

(g) *Program evaluations.* Local educational agencies, school food authorities, schools, and contractors must cooperate in studies and evaluations conducted by or on behalf of the Department, related to programs authorized under the Richard B. Russell National School Lunch Act and the Child Nutrition Act of 1966.

(44 U.S.C. 3506; sec. 819, Pub. L. 97-35, 95 Stat. 533 (42 U.S.C. 1759a, 1773 and 1757); Pub. L. 79-396, 60 Stat. 231 (42 U.S.C. 1751); Pub. L. 89-647, 80 Stat. 885-890 (42 U.S.C. 1773); Pub. L. 91-248, 84 Stat. 207 (42 U.S.C. 1759))

[32 FR 34, Jan. 5, 1967]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 220.7, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at www.fdsys.gov.

§ 220.8 Nutrition standards and menu planning approaches for breakfasts.

(a) *What are the nutrition standards for breakfasts for children age 2 and over?* School food authorities must ensure that participating schools provide nutritious and well-balanced breakfasts. For children age 2 and over, breakfasts, when averaged over a school week, must meet the nutrition standards and the appropriate nutrient and calorie levels in this section. The nutrition standards are:

(1) Provision of one-fourth of the Recommended Dietary Allowances (RDA) for protein, calcium, iron, vitamin A and vitamin C in the appropriate levels (see paragraphs (b), (c), (e)(1), or (h) of this section);

(2) Provision of the breakfast energy allowances (calories) for children in the appropriate levels (see paragraphs (b), (c), (e)(1), or (h) of this section);

(3) These applicable recommendations of the 1995 Dietary Guidelines for Americans:

- (i) Eat a variety of foods;
- (ii) Limit total fat to 30 percent of total calories;
- (iii) Limit saturated fat to less than 10 percent of total calories;
- (iv) Choose a diet low in cholesterol;
- (v) Choose a diet with plenty of grain products, vegetables, and fruits; and
- (vi) Choose a diet moderate in salt and sodium.

(4) These measures of compliance with the applicable recommendations

of the 1995 Dietary Guidelines for Americans:

(i) Limit the percent of calories from total fat to 30 percent of the actual number of calories offered;

(ii) Limit the percent of calories from saturated fat to less than 10 percent of the actual number of calories offered;

(iii) Reduce sodium and cholesterol levels; and

(iv) Increase the level of dietary fiber.

(5) School food authorities have several ways to plan menus. The minimum levels of nutrients and calories that breakfasts must offer depends on the menu planning approach used and the age/grades served. The menu planning approaches are:

(i) Nutrient standard menu planning (see paragraphs (b) and (e) of this section);

(ii) Assisted nutrient standard menu planning (see paragraphs (b) and (f) of this section);

(iii) Traditional food-based menu planning (see paragraphs (c) and (g)(1) of this section);

(iv) Enhanced food-based menu planning (see paragraphs (c) and (g)(2) of this section); or

(v) Alternate menu planning as provided for in paragraph (h) of this section.

(6) Schools must keep production and menu records for the breakfasts they produce. These records must show how the breakfasts contribute to the required food components, food items or menu items every day. In addition, these records must show how the breakfasts contribute to the nutrition standards in paragraph (a) of this section and the appropriate calorie and nutrient levels (see paragraphs (c), (d) or (h) of this section, depending on the menu planning approach used) over the school week. If applicable, schools or school food authorities must maintain nutritional analysis records to demonstrate that breakfasts, when averaged over each school week, meet:

(i) The nutrition standards provided in paragraph (a) of this section; and

(ii) The nutrient and calorie levels for children for each age or grade group in accordance with paragraphs (b),

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(e)(1) of this section or developed under paragraph (h) of this section.

the nutrient standard or assisted nutrient standard menu planning approaches? (1)

(b) *What are the levels for nutrients and calories for breakfasts planned under*

The required levels are:

MINIMUM NUTRIENT AND CALORIE LEVELS FOR SCHOOL BREAKFASTS NUTRIENT STANDARD MENU PLANNING APPROACHES (SCHOOL WEEK AVERAGES)			
NUTRIENTS AND ENERGY ALLOWANCES	MINIMUM REQUIREMENTS		OPTIONAL
	PRESCHOOL	GRADES K-12	GRADES 7-12
Energy allowances (calories)	388	554	618
Total fat (as a percentage of actual total food energy)	¹	^{1,2}	²
Saturated fat (as a percentage of actual total food energy)	¹	^{1,3}	³
RDA for protein (g)	5	10	12
RDA for calcium (mg)	200	257	300
RDA for iron (mg)	2.5	3	3.4
RDA for Vitamin A (RE)	113	197	225
RDA for Vitamin C (mg)	11	13	14

¹ The Dietary Guidelines recommend that after 2 years of age "...children should gradually adopt a diet that, by about 5 years of age, contains no more than 30 percent of calories from fat."

