Incorporating the 2010 Dietary Guidelines for Americans into the Proposed School Meal Patterns

AGENCY: Food and Nutrition Service (FNS), USDA.

ACTION: Request for comments.

SUMMARY: This document informs the public about a change in the Dietary Guidelines for Americans that affects the proposed rule “Nutrition Standards in the National School Lunch and School Breakfast Programs” issued by the Department of Agriculture and published in the Federal Register on January 13, 2011. Members of the public are asked to address this change when writing comments on the above-referenced rule to assist the Department in updating the school meal patterns and nutrition standards according to the latest dietary recommendations.

DATES: The public comment period for the proposed rule closes on April 13, 2011.

ADDRESSES: All comments should be submitted under the proposed rule, “Nutrition Standards in the National School Lunch and School Breakfast Programs,” (FNS–2007–0038), which is posted at http://www.regulations.gov.

FOR FURTHER INFORMATION CONTACT: Julie Brewer, Chief, Policy and Program Development Branch, Child Nutrition Division, Food and Nutrition Service, Department of Agriculture, 703–305–2590, 3101 Park Center Drive, Room 640, Alexandria, Virginia 22302–1594.

SUPPLEMENTARY INFORMATION:

Background

Section 9 of the Richard B. Russell National School Lunch Act (NSLA), 42 U.S.C. 1758, requires that meals served under the National School Lunch Program and the School Breakfast Program reflect the most recent Dietary Guidelines for Americans (DGAs). The DGAs are the federal government’s evidence-based nutritional guidance to promote health, reduce the risk of chronic diseases, and reduce the prevalence of overweight and obesity through improved nutrition and physical activity.

The Department of Agriculture (USDA) published a proposed rule on January 13, 2011 (76 FR 2494), to align the school meal patterns and nutrition standards with the 2005 DGAs, the most current at the time of publication. On January 31, 2011, USDA and the Department of Health and Human Services released the 2010 DGA recommendations. The 2010 DGAs recommendations contain two changes from the 2005 recommendations which could affect the proposed school meal patterns.

The 2010 DGAs include a new Red-Orange vegetable subgroup, while the proposed meal patterns include an Orange vegetable subgroup and group the Red vegetables under the category of Other vegetables (consistent with the 2005 DGAs). However, the proposed meal patterns do reflect the emphasis on consuming a variety of vegetables, which is a key recommendation of the 2005 and 2010 DGAs. Consuming a variety of vegetables provides children with a number of nutrients that are under consumed in the United States, including dietary fiber, folate, magnesium, potassium, and vitamins A, C, and K.

The 2010 DGAs also advise consuming protein from a variety of sources, and recommend weekly amounts from three Protein foods (formerly Lean meat and beans) subgroups: (1) Seafood; (2) meat, poultry, and eggs; and (3) nuts, seeds, and soy products. The proposed meal patterns contain weekly and daily amounts of meats/meat alternates, but do not specify amounts for subgroups introduced by the 2010 DGAs. Consumption of a balanced variety of protein foods can contribute to improved nutrient intake and health benefits.

Therefore, this document requests the public to:

1. Consider the impact of the new Red-Orange vegetable subgroup and the new protein foods subgroups on the proposed school meal patterns.

2. Evaluate the need to revise the proposed meal patterns to reflect the new vegetable subgroup and protein foods subgroups, and

3. Address how the new vegetable subgroup and protein foods subgroups may be incorporated into the proposed meal patterns in a sound and practical manner.

Individuals wishing to address the effect of these changes, or any other issues, on the proposed rule “Nutrition Standards in the National School Lunch and School Breakfast Programs” (76 FR 2494), may submit their comments when providing comments on the above-referenced proposed rule.

Dated: March 14, 2011.

Julia Paradis,

Administrator, Food and Nutrition Service.

