

USDA's Final Rule on Milk, Whole Grains, and Sodium in School Meals

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Related Author

- [Kara Clifford Billings](#)

Kara Clifford Billings, Analyst in Social Policy (kbillings@crs.loc.gov, 7-2043)

On December 12, 2018, Agriculture Secretary Sonny Perdue announced [a final rule](#) on "flexibilities" for milk, whole grains, and sodium in [child nutrition programs](#). The rule alters certain aspects of the nutrition standards for school meals that the U.S. Department of Agriculture's Food and Nutrition Service (USDA-FNS) [updated in 2012](#) based on a timeline set by the Healthy, Hunger-Free Kids Act of 2010 (HHFKA, [P.L. 111-296](#)). The release of the final rule follows years of debate over the updated standards and previous actions by Congress and USDA to loosen the milk, whole grain, and sodium requirements.

The changes primarily affect meals served in the National School Lunch Program and School Breakfast Program; however, they also affect milk requirements in the Special Milk Program (SMP) and the Child and Adult Care Food Program (CACFP).

Summary of the New Final Rule

Effective school year (SY) 2019-2020, the rule changes three aspects of the 2012 regulations indefinitely.

- It allows flavored, low-fat (1%) milk in school meals, as a beverage sold during the school day, in SMP and in meals served to children ages six and older in CACFP. For school meals, the rule requires unflavored milk to be offered alongside flavored milk.
- It requires at least 50% of grains offered weekly in school meals to be whole grain-rich and the remaining grains to be enriched. "Whole grain-rich" products must contain at least 50% whole-grains, and the remaining grain, if any, must be enriched.
- It maintains the Target 1 sodium limit in SY2019-2020 through SY2023-2024, postpones implementation of Target 2 until SY2024-2025, and eliminates Target 3 (the strictest target). However, USDA noted "the need for further sodium reduction" beyond Target 2 in the future. The [sodium limits](#) set a weekly cap on sodium in school meals based on a student's grade level. For example, Target 1 is $\leq 1,420$ milligrams, Target 2 is $\leq 1,080$ milligrams, and Target 3 is ≤ 740 milligrams for an average week of lunches for a high school student.

In the current school year (2018-2019), an [interim final rule](#) has been in place with similar flexibilities. However, the

interim final rule required schools to document hardship in order to apply for an exemption from the 100% whole grain-rich requirement, while the final rule allows all schools to meet a lower whole grain-rich threshold.

Background

The updated nutrition standards, [published in 2012](#), increased the amount of fruits, vegetables, and whole grains and limited flavored milk, sodium, and calories in school meals, among other requirements. As required by [P.L. 111-296](#), the standards were based on the Dietary Guidelines for Americans and recommendations from the Institute of Medicine.

Subsequently, [some schools reported](#) difficulty obtaining whole grain and low-sodium products, issues with student acceptance of foods, reduced participation, increased costs, and increased food waste. Over time, Congress and USDA responded by changing aspects of the milk, whole grain, and sodium requirements. [Table 1](#) provides a timeline from the 2012 rule to the 2018 final rule, showing the ways in which these aspects of the nutrition standards have been modified.

Table 1. Legislative and Regulatory Changes to the Milk, Whole Grain, and Sodium Requirements for School Meals, 2012-2018

Policy Provision	Milk	Whole Grains	Sodium
USDA-FNS January 2012 final rule	Flavored milk must be fat-free and unflavored milk must be low-fat (1%) or fat-free by SY2012-2013.	50% of grains must be whole-grain rich by SY2012-2013 for lunches and SY2013-2014 for breakfasts; 100% whole-grain-rich by SY2014-2015.	Scheduled Target 1 limits for SY2014-2015, Target 2 limits for SY2017-2018, and Target 3 limits for SY2022-2023.
FY2015 appropriation (§751 and §752 of P.L. 113-235)	n/a	Required USDA to allow states to exempt school food authorities (SFAs) demonstrating hardship from the 100% whole grain requirement from December 2014 through SY2015-2016. Exempted SFAs must comply with 50% requirement.	Postponed reductions in sodium below Target 1 indefinitely ("until the latest scientific research establishes the reduction is beneficial for children").
FY2016 appropriation (§733 of P.L. 114-113)	n/a	Extended exemptions through SY2016-2017.	Same language as FY2015.
FY2017 appropriation (§747 of P.L. 115-31)	Required USDA to allow states to grant hardship-based exemptions to SFAs to serve flavored low-fat (1%) milk from May 2017 through SY2017-	Extended exemptions through SY2017-2018.	Retained Target 1 through SY2017-2018.

2018.

[USDA-FNS November 2017 interim final rule](#)

Allowed all SFAs to offer flavored low-fat (1%) milk in SY2018-2019.

Extended exemptions through SY2018-2019.

Retained Target 1 through SY2018-2019.

[USDA-FNS December 2018 final rule](#)

Allows all SFAs to offer flavored low-fat (1%) milk in SY2019-2020 and thereafter.

Institutes 50% whole grain requirement for all SFAs starting in SY2019-2020. Allows states to grant exemptions to SFAs to offer grains that are not whole-grain rich.

Retains Target 1 in SY2019-2020 through SY2023-2024, implements Target 2 starting in SY2024-2025, and eliminates Target 3.

Source: CRS

Note: The FY2017 appropriation was enacted shortly after the November 2017 interim final rule, but is presented before it in this table because of the school years that each policy affected. Not shown are (1) the FY2012 appropriations act, which retained Target 1 in FY2012, and (2) USDA guidance and regulations that lifted weekly maximums on whole grains starting in 2012.

Public Comments, Reactions, and USDA's Rationale

In the December 2018 final rule, USDA-FNS summarized the public comments on the interim final rule. [USDA's analysis](#) showed that school nutrition program operators, food industry organizations, and trade associations generally supported the changes to the milk, whole grain, and sodium requirements, while nutrition and other advocacy organizations and public health practitioners generally opposed the changes.

USDA cited multiple reasons for its decisions, including to "alleviate regulatory burdens," provide "regulatory certainty" for program operators, and improve student consumption of meals. USDA prioritized feedback from program operators, saying, for example, that "after careful consideration of all stakeholders' comments, USDA believes that school nutrition operators have made the case that this final rule's targeted regulatory flexibility is practical and necessary for efficient Program operation." USDA also emphasized that schools and states can set higher nutrition standards.

Organizations have [supported](#) and [opposed](#) the Administration's recent decision. Moving forward, policymakers and program stakeholders may be interested in seeing if schools meet or exceed the less-stringent standards.