² Not to exceed 30 percent over a school week

³ Less than 10 percent over a school week

(2) Optional levels are:

OPTIONAL MINIMUM NUTRIENT AND CALORIE LEVELS FOR SCHOOL BREAKFASTS NUTRIENT STANDARD MENU PLANNING APPROACHES (SCHOOL WEEK AVERAGES)				
NUTRIENTS AND ENERGY ALLOWANCES	AGES 3-6	AGES 7-10	AGES 11-13	AGES 14 AND ABOVE
	Energy allowances (calories)	419	500	588
Total fat (as a percentage of actual total food energy)	^{1,2}	²	²	²
Saturated fat (as a percentage of actual total food energy)	^{1,3}	³	³	³
RDA for protein (g)	5.5	7	11.25	12.5
RDA for calcium (mg)	200	200	300	300
RDA for iron (mg)	2.5	2.5	3.4	3.4
RDA for Vitamin A (RE)	119	175	225	225
RDA for Vitamin C (mg)	11.00	11.25	12.5	14.4

¹The Dietary Guidelines recommend that after 2 years of age "...children should gradually adopt a diet that, by about 5 years of age, contains no more than 30 percent of calories from fat."

² Not to exceed 30 percent over a school week

³ Less than 10 percent over a school week

(3) Schools may also develop a set of nutrient and calorie levels for a school week. These levels are customized for the age groups of the children in the particular school.

(c) What are the nutrient and calorie levels for breakfasts planned under the food-based menu planning approaches?—

(1) *Traditional approach.* For the traditional food-based menu planning approach, the required levels are:

MINIMUM NUTRIENT AND CALORIE LEVELS FOR SCHOOL BREAKFASTS TRADITIONAL FOOD-BASED MENU PLANNING APPROACH (SCHOOL WEEK AVERAGES)			
NUTRIENTS AND ENERGY ALLOWANCES	AGE 2	AGES 3,4,5	GRADES K-12
Energy allowances (calories)	325	388	554
Total fat (as a percentage of actual total food energy)	¹	¹	^{1,2}
Saturated fat (as a percentage of actual total food energy)	¹	¹	^{1,3}
RDA for protein (g)	4	5	10
RDA for calcium (mg)	200	200	257
RDA for iron (mg)	2.5	2.5	3
RDA for Vitamin A (RE)	100	113	197
RDA for Vitamin C (mg)	10	11	13

¹ The Dietary Guidelines recommend that after 2 years of age "...children should gradually adopt a diet that, by about 5 years of age, contains no more than 30 percent of calories from fat."

² Not to exceed 30 percent over a school week.

³ Less than 10 percent over a school week.

(2) *Enhanced approach.* For the enhanced food-based menu planning approach, the required levels are:

MINIMUM NUTRIENT AND CALORIE LEVELS FOR SCHOOL BREAKFASTS ENHANCED FOOD-BASED MENU PLANNING APPROACH (SCHOOL WEEK AVERAGES)			
NUTRIENTS AND ENERGY ALLOWANCES	REQUIRED FOR		OPTION FOR
	PRESCHOOL	GRADES K-12	GRADES 7-12
Energy allowances (calories)	388	554	618
Total fat (as a percentage of actual total food energy)	¹	^{1,2}	²
Saturated fat (as a percentage of actual total food energy)	¹	^{1,3}	³
RDA for protein (g)	5	10	12
RDA for calcium (mg)	200	257	300
RDA for iron (mg)	2.5	3	3.4
RDA for Vitamin A (RE)	113	197	225
RDA for Vitamin C (mg)	11	13	14

¹ The Dietary Guidelines recommend that after 2 years of age "...children should gradually adopt a diet that, by about 5 years of age, contains no more than 30 percent of calories from fat."

² Not to exceed 30 percent over a school week.

³ Less than 10 percent over a school week.

(d) *Exceptions and variations allowed in reimbursable breakfasts*—(1) *Exceptions for disability reasons.* Schools must make substitutions in breakfasts for students who are considered to have a disability under 7 CFR part 15b.3 and whose disability restricts their diet. Substitutions must be made on a case by case basis only when supported by a written statement of the need for substitutions that includes recommended alternate foods, unless otherwise exempted by FNS. Such statement must be signed by a licensed physician.

(2) *Exceptions for non-disability reasons.* Schools may make substitutions for students without disabilities who cannot consume the breakfast because of medical or other special dietary needs. Substitutions must be made on a case by case basis only when supported by a written statement of the need for substitutions that includes

recommended alternate foods, unless otherwise exempted by FNS. Except with respect to substitutions for fluid milk, such statement must be signed by a recognized medical authority.

(i) *Milk substitutions for non-disability reasons.* Schools may make substitutions for fluid milk for non-disabled students who cannot consume fluid milk due to medical or special dietary needs. A school that selects this option may offer the nondairy beverage(s) of its choice, provided the beverage(s) meet the nutritional standards established in paragraph (i)(3) of this section. Expenses incurred in providing substitutions for fluid milk that exceed program reimbursements must be paid by the school food authority.

(ii) *Requisites for milk substitutions.* (A) A school food authority must inform the State agency if any of its schools choose to offer fluid milk substitutes

other than for students with disabilities; and

(B) A medical authority or the student's parent or legal guardian must submit a written request for a fluid milk substitute, identifying the medical or other special dietary need that restricts the student's diet.

