



United States  
Department of  
Agriculture

Food and  
Nutrition  
Service

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**DATE:** June 5, 2014

**MEMO CODE:** SP 23-2014 (v.2)

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

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

State Agencies  
Child Nutrition Programs  
All States

Attached is the second in 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. Updated or new questions are identified parenthetically.

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.

Regional Directors  
State Directors  
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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**

*Numbers in ( ) indicate a new or a significantly revised Q and A*

## **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 ¼ 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 ¼ cup of blueberries, the muffin meets the general standard requirement as a combination food that contains ¼ 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 ¼ 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**

**1. 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.

**2. 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.

**(3) For the “Other” beverages category in high school, are the calorie limits proportional, or may I serve a four ounce beverage that has 60 calories?**

The standard for lower calorie beverages in high school is  $\leq 40$  calories per 8 fl oz, or  $\leq 60$  calories for 12 fl oz. This is intended to be proportional. This means that these other beverages may have not more than 5 calories per fluid ounce. A smaller serving of a beverage that contains the maximum calories for a 12 fl oz beverage would **not** meet the standard.

**(4) Are smoothies allowed under the Smart Snacks requirements?**

Yes, smoothies may be sold as a food or a beverage, depending on the ingredients used to make the smoothies.

**(5) When would a smoothie be considered to be a food?**

For a smoothie to count as a food, it must meet the general standard by including one of the main food group categories as the first ingredient and it must meet the specific nutrient standards. If the smoothie contains a meat alternate, such as yogurt or peanut butter, and a fruit or vegetable, it would be considered a food. Such a food meets the definition of an entrée item and may be sold as such. If the smoothie does not meet the definition of an entrée item (i.e., does not include a meat/meat alternate), but meets the general and nutrient standards, it may be sold as a snack.

**(6) If a smoothie is served as a breakfast entrée item, is it exempt from the standards?**

Yes, if a smoothie is served as a breakfast entrée item in the SBP, it is exempt from the standards on the day of service and the day after service. For example, a smoothie made with yogurt and fruit, per SP 10-2014: *Smoothies Offered in Child Nutrition Programs*, would be a breakfast entrée item.

**(7) When would a smoothie be considered a beverage?**

A smoothie is considered to be a beverage when it is comprised entirely of beverages that are currently allowable under the standards for 100 percent juice, low fat or non fat milk (including milk alternatives), and water (or ice). For example, a smoothie made from 100% fruit juice, 1% milk and blended with ice would be considered a beverage. The serving size of the beverage smoothie is limited to 8 fl oz for elementary school students and 12 fl oz for middle and high schools.

**(8) In high school, could a smoothie have ingredients other than juice, allowable milks or water?**

If the smoothie is sold in high school and contains added sweeteners or other ingredients, it would fall into the “Other” allowable beverage category for high school. When this is the case, the smoothie must meet the calorie and size restrictions for that beverage category, i.e.,  $\leq 60$  calories per 12 fl oz (or 5 calories/1 fl oz) with a maximum size of 12 fl oz.

**(9) Would a frozen fruit product (i.e., slushies, frozen fruit bars) count as a food or beverage?**

School districts have the flexibility to determine if a frozen fruit product will be categorized as a food or a beverage. If a school district makes the determination that a frozen fruit product is a food, the product must contain one of the a main food groups (protein, dairy, fruit, vegetable ) as the first ingredient, be 200 calories or less and meet all the nutrient standards for smart snacks. If a school district determines that a frozen fruit product is a beverage, 8 fluid ounces is the maximum serving size for elementary schools and 12 fluid ounces is the maximum serving size for middle and high schools.

As a beverage, frozen fruit products available in elementary and middle schools must not include any added sweeteners since only 100 percent juice and water are allowed to be sold in those grade levels. If the frozen fruit beverage contains added sweeteners or other ingredients, it would fall into the “Other” allowable beverage category for high school. When this is the case, the beverage must meet the calorie and size restrictions for that beverage category, i.e.,  $\leq 60$  calories per 12 ounces (or 5 calories/1 fl oz) with a maximum size of 12 fl oz.