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BILLING CODE 3410–30–P
Copies of the PRA and the risk management document, we are proposing to allow the importation of fresh baby kiwi from Chile into the continental United States, subject to a systems approach. Under a systems approach, a set of phytosanitary conditions, at least two of which have an independent effect in mitigating the pest risk associated with the movement of commodities, is specified, whereby fruits and vegetables may be imported into the United States from countries that are not free of certain plant pests. The systems approach for fresh baby kiwi from Chile would require the fruit to be grown in a place of production that is registered with the NPPO of Chile. The fruit would have to undergo pre-harvest sampling at the registered production site under the direction of the NPPO of Chile and, once harvested, placed in field cartons or containers marked to allow for traceback to the production site.

Between 1 and 30 days prior to harvest, random samples of fruit would have to be collected from each registered production site under the direction of the NPPO of Chile. These samples would have to undergo a pest detection and evaluation method as follows: The fruit would have to be washed using a flushing method, placed in a 200-mesh sieve, sprinkled with a liquid soap and water solution, washed with water at high pressure, and washed with water at low pressure. The process would then be repeated. The contents of the 200-mesh sieve would then be placed on a petri dish and analyzed for the presence of live B. chilensis mites. If a single live B. chilensis mite were found, the production site would not qualify for certification as a low-prevalence production site. Each production site would have only one opportunity per season to qualify as a low-prevalence production site, and certification of low prevalence would be valid for one harvest season only. The NPPO of Chile would be required to present a list of certified production sites to APHIS. Production site low-prevalence certification would identify problem production sites and prevent the shipment of fruit with B. chilensis mites from such sites. This mite sampling method has been tested in Chile and found to be successful in identifying the grape and citrus production areas with high and low populations of mites.

Post-Harvest Processing

After harvest, all damaged or diseased fruits would have to be culled at the packinghouse, and the remaining fruit would have to be packed into new, clean boxes, crates, or other APHIS-approved packing containers. Each container would have to have a label identifying the registered production site where the fruit originated and the packing shed where it was packed.
Post-harvest processing procedures, such as culling damaged fruit and sampling for mites, would remove fruit that could contain pests from consignments being shipped to the United States. Culling is a standard procedure to produce quality fruit without pests. Labeling of containers to identify both production site and packing shed would aid in traceback.

**Phytosanitary Inspection**

The fruit would have to be inspected in Chile at an APHIS-approved inspection site under the direction of APHIS inspectors in coordination with the NPPO of Chile following any post-harvest processing. A biometric sample would have to be drawn from each consignment. In order to be eligible for shipment to the continental United States, the fruit in the consignment would have to pass inspection by meeting the following requirements:

- Fruit presented for inspection would have to be identified in the shipping documents accompanying each lot of fruit to specify the production site(s) where the fruit was produced and the packing shed(s) where the fruit was processed. This identification would have to be maintained until the fruit is released for entry into the United States.
- The biometric sample, referred to above, of the boxes, crates, or other APHIS-approved packing containers from each consignment would be selected by the NPPO of Chile, and the fruit from these boxes, crates, or other APHIS-approved packing containers would be visually inspected for quarantine pests. A portion of the fruit would have to be washed with soapy water and the collected filtrate microscopically examined for *B. chilensis*. If a single live *B. chilensis* mite were found during the inspection process, the certified low-prevalence production site where the fruit was grown would lose its certification.

The proposed requirements for the identification in shipping documents of the baby kiwi to their production sites and packing sheds would aid in traceback if pests were found. The proposed requirements for visual inspection and biometric sampling of the fruit would provide additional layers of protection against the possibility of baby kiwi infested with quarantine pests being shipped from Chile to the United States. These methods have proved effective when employed to inspect consignments of citrus from Chile.

**Phytosanitary Certificate**

Each consignment of fruit would have to be accompanied by a phytosanitary certificate issued by the NPPO of Chile that contains an additional declaration stating that the fruit in the consignment was inspected and found free of *B. chilensis* based on field and packinghouse inspections.

Requiring a phytosanitary certificate would ensure that the NPPO of Chile has inspected the fruit and certified that the fruit meets the conditions for export to the United States.