(iii) *Substitution approval.* The approval for fluid milk substitution must remain in effect until the medical authority or the student's parent or legal guardian revokes such request in writing, or until such time as the school changes its substitution policy for non-disabled students.

(3) *Variations for ethnic, religious, or economic reasons.* Schools should consider ethnic and religious preferences when planning and preparing breakfasts. Variations on an experimental or continuing basis in the food components for the food-based menu planning approaches in paragraph (g) may be allowed by FNS. Any variations must be nutritionally sound and needed to meet ethnic, religious, or economic needs.

(4) *Exceptions for natural disasters.* If there is a natural disaster or other catastrophe, FNS may temporarily allow schools to serve breakfasts for reimbursement that do not meet the requirements in this section.

(e) *What are the requirements for the nutrient standard menu planning approach?*—(1) *Nutrient levels*—(i) *Adjusting nutrient levels for young children.* Schools with children who are age 2 must at least meet the nutrition standards in paragraph (a) of this section and the preschool nutrient and calorie levels in paragraph (b)(1) of this section over a school week. Schools may also use the preschool nutrient and calorie levels in paragraph (b)(2) of this section or may calculate nutrient and calorie levels for two year olds. FNS has a method for calculating these levels in menu planning guidance materials.

(ii) *Minimum levels for nutrients.* Breakfasts must at least offer the nutrient and calorie levels for the required grade groups in the table in paragraph (b)(1) of this section. Schools may also offer breakfasts meeting the nutrient and calorie levels for the age groups in paragraph (b)(2) of this section. If only one grade or age group is

outside the established levels, schools may follow the levels for the majority of the children. Schools may also customize the nutrient and calorie levels for the children they serve. FNS has a method for calculating these levels in guidance materials for menu planning.

(2) *Reimbursable breakfasts*—(i) *Contents of a reimbursable breakfast.* A reimbursable breakfast must include at least three menu items. All menu items or foods offered in a reimbursable breakfast contribute to the nutrition standards in paragraph (a) of this section and to the levels of nutrients and calories that must be met in paragraphs (c) or (e)(1) of this section. Unless offered as part of a menu item in a reimbursable breakfast, foods of minimal nutritional value (see appendix B to part 220) are not included in the nutrient analysis. Reimbursable breakfasts planned under the nutrient standard menu planning approach must meet the nutrition standards in paragraph (a) of this section and the appropriate nutrient and calorie levels in paragraph (b) or (e)(1) of this section.

(ii) *Offer versus serve.* Schools must offer at least three menu items. At their option, school food authorities may allow students to select only two menu items and to decline a maximum of one menu item. The price of a reimbursable breakfast does not change if the student does not take a menu item or requests smaller portions.

(3) *Doing the analysis.* Schools using nutrient standard menu planning must conduct the analysis on all menu items and foods offered in a reimbursable breakfast. The analysis is conducted over a school week. Unless offered as part of a menu item in a reimbursable breakfast, foods of minimal nutritional value (see appendix B to part 220) are not included in the nutrient analysis.

(4) *Software elements*—(i) *The Child Nutrition Database.* The nutrient analysis is based on the Child Nutrition Database. This database is part of the software used to do a nutrient analysis. Software companies or others developing systems for schools may contact FNS for more information about the database.

(ii) *Software evaluation.* FNS or an FNS designee evaluates any nutrient analysis software before it may be used

in schools. FNS or its designee determines if the software, as submitted, meets the minimum requirements. The approval of software does not mean that FNS or USDA endorses it. The software must be able to do all functions after the basic data is entered. The required functions include weighted averages and the optional combined analysis of the lunch and breakfast programs.

(5) *Nutrient analysis procedures*—(i) *Weighted averages*. Schools must include all menu items and foods offered in reimbursable breakfasts in the nutrient analysis. Menu items and foods are included based on the portion sizes and projected serving amounts. They are also weighted based on their proportionate contribution to the breakfasts offered. This means that menu items or foods more frequently offered are weighted more heavily than those not offered as frequently. Schools calculate weighting as indicated by FNS guidance and by the guidance provided by the software. Through September 30, 2009, schools are not required to conduct a weighted analysis.

(ii) *Analyzed nutrients*. The analysis includes all menu items and foods offered over a school week. The analysis must determine the levels of: Calories, protein, vitamin A, vitamin C, iron, calcium, total fat, saturated fat, sodium, cholesterol and dietary fiber.

(iii) *Combining the analysis of the lunch and breakfast programs*. At their option, schools may combine the analysis of breakfasts offered under this part and lunches offered under part 210 of this chapter. The analysis is done proportionately to the levels of participation in each program based on FNS guidance.

(6) *Comparing the results of the nutrient analysis*. Once the procedures in paragraph (i)(5) of this section are completed, schools must compare the results of the analysis to the appropriate nutrient and calorie levels, by age/grade groups, in paragraph (b) of this section or those developed under paragraph (e)(1) of this section. This comparison determines the school week's average. Schools must also make comparisons to the nutrition standards in paragraph (a) of this section to determine how well they are meeting the

nutrition standards over the school week.

