



Council for Responsible Nutrition

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Food and Nutrition Service
United States Department of Agriculture
P.O. Box 66874
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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; Interim Final Rule.

The Council for Responsible Nutrition (CRN) submits the following comments on the U.S. Department of Agriculture's (USDA) nutrition standards for all foods sold in schools as required by the Healthy, Hunger-Free Kids Act of 2010 interim final rule published in the Federal Register on June 28, 2013. CRN, based in Washington, D.C., is the leading trade association representing the dietary supplement industry. Our members include some of the largest and most well known ingredient suppliers, manufacturers, direct sellers and retailers of dietary supplements and dietary ingredients. Many of our members also produce a wide variety of leading functional food products.

Our comments are specific to nutrition standards for competitive foods. First, CRN believes that fortified foods should still be allowable as meeting the competitive food nutrient standard if they provide at least 10% of the Daily Value (DV) of a "naturally occurring" nutrient of concern: Calcium, potassium, vitamin D, or dietary fiber. Evidence does not suggest that any of the four highlighted "nutrients of concern" are less bioavailable when consumed from fortified/enriched foods or dietary supplements than from naturally occurring sources. On the contrary, a recent

study published in the *Journal of Nutrition* suggests that fortified and/or enriched food products and dietary supplements contribute significantly to Americans achieving their EAR target goals for micronutrients such as calcium and vitamin D¹ (regulatory limits on added potassium prevent a significant contribution of fortified/enriched foods and dietary supplements to higher intakes of this micronutrient). Most naturally occurring foods do not contain significant levels of vitamin D (except in the case of fatty fish and UV-treated mushrooms), and because many children are lactose intolerant, it is important that they have an alternative means of achieving sufficient intakes of calcium and vitamin D. The 2010 Dietary Guidelines for Americans emphasize that: *“Dietary supplements or fortification of certain foods may be advantageous in specific situations to increase intake of a specific vitamin or mineral. In some cases, fortification can provide a food-based means for increasing intake of particular nutrients or providing nutrients in highly bioavailable forms.”*

Second, CRN believes that Foods for Special Dietary Use (FSDU) should be exempted from meeting the proposed nutritional standards outlined in the Competitive Foods rule. There are a number of nutritional formulas that are specifically designated as FSDU, including medical foods, which are intended to provide nutrition for children with special nutritional requirements, such as children with metabolic and gastrointestinal disorders, failure to thrive, food allergies, and conditions such as Celiac disease. FSDU can be gluten and lactose-free and, therefore, suitable for children with dietary restrictions or those following special diets. FSDU may currently be served in school meals as part of the schools’ accommodations for children with special dietary needs. In 2001, the USDA published guidance on supporting students’ special nutritional requirements in its document, “Accommodating Children with Special Dietary Needs in the School Nutrition Programs.”

FSDU are formulated products that typically provide balanced nutrition but do not fit in the traditional food categories defined in the interim final rule. Further, because FSDU are designed to meet special nutritional requirements, they may slightly exceed the current 200 calorie/serving limit for snacks or the 35% of calories limit for sugars defined in the interim final rule. For example, some FSDU may require total sugars above the proposed 35% of calories in order to be organoleptically acceptable to children (i.e., to mask “notes” attributed to specialized nutrients such as hydrolyzed proteins).

¹ Fulgoni VL III, Keast DR, Bailey RL, Dwyer J. Foods, fortificants, and supplements: Where do Americans get their nutrients?. *J Nutr* 2011;141(10):1847-1854.

CRN encourages the USDA to take into consideration the practical role of fortified products in helping school age children achieve adequate requirements for nutrients of concern such as calcium, vitamin D, potassium and dietary fiber.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "D. Marky", with a checkmark-like flourish at the end.

Vice President, Scientific & Regulatory Affairs
Council for Responsible Nutrition