**(10) If coffee and tea are sold, may the students have cream and sweetener for their beverages?**

Yes, cream and sweeteners are accompaniments to coffee and tea. The sugar and cream must be included in the evaluation of the coffee or tea against the beverage standard. The use of accompaniments may be averaged over the number of drinks sold. The other beverage standard in high school permits  $\leq 60$  calories per 12 fl oz; this is the same as  $\leq 5$  calorie per 1 fl oz. If a smaller beverage is served, the calories may not exceed 5 calories per fl oz, for example a 6 fl oz beverage may have no more than 30 calories.

**(11) May espresso and steamed (or boiled) milk beverages be sold, such as lattes and cappuccinos?**

Yes, as long as the beverage sold is comprised of two allowable beverages. Espresso (or coffee) is allowable at the high school level only and may be combined with skim milk, flavored or unflavored. Espresso (or coffee) may also be combined with 1% milk, as long as there is no added flavoring. Additionally, it would be acceptable to sell an espresso beverage over ice or blended with ice. All final beverage sizes must be no more than 12 fl oz.

## **Soy Products**

### **(1) Do soy products, like meatless burgers, meet the general standard of as a protein food?**

Processed soy products that have tofu, soybean, texturized vegetable protein (TVP), soy protein isolate, soy flour, or soy protein concentrate as the first ingredient meet the general standard requirement as a protein food. Such foods also need to be evaluated to ensure that the product meets the Smart Snacks nutrient standards.

### **(2) Are soy nuts a protein food?**

Soy nuts are **dried** soybeans that fall into both the protein group and vegetable group. Since the Smart Snacks requirements exempt only “fresh, frozen and canned vegetables with no added ingredients except water,” (and canned vegetables with a small amount of sugar for processing), 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 and saturated fat requirements, under the nut/seeds exemption. Remember, soy nuts are still subject to the calorie, trans fat, sugar and sodium standards.

### **(3) Do fortified soy-beverages meet the standard to be sold?**

If a fortified soy-beverage meets the standard to be served in NSLP as a fluid milk substitute per §210.10(d) it may be sold. If the standard is met, these beverages need to adhere to the appropriate beverage standards for Smart Snacks, 8 fl oz or less in elementary school and 12 fl oz or less in middle and high schools.

## **Entrees**

### **1. 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.

### **(2). 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. Leftover entrees may also be re-served at anytime as part of a reimbursable meal without regard to the Smart Snacks restrictions.

### **(3) Does yogurt with fruit count as an entrée?**

Yogurt meets the Smart Snacks general standard as a dairy product. However, when combined with fruit or vegetables, or a whole grain rich food (e.g., granola), it becomes a

combination food of a meat/meat alternate and fruit or vegetables, or meat/meat alternate and a whole grain rich food which becomes an acceptable entrée. It is important to note, however, that the interim final rule prohibits yogurt alone from being considered an entrée item.

**(4) When considering entrée exemptions on the same day and the next school day may a breakfast entrée be served during lunch and be exempt and vice versa?**

Yes, this is acceptable. Please note that such exempt entrees are required to be served in the same or smaller portion size than the NSLP and SBP entrée.

**Nutrition Standards**

**1. 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:  $50 \text{ calories} \div 140 \text{ calories} \times 100 = 35.7$  percent of calories from fat.

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:  $5 \text{ grams} \times 9 \text{ calories} \div 140 \text{ calories} \times 100 = 32.14$  percent of calories from fat.

**2. 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.

**3. 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

<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.	



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.

**4. 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:  $(0.5 \text{ grams} \times 9 \text{ calories}) \div 140 \times 100 = 3.2$  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.

**5. 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:  $2\text{g (grams of sugar)} \div 28\text{g (total weight of food)} \times 100 = 7.14\%$  sugar by weight. Total sugar must be no more than 35 percent by weight. Do not round the result.

**(6) Which dried fruit items may have added nutritive sweeteners and still be exempt from the sugar standard?**

The regulation permits dried fruit with nutritive sweeteners that are required for processing and/or palatability purposes to be exempt from the sugar standard only. Such items, however, must meet the Smart Snack calorie, total fat, saturated fat, trans fat, and sodium standards. At this time, the only types of dried fruit that may have added nutritive sweeteners and be exempt from the sugar standard are dried cranberries, dried tart cherries, and dried blueberries.