(7) *Adjustments to the menus*. Once schools know the results of the nutrient analysis based on the procedures in paragraphs (e)(5) and (e)(6) of this section, they must adjust future menu cycles to reflect production and how often the menu items and foods are offered. Schools may need to reanalyze menus when the students' selections and, consequently, production levels change. Schools may need to change the menu items and foods offered given the students' selections and may need to modify the recipes and other specifications to make sure that the nutrition standards in paragraph (a) and either paragraph (b) or (e)(1) of this section are met.

(8) *Standardized recipes*. If a school follows the nutrient standard menu planning approach, it must develop and follow standardized recipes. A standardized recipe is a recipe that was tested to provide an established yield and quantity using the same ingredients for both measurement and preparation methods. Any standardized recipes developed by USDA/FNS are in the Child Nutrition Database. If a school has its own recipes, they must be standardized and analyzed to determine the levels of calories, nutrients, and dietary components listed in paragraph (e)(5)(ii) of this section. Schools must add any local recipes to their local database as outlined in FNS guidance.

(9) *Processed foods*. The Child Nutrition Database includes a number of processed foods. Schools may use purchased processed foods and menu items that are not in the Child Nutrition Database. Schools or the State agency must add any locally purchased processed foods and menu items to their local database as outlined in FNS guidance. Schools or State agencies must obtain the levels of calories, nutrients, and dietary components listed in paragraph (e)(5)(ii) of this section.

(10) *Menu substitutions*. Schools may need to substitute foods or menu items in a menu that was already analyzed. If the substitution(s) occurs more than two weeks before the planned menu is served, the school must reanalyze the revised menu. If the substitution(s) occurs two weeks or less before the

planned menu is served, the school does not need to do a reanalysis. However, schools should always try to substitute similar foods.

(11) *Meeting the nutrition standards.* The school's analysis shows whether their menus are meeting the nutrition standards in paragraph (a) of this section and the appropriate levels of nutrients and calories in paragraph (b) of this section or customized levels developed under paragraph (e)(1) of this section. If the analysis shows that the menu(s) are not meeting these standards, the school needs to take action to make sure that the breakfasts meet the nutrition standards and the calorie, nutrient, and dietary component levels. Actions may include technical assistance and training and may be taken by the State agency, the school food authority or by the school as needed.

(12) *Other Child Nutrition Programs and nutrient standard analysis menu planning.* School food authorities that operate the Summer Food Service Program (part 225 of this chapter) and/or the Child and Adult Care Food Program (part 226 of this chapter) may, with State agency approval, prepare breakfasts for these programs using the nutrient standard menu planning approach for children age two and over. FNS has guidance on the levels of nutrient and calories for adult breakfasts offered under the Child and Adult Care Food Program.

(f) *What are the requirements for the assisted nutrient standard menu planning approach?—(1) Definition of assisted nutrient standard menu planning.* Some school food authorities may not be able to do all of the procedures necessary for nutrient standard menu planning. The assisted nutrient standard menu planning approach provides schools with menu cycles developed and analyzed by other sources. These sources include the State agency, other schools, consultants, or food service management companies.

(2) *Elements of assisted nutrient standard menu planning.* School food authorities using menu cycles developed under assisted nutrient standard menu planning must follow the procedures in paragraphs (e)(1) through (e)(10) of this section. The menu cycles must also in-

corporate local food preferences and accommodate local food service operations. The menu cycles must meet the nutrition standards in paragraph (a) of this section and meet the applicable nutrient and calorie levels for nutrient standard menu planning in paragraphs (b) or (e)(1) of this section. The supplier of the assisted nutrient standard menu planning approach must also develop and provide recipes, food product specifications, and preparation techniques. All of these components support the nutrient analysis results of the menu cycles used by the receiving school food authorities.

(3) *State agency approval.* Prior to its use, the State agency must approve the initial menu cycle, recipes and other specifications of the assisted nutrient standard menu planning approach. The State agency needs to make sure all the steps required for nutrient analysis were followed. School food authorities may also ask the State agency for assistance with implementation of their assisted nutrient standard menu planning approach.

(4) *Required adjustments.* After the initial service of the menu cycle developed under the assisted nutrient standard menu planning approach, the nutrient analysis must be reassessed and appropriate adjustments made as discussed in paragraph (e)(7) of this section.

(5) *Final responsibility for meeting the nutrition standards.* The school food authority using the assisted nutrient standard menu planning approach retains final responsibility for meeting the nutrition standards in paragraph (a) of this section and the applicable calorie and nutrient levels in paragraphs (b) or (e)(1) of this section.

(6) *Adjustments to the menus.* If the nutrient analysis shows that the breakfasts offered are not meeting the nutrition standards in paragraph (a) of this section and the applicable calorie and nutrient levels in paragraphs (b) or (e)(1) of this section, the State agency, school food authority or school must take action to make sure the breakfasts offered meet these requirements. Actions needed include technical assistance and training.

(7) *Other Child Nutrition Programs and assisted nutrient analysis menu planning.*

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School food authorities that operate the Summer Food Service Program (part 225 of this chapter) and/or the Child and Adult Care Food Program (part 226 of this chapter) may, with State agency approval, prepare breakfasts for these programs using the assisted nutrient standard menu planning approach for children age two and over. FNS has guidance on the levels of nutrients and calories for adult breakfasts offered under the Child and Adult Care Food Program.

