the result does not meet the standard, use the grams of total fat to determine if the item meets the total fat standard.

**15. How do we calculate the percentage of calories from saturated fat in an item?**

To calculate the percentage of calories from saturated fat, take the grams of saturated fat and multiply by 9 (the calories in each gram of saturated fat), divide that result by the total calories, then multiply by 100. Using the nutrition facts panel from question 12, the calculation would be:  $(0.5 \text{ grams} \times 9 \text{ calories}) \div 140 \times 100 = 3.2 \text{ percent}$ . Do not round the result since the standard is less than 10 percent of calories from saturated fat. A product with up to 9.9 percent of calories from saturated fat will meet the standard.

**16. How do I calculate the percent of sugar by weight?**

To calculate the percentage of sugar by weight, take the grams of sugar on the nutrition facts panel and divide that by the total weight of the food in grams. Using the nutrition facts panel from question 12, the calculation would be: 2g (grams of sugar) ÷ 28g (total weight of food) x 100 = 7.14% sugar by weight. Total sugar must be no more than 35 percent by weight. Do not round the result.

**17. There is a discrepancy between the preamble and the regulatory text with regard to the saturated fat requirements for allowable foods. Could you clarify the saturated fat requirement? In addition, please clarify the trans fat limit.**

#### Saturated Fat Requirement

Foods eligible to be sold must derive **less than** 10 percent of their calories from saturated fat. A food that has exactly 10 percent of calories from saturated fat would **not** meet the standard. The preamble incorrectly states the requirement. However, the regulation at §210.11(f)(1)(ii) correctly states the requirement that the saturated fat content of a competitive food must be less than 10 percent of total calories per item as packaged or served, with specific exemptions as specified in (f)(3) of the regulation.

#### Trans Fat Requirement

Per FDA labeling requirements, a product must have less than 0.5g of trans fat to be labeled as a product that contains 0g trans fat. Program operators should only select foods that contain 0g of trans fat as stated on the nutrition facts panel (unless it is a naturally occurring trans fat). We are aware that there is a discrepancy between what is in the Smart Snacks preamble and regulation and the FDA requirements for labeling a product as 0 grams of trans fat. This error will be corrected in the final rule. The requirement for Smart Snacks is that a product must be labeled as 0 g of trans fat (contain less than 0.5 g) to be allowable, consistent with the FDA labeling requirements.

**18. May popcorn qualify as a Smart Snack?**

Popcorn is whole grain and may be eligible as a smart snack, provided it meets all applicable standards. The ingredient label must list the first ingredient as popcorn to meet the general standard. There are many different types of popcorn available on the market, some with added fats and/or sugars, therefore, the nutrition facts panel or product specifications must be checked to determine if the product meets the nutrition standards.

**19. Does dried/dehydrated fruit or vegetable listed as the first ingredient qualify a product under the general standards for Smart Snacks?**

Yes. A dried/dehydrated fruit or vegetable such as dried cherries or potato flakes listed as the first ingredient does qualify the product under the general standards for Smart Snacks. All nutrient standards must be met for calories, total fat, saturated fat, trans fat, sodium, and sugar. However, dehydrated or concentrated juice or puree is considered added sugar and does not qualify a product for sale under the general standard.

**Fundraisers**

**20. What is considered a fundraiser?**

USDA considers a fundraiser to be an event that includes any activity during which currency/tokens/tickets, etc. are exchanged for the sale/purchase of a product in support of the school or school-related activities. For example, giving away food but suggesting a donation would be considered a fundraiser, since funds may be raised as a result. Another example may include a vending machine when the profits are used to support a school-sponsored club or activity such as the school band or football team.

**21. The Smart Snacks rule gives the States authority to set a limit on the number of fundraisers that may be exempted from the nutrition standards. What if my State doesn't set a limit?**

The interim final rule allows State agencies to set the frequency with which exempt fundraisers may be held in schools in the State. If a State agency does not specify the exemption frequency, no fundraiser exemptions may be granted to the schools in the State.

**22. My State has specified the number of school fundraisers that can be exempt from the Smart Snacks requirements. Do I have to allow that number of fundraisers to occur in my school?**

The State-established level is the maximum number of exempt fundraisers during which foods that do not meet the Smart Snacks standards may be sold to students. As LEAs and schools are allowed to implement more restrictive competitive food standards, we anticipate that they would also be allowed to implement more restrictive standards for the frequency with which exempt fundraisers may be held in their schools. However, LEAs and schools should direct any questions about the State-established fundraiser standard to their State agency.

**23. Does the limit apply to all fundraisers in my school?**

A fundraiser limitation established by the State applies only to exempt fundraisers, during which foods that do not meet the regulatory requirements may be sold to students on the school campus during the school day. There are no restrictions on the number of fundraisers that include the sale of food items that meet the Smart Snacks standards as well as the sale of non-food items. In addition, the Smart Snacks standards do not apply to food sold during non-school hours,

weekends, and off-campus fundraising events such as frozen pizza sales or concessions during after-school sporting events, school plays or concerts.

### **Sale of Food**

#### **24. If pizza or any other food is sold in a classroom, is it subject to the Smart Snacks rule?**

All food sold to students anywhere on the campus during the school day is subject to the Smart Snacks regulatory requirements. The Smart Snacks standards do not apply to food given to students without the exchange of currency/tokens/tickets or food brought to school by the students for their own consumption.

#### **25. Do the Smart Snacks requirements apply if items are sold to someone other than a student?**

The Smart Snacks nutrition requirements apply only when foods outside of the school meal programs are sold or available to be sold to students during the school day, on the school campus, as defined in the interim final rule. The requirements of the interim final rule are not applicable to food sold to non-students, such as parents or school faculty/staff members.

#### **26. If the school food service sells food items to the school for a special event, such as a school celebration, holiday party, etc., which will not be sold to students, will the Smart Snacks nutrition requirements apply?**

The Smart Snacks nutrition standards included in the interim final rule apply only to food **sold** to students on the school campus during the school day. If such foods are provided to the students free of any charge or “contribution”, or the exchange of tokens or tickets of any sort, the competitive foods standards do not apply.

### **Applicability of the Smart Snacks Standards**

**27. How does this rule impact schools that also participate in the NSLP afterschool snack program or any part of the Child and Adult Care Food Program (CACFP)?**

The Smart Snacks standards are applicable during the school day, which is defined as the midnight before to 30 minutes after the end of the instructional day. If such programs are operated in the school during the school day, or if afterschool snacks or meals are provided within the 30 minute window after the end of the instructional day, any other food available **for sale** to students at that time must comply with the Smart Snacks requirements.