**(7) When is frozen fruit with added sugar considered to be equivalent to canned fruit packed in extra light, or light syrup, and therefore exempt from the standards?**

Frozen fruit with added sugar is processed differently than canned fruit with light syrup. Sugar is added to fruit prior to freezing as a ratio (for example, 11 pounds of fruit to 1 pound of sugar), not as a liquid syrup (for example, light syrup used in canning). When a frozen fruit product has approximately 20% sugar by weight, it is similar to fruit canned in light syrup. Therefore, when a frozen fruit product has added sugar and the sugar by weight is 20% or less, it is exempt from the calories, total fat, saturated fat, and sodium standards.

It is important to note that any fruit product with sugar may be evaluated against the standards and be sold as long as it meets all the requirements. For example, if a product's first ingredient is a fruit and all the nutrient standards (including calories and sugar by weight) are met, the product may be sold.

**(8) Will USDA-approved nutrient analysis software include sugars?**

Yes. All USDA-approved nutrient analysis software will have sugars included by July 1, 2014. Anyone who does not receive an update to their software with the current CN Database (CN18) by July 1, 2014, should contact his or her software company.

**9. 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.

#### **10. 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.

#### **11. 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

##### **1. 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.

**(2) What is the allowable length of an exempt fundraising event?**

State agencies should address what is considered to be an appropriate timeframe for an exempt fundraising event and include such information as a part of their established exempt fundraiser policy which determines the maximum frequency for exempt fundraisers in schools in the State. It is expected that State agencies will establish a reasonable exempt fundraiser policy consistent with the intent of the law that such fundraisers occur on an infrequent basis. For example, considering a vending machine that is available every day during the school year as a single fundraiser or permitting regular week-long or month-long fundraisers would not meet the statutory and regulatory intent with regard to infrequent fundraiser exemptions.

**3. 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.

**4. 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.

**5. 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**

**1. 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.

**2. 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.

**3. 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**

**1. 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.

**(2) Are schools that do not participate in the National School Lunch Program (NSLP) or the School Breakfast Program (SBP) required to comply with the Smart Snacks interim final rule?**

Schools that do not participate in the NSLP or SBP are not required to comply with the Smart Snacks interim final rule. For example, schools that only participate in the Special Milk Program are not required to comply with Smart Snacks guidelines, although it is encouraged in order to improve the overall nutrition environment in schools.

**(3) Do the Smart Snacks standards apply to the Summer Food Service Program (SFSP)?**

The Smart Snacks standards do not apply to the SFSP unless the SFSP is operated at a school during the school day during which summer school NSLP meals are being served on campus, as discussed in the previous question.

**(4) Do the Smart Snacks standards apply to summer programs on July 1, 2014?**

As is the practice with the NSLP and SBP meal pattern requirements, those policies requirements going into effect on July 1 of this year would not apply to summer meal service until the following summer. In other words, schools are expected to follow the requirements in effect at the end of the immediately preceding school year and do not have to implement new procedures on July 1. However, a school may choose to implement the standards in their summer program on or before July 1, 2014.

- (5) If the school allows other community organizations to use parts of the school building during the school day for community activities not open to students in the school, must food sold to participants in those activities comply with the Smart Snacks standards?**

USDA has statutory authority only over the food sold to students on the school campus during the school day. If outside groups are utilizing the school facilities during the school day and the activities are completely separate and not accessible to the students, then food sold to those outside community group members would not be subject to the Smart Snacks requirements. However, any food available to be sold to students on that school campus during the school day is required to conform to the Smart Snacks standards.

- (6) If both middle school and high school students are located in the same building, which beverage standards should be implemented in the school?**

If a middle school and high school are in the same building, and all students have access to all venues in the school, the items available for sale to the students (beverages) must meet the middle school standards. If, in the above situation, the middle school students do not have access to the high school area, separate middle school and high school beverage standards may be implemented by the school.