(g) *What are the requirements for the food-based menu planning approaches?—*
 (1) *Food items.* There are two menu planning approaches based on meal patterns, not nutrient analysis. These approaches are the traditional food-based menu planning approach and the enhanced food-based menu planning ap-

proach. Schools using one of these approaches must offer these food items in at least the portions required for various age/grade groups:

(i) A serving of fluid milk as a beverage or on cereal or used partly for both;

(ii) A serving of fruit or vegetable or both, or full-strength fruit or vegetable juice; and

(iii) Two servings from one of the following components or one serving from each component:

- (A) Grains/breads; and/or
- (B) Meat/meat alternate.

(2) *Quantities for the traditional food-based menu planning approach.* At a minimum, schools must offer the food items in the quantities specified for the appropriate age/grade group in the following table:

TRADITIONAL FOOD-BASED MENU PLANNING APPROACH-MEAL PATTERN FOR BREAKFASTS			
FOOD COMPONENTS AND FOOD ITEMS	AGES 1-2	AGES 3,4 AND 5	GRADES K-12
MILK (fluid) (as a beverage, on cereal or both)	4 fluid ounces	6 fluid ounces	8 fluid ounces
JUICE/FRUIT/VEGETABLE: Fruit and/or vegetable; or full-strength fruit juice or vegetable juice	¼ cup	½ cup	½ cup
SELECT ONE SERVING FROM EACH OF THE FOLLOWING COMPONENTS, TWO FROM ONE COMPONENT, OR AN EQUIVALENT COMBINATION:			
GRAINS/BREADS :			
Whole-grain or enriched bread	½ slice	½ slice	1 slice
Whole-grain or enriched biscuit, roll, muffin, etc.	½ serving	½ serving	1 serving
Whole-grain, enriched or fortified cereal	¼ cup or 1/3 ounce	1/3 cup or ½ ounce	¼ cup or 1 ounce
MEAT OR MEAT ALTERNATES:			
Meat/poultry or fish	½ ounce	½ ounce	1 ounce
Alternate protein products ¹	½ ounce	½ ounce	1 ounce
Cheese	½ ounce	½ ounce	1 ounce
Large egg	½	½	½
Peanut butter or other nut or seed butters	1 tablespoon	1 tablespoon	2 tablespoons
Cooked dry beans and peas	2 tablespoons	2 tablespoons	4 tablespoons
Nuts and/or seeds (as listed in program guidance) ²	½ ounce	½ ounce	1 ounce
Yogurt, plain or flavored, unsweetened or sweetened	2 ounces or ¼ cup	2 ounces or ¼ cup	4 ounces or ½ cup

¹ Must meet the requirements in appendix A of this part.

² No more than 1 ounce of nuts and/or seeds may be served in any one breakfast.

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(3) Quantities for the enhanced food-based menu planning approach. At a minimum, schools must offer the food items in the quantities specified for the appropriate age/grade group in the following table:

ENHANCED FOOD-BASED MENU PLANNING APPROACH-MEAL PATTERN FOR BREAKFASTS				
FOOD COMPONENTS AND FOOD ITEMS	REQUIRED FOR			OPTION FOR
	AGES 1-2	PRESCHOOL	GRADES K-12	GRADES 7-12
Milk (fluid) (as a beverage, on cereal or both)	4 fluid ounces	6 fluid ounces	8 fluid ounces	8 fluid ounces
JUICE/FRUIT/VEGETABLE: Fruit and/or vegetable; or full-strength fruit juice or vegetable juice	¼ cup	½ cup	½ cup	½ cup
SELECT ONE SERVING FROM EACH OF THE FOLLOWING COMPONENTS, TWO FROM ONE COMPONENT OR AN EQUIVALENT COMBINATION:				
GRAINS/BREADS:				
Whole-grain or enriched bread	½ slice	½ slice	1 slice	1 slice
Whole-grain or enriched biscuit, roll, muffin, etc.	½ serving	½ serving	1 serving	1 serving
Whole-grain, enriched or fortified cereal	¼ cup or 1/3 ounce	1/3 cup or ½ ounce	¾ cup or 1 ounce	¾ cup or 1 ounce plus an additional serving of one of the Grains/Breads above.
MEAT OR MEAT ALTERNATES:				
Meat/poultry or fish	½ ounce	½ ounce	1 ounce	1 ounce
Alternate protein products ¹	½ ounce	½ ounce	1 ounce	1 ounce
Cheese	½ ounce	½ ounce	1 ounce	1 ounce
Large egg	½	½	½	½
Peanut butter or other nut or seed butters	1 tablespoon	1 tablespoon	2 tablespoons	2 tablespoons
Cooked dry beans and peas	2 tablespoons	2 tablespoons	4 tablespoons	4 tablespoons
Nuts and/or seeds (as listed in program guidance) ²	½ ounce	½ ounce	1 ounce	1 ounce
Yogurt, plain or flavored, unsweetened or sweetened	2 ounces or ¼ cup	2 ounces or ¼ cup	4 ounces or ½ cup	4 ounces or ½ cup

¹ Must meet the requirements in appendix A of this part.

² No more than 1 ounce of nuts and/or seeds may be served in any one breakfast.

(4) Offer versus serve. Each school must offer all four required food items listed in paragraph (g)(1) of this section. At the option of the school food authority, each school may allow students to refuse one food item from any component. The refused food item may be any of the four items offered to the student. A student's decision to accept all four food items or to decline one of the four food items must not affect the charge for a reimbursable breakfast.

(5) Meal pattern exceptions for outlying areas. Schools in American Samoa, Puerto Rico and the Virgin Islands may serve a starchy vegetable such as yams, plantains, or sweet potatoes to meet the grain/bread requirement.

(h) What are the requirements for alternate menu planning approaches?—(1) Definition. Alternate menu planning approaches are those adopted or developed by school food authorities or State agencies that differ from the

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standard approaches established in paragraphs (e) through (g) of this section.

(2) *Use and approval of major changes or new alternate approaches.* Within the guidelines established for developing alternate menu planning approaches, school food authorities or State agencies may modify one of the established menu planning approaches in paragraphs (e) through (g) of this section or may develop their own menu planning approach. The alternate menu planning approach must be available in writing for review and monitoring purposes. No formal plan is required; guidance material, a handbook or protocol is sufficient. As appropriate, the material must address how the guidelines in paragraph (h)(3) of this section are met. A State agency that develops an alternate approach that is exempt from FNS approval under paragraph (h)(2)(iii) of this section must notify FNS in writing when implementing the alternate approach.

(i) *Approval of local level plans.* Any school food authority-developed menu planning approach must have prior State agency review and approval.

(ii) *Approval of State agency plans.* Unless exempt under paragraph (h)(2)(iii) of this section, any State agency-developed menu planning approach must have prior FNS approval.

(iii) *State agency plans not subject to approval.* A State agency-developed menu planning approach does not need FNS approval if:

(A) Five or more school food authorities in the State use it; and

(B) The State agency maintains ongoing oversight of the operation and evaluation of the approach and makes any needed adjustments to its policies and procedures to ensure that the appropriate guidelines in paragraph (h)(3) of this section are met.

(3) *Elements for major changes or new approaches.* Any alternate menu planning approach must:

(i) offer fluid milk, as provided in paragraph (i) of this section;

(ii) include the procedures for offer versus serve if the school food authority chooses to implement the offer versus serve option. Alternate approaches should follow the offer versus serve procedures in paragraphs (e)(2)(ii)

and (g)(4) of this section, as appropriate. If these requirements are not followed, the approach must indicate:

(A) The affected age/grade groups;

(B) The number and type of items (and, if applicable, the quantities for the items) that constitute a reimbursable breakfast under offer versus serve;

(C) How such procedures will reduce plate waste; and

(D) How a reasonable level of calories and nutrients for the breakfast as taken is provided.

(iii) Meet the Recommended Dietary Allowances and breakfast energy allowances (nutrient levels) and indicate the age/grade groups served and how the nutrient levels are met for those age/grade groups;

(iv) Follow the requirements for competitive foods in the definition of *Foods of minimal nutritional value* in § 220.2, in § 220.12 and in appendix B of this part;

(v) Follow the requirements for counting food items and products towards meeting the meal patterns. These requirements are found in paragraphs (g) and (i) of this section, in appendices A through C to this part, and in instructions and guidance issued by FNS. This only applies if the alternate approach is a food-based menu planning approach.

(vi) Identify a reimbursable breakfast at the point of service.

(A) To the extent possible, the procedures provided in paragraph (e)(2)(i) of this section for nutrient standard or assisted nutrient standard menu planning approaches or for food-based menu planning approaches provided in paragraph (g) of this section must be followed. Any instructions or guidance issued by FNS that further defines the elements of a reimbursable breakfast must be followed when using the existing regulatory provisions.

(B) Any alternate approach that deviates from the provisions in paragraph (e)(2)(i) or paragraph (g) of this section must indicate what constitutes a reimbursable breakfast, including the number and type of items (and, if applicable, the quantities for the items) which comprise the breakfast, and how a reimbursable breakfast is to be identified at the point of service.

(vii) explain how the alternate menu planning approach can be monitored

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under the applicable provisions of §§ 210.18 and 210.19 of this chapter, including a description of the records that will be maintained to document compliance with the program's administrative and nutrition requirements. However, if the procedures under § 210.19 of this chapter cannot be used to monitor the alternate approach, a description of review procedures which will enable the State agency to assess compliance with the nutrition standards in paragraphs (a)(1) through (a)(4) of this section must be included; and

(viii) follow the requirements for weighted analysis and for approved software for nutrient standard menu planning as required by paragraphs (e)(4) and (e)(5) of this section unless a State agency-developed approach meets the criteria in paragraph (h)(2)(iii) of this section. Through September 30, 2009, schools are not required to conduct a weighted analysis.

(i) *What are the requirements for offering milk?*—(1) *Serving milk.* A serving of milk as a beverage or on cereal or used in part for each purpose must be offered for breakfasts.

(2) *Inadequate milk supply.* If a school cannot get a supply of milk, it can still participate in the Program under the following conditions:

(i) If emergency conditions temporarily prevent a school that normally has a supply of fluid milk from obtaining delivery of such milk, the State agency may allow the school to serve breakfasts during the emergency period with an alternate form of milk or without milk.

(ii) If a school is unable to obtain a supply of any type of fluid milk on a continuing basis, the State agency may allow schools to substitute canned or dry milk in the required quantities in the preparation of breakfasts. In Alaska, Hawaii, American Samoa, Guam, Puerto Rico, and the Virgin Islands, if a sufficient supply of fluid milk cannot be obtained, "milk" includes reconstituted or recombined milk, or otherwise as allowed by FNS through a written exception.

(3) *Milk substitutes.* If a school chooses to offer one or more substitutes for fluid milk for non-disabled students with medical or special dietary needs, the nondairy beverage(s) must provide

the nutrients listed in the following table. Milk substitutes must be fortified in accordance with fortification guidelines issued by the Food and Drug Administration. A school need only offer the nondairy beverage(s) that it has identified as allowable fluid milk substitutes according to this paragraph (i)(3).

Nutrient	Per cup
Calcium	276 mg.
Protein	8 g.
Vitamin A	500 IU.
Vitamin D	100 IU.
Magnesium	24 mg.
Phosphorus	222 mg.
Potassium	349 mg.
Riboflavin	0.44 mg.
Vitamin B-12	1.1 mcg.

(j) *What are the requirements for the infant breakfast pattern?*—(1) *Feeding breakfasts to infants.* Breakfasts served to infants ages birth through 11 months must meet the requirements described in paragraph (j)(4) of this section. Foods included in the breakfast must be of a texture and a consistency that are appropriate for the age of the infant being served. The foods must be served during a span of time consistent with the infant's eating habits. For those infants whose dietary needs are more individualized, exceptions to the meal pattern must be made in accordance with the requirements found in paragraph (d)(1) of this section.

(2) *Breastmilk and iron-fortified formula.* Either breastmilk or iron-fortified infant formula, or portions of both, must be served for the entire first year. Meals containing breastmilk and meals containing iron-fortified infant formula supplied by the school are eligible for reimbursement. However, infant formula provided by a parent (or guardian) and breastmilk fed directly by the infant's mother, during a visit to the school, contribute to a reimbursable breakfast only when the school supplies at least one component of the infant's meal.

(3) *Solid foods.* For infants ages 4 through 7 months, solid foods of an appropriate texture and consistency are required only when the infant is developmentally ready to accept them. The school should consult with the infant's parent (or guardian) in making the decision to introduce solid foods. Solid

foods should be introduced one at a time, on a gradual basis, with the intent of ensuring the infant's health and nutritional well-being.

(4) *Infant meal pattern.* Infant breakfasts must have, at a minimum, each of the food components indicated, in the amount that is appropriate for the infant's age. For some breastfed infants who regularly consume less than the minimum amount of breastmilk per feeding, a serving of less than the minimum amount of breastmilk may be offered. In these situations, additional breastmilk must be offered if the infant is still hungry. Breakfasts may include portions of breastmilk and iron-fortified infant formula as long as the total number of ounces meets, or exceeds, the minimum amount required of this food component. Similarly, to meet the component requirement for vegetables and fruit, portions of both may be served.

(i) *Birth through 3 months.* 4 to 6 fluid ounces of breastmilk or iron-fortified infant formula—only breastmilk or iron-fortified formula is required to meet the infant's nutritional needs.

(ii) *4 through 7 months.* Breastmilk or iron-fortified formula is required. Some infants may be developmentally ready for solid foods of an appropriate texture and consistency. Breakfasts are reimbursable when schools provide all of the components in the meal pattern that the infant is developmentally ready to accept.

(A) 4 to 8 fluid ounces of breastmilk or iron-fortified infant formula; and

(B) 0 to 3 tablespoons of iron-fortified dry infant cereal.

(iii) *8 through 11 months.* Breastmilk or iron-fortified formula and solid foods of an appropriate texture and consistency are required.

(A) 6 to 8 fluid ounces of breastmilk or iron-fortified infant formula; and

(B) 2 to 4 tablespoons of iron-fortified dry infant cereal; and

(C) 1 to 4 tablespoons of fruit or vegetable.

(5) *Infant meal pattern table.* The minimum amounts of food components to serve to infants, as described in paragraph (j)(4) of this section, are:

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Birth through 3 months	4 through 7 months	8 through 11 months
4–6 fluid ounces of formula ¹ or breastmilk ^{2,3} .	4–8 fluid ounces of formula ¹ or breastmilk ^{2,3} ; and, 0–3 tablespoons of infant cereal ^{1,4} .	6–8 fluid ounces of formula ¹ or breastmilk ^{2,3} ; and 2–4 tablespoons of infant cereal ¹ ; and 1–4 tablespoons of fruit or vegetable or both.

¹ Infant formula and dry infant cereal must be iron-fortified.
² Breastmilk or formula, or portions of both, may be served; however, it is recommended that breastmilk be served in place of formula from birth through 11 months.
³ For some breastfed infants who regularly consume less than the minimum amount of breastmilk per feeding, a serving of less than the minimum amount of breastmilk may be offered, with additional breastmilk offered if the infant is still hungry.
⁴ A serving of this component is required only when the infant is developmentally ready to accept it.

(k) *What about serving additional foods?* Schools may offer additional foods with breakfasts to children over one year of age.

(1) *Must schools offer choices at breakfast?* FNS encourages schools to offer children a selection of foods and menu items at breakfast. Choices provide variety and encourage consumption. Schools may offer choices of reimbursable breakfasts or foods within a reimbursable breakfast. When a school offers a selection of more than one type of breakfast or when it offers a variety of food components, menu items or foods and milk for choice as a reimbursable breakfast, the school must offer all children the same selection(s) regardless of whether the child is eligible for free or reduced price breakfasts or must pay the designated full price. The school may establish different unit prices for each type of breakfast offered provided that the benefits made available to children eligible for free or reduced price breakfasts are not affected.

(m) *What must schools do about nutrition disclosure?* To the extent that school food authorities identify foods in a menu, or on the serving line or through other available means of communicating with program participants, school food authorities must identify products or dishes containing more than 30 parts fully hydrated alternate protein products (as specified in appendix A of this part) to less than 70 parts beef, pork, poultry or seafood on an

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uncooked basis, in a manner which does not characterize the product or dish solely as beef, pork, poultry or seafood. Additionally, FNS encourages schools to inform the students, parents, and the public about efforts they are making to meet the nutrition standards (see paragraph (a) of this section) for school breakfasts.

[65 FR 26923, May 9, 2000, as amended at 65 FR 36317, June 8, 2000; 67 FR 36785, May 28, 2002; 69 FR 70874, Dec. 8, 2004; 72 FR 63792, Nov. 13, 2007; 73 FR 52907, Sept. 12, 2008]

§ 220.9 Reimbursement payments.

(a) State agencies, or FNSRO's where applicable, shall make reimbursement payments to schools only in connection with breakfasts meeting the requirements of § 220.8, and reported in accordance with § 220.11(b) of this part. School Food Authorities shall plan for and prepare breakfasts on the basis of participation trends, with the objective of providing one breakfast per child per day. Production and participation records shall be maintained to demonstrate positive action toward this objective. In recognition of the fluctuation in participation levels which makes it difficult to precisely estimate the number of breakfasts needed and to reduce the resultant waste, any excess breakfasts that are prepared may be served to eligible children and may be claimed for reimbursement unless the State agency, or FNSRO where applicable, determines that the School Food Authority has failed to plan and prepare breakfasts with the objective of providing one breakfast per child per day. In no event shall the School Food Authority claim reimbursement for free and reduced price breakfasts in excess of the number of children approved for free and reduced price meals.

(b) The rates of reimbursement for breakfasts served to eligible children in schools not in severe need are the applicable national average payment factors for breakfasts. The maximum rates of reimbursement for breakfasts served to eligible children in schools determined to be in severe need are those prescribed by the Secretary. National average payment factors and maximum rates of reimbursement for the School Breakfast Program shall be

prescribed annually by the Secretary in the FEDERAL REGISTER.

(c) The total reimbursement for breakfasts served to eligible children in schools not in severe need, and schools in severe need during the school year shall not exceed the sum of the products obtained by multiplying the total numbers of such free, reduced price and paid breakfasts, respectively, by the applicable rate of reimbursement for each type of breakfast as prescribed for the school year.

(d) The State agency, or FNSRO where applicable, shall determine whether a school is in severe need based on the following eligibility criteria:

(1) The school is participating in or desiring to initiate a breakfast program; and

(2) At least 40 percent of the lunches served to students at the school in the second preceding school year were served free or at a reduced price. Schools that did not serve lunches in the second preceding year and that would like to receive reimbursement at the severe need rate may apply to their administering State agency. The administering State agency shall approve or deny such requests in accordance with guidance, issued by the Secretary, that determines that the second preceding school year requirement would otherwise have been met.

(Sec. 6, Pub. L. 95-627, 92 Stat. 3620 (42 U.S.C. 1776; secs. 801, 803, 812; Pub. L. 97-35, 95 Stat. 521-535, 42 U.S.C. 1753, 1759(a), 1758, 1773; sec. 819, Pub. L. 97-35, 95 Stat. 533 (42 U.S.C. 1759a, 1773 and 1757); 44 U.S.C. 3506))

[Amdt. 25, 41 FR 34760, Aug. 17, 1976, as amended by Amdt. 29, 44 FR 48159, Aug. 17, 1979; Amdt. No. 38, 46 FR 50928, Oct. 16, 1981; 46 FR 51368, Oct. 20, 1981; 47 FR 746, Jan. 7, 1982; 47 FR 31375, July 20, 1982; 48 FR 40196, 40197, Sept. 6, 1983; 60 FR 31222, June 13, 1995; 65 FR 26923, May 9, 2000; 70 FR 66249, Nov. 2, 2005]

§ 220.10 Effective date for reimbursement.

Reimbursement payments under the School Breakfast Program may be made only to School Food Authorities operating under an agreement with the State Agency or the Department, and may be made only after execution of the agreement. Such payments may include reimbursement in connection