**Executive Order 12866 and Regulatory Flexibility Act**

This proposed rule has been determined to be not significant for the purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget.

In accordance with the Regulatory Flexibility Act, we have analyzed the potential economic effects of this action on small entities. The analysis is summarized below. Copies of the full analysis are available by contacting the person listed under FOR FURTHER INFORMATION CONTACT or on the Regulations.gov Web site (see ADDRESSES above for instructions for accessing Regulations.gov).

This proposed rule would allow the importation into the continental United States of baby kiwi fruit from Chile, subject to a systems approach. The systems approach would provide an alternative to fumigation with methyl bromide of baby kiwi imported from Chile into the continental United States.

Domestic growers of fresh baby kiwi fruit are the entities that could be affected by this proposed rule. The currently available information indicates that almost all U.S. growers of baby kiwi fruit are small in size, by the standards of the Small Business Administration.

The impact of fresh baby kiwi fruit imports from Chile is expected to be minimal for domestic producers due to timing differences (baby kiwi would likely be imported from Chile during the off-season for U.S. producers) and the small quantity expected to be imported. Therefore, we do not expect the proposed rule to have any significant impact on U.S. baby kiwi fruit growers, regardless of the size of operation.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action would not have a significant economic impact on a substantial number of small entities.

**Executive Order 12998**

This proposed rule would allow fresh baby kiwi to be imported into the continental United States from Chile, subject to a systems approach. If this proposed rule is adopted, State and local laws and regulations regarding fresh baby kiwi imported under this rule would be preempted while the fruit is in foreign commerce. Fresh baby kiwi are generally imported for immediate distribution and sale to the consuming public and would remain in foreign commerce until sold to the ultimate consumer. The question of when foreign commerce ceases in other cases must be addressed on a case-by-case basis. If this proposed rule is adopted, no retroactive effect will be given to this rule, and this rule will not require administrative proceedings before parties may file suit in court challenging this rule.

**Paperwork Reduction Act**

In accordance with section 3507(d) of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.), the information collection or recordkeeping requirements included in this proposed rule have been submitted for approval to the Office of Management and Budget (OMB). Please send written comments to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for APHIS, Washington, DC 20503. Please state that your comments are generally imported for immediate distribution and sale to the consuming public and would remain in foreign commerce until sold to the ultimate consumer. The question of when foreign commerce ceases in other cases must be addressed on a case-by-case basis. If this proposed rule is adopted, no retroactive effect will be given to this rule, and this rule will not require administrative proceedings before parties may file suit in court challenging this rule.

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This proposed rule would allow the importation into the continental United States of baby kiwi fruit from Chile, subject to a systems approach. For the systems approach to work effectively, certain information-collection activities must be performed. These activities include the registration of production sites with the NPPO of Chile, the post-harvest labeling of containers so that the fruit can be identified back to the registered production site, and the completion of phytosanitary certificates.

We are soliciting comments from the public (as well as affected agencies) concerning our proposed information collection and recordkeeping requirements. These comments will help us:
(1) Evaluate whether the proposed information collection is necessary for the proper performance of our agency’s functions, including whether the information will have practical utility; (2) Evaluate the accuracy of our estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the information collection on those who are to respond (such as through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology; e.g., permitting electronic submission of responses).

Estimate of burden: Public reporting burden for this collection of information is estimated to average 0.253434 hours per response.

Respondents: Kiwi fruit production sites, packinghouses, and the NPPO of Chile.

Estimated annual number of respondents: 4.
Estimated annual number of responses per respondent: 91.
Estimated annual number of responses: 364.
Estimated total annual burden on respondents: 92.25 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

Copies of this information collection can be obtained from Mrs. Celeste Sickles, APHIS’ Information Collection Coordinator, at (301) 851–2908.

E-Government Act Compliance

The Animal and Plant Health Inspection Service is committed to compliance with the E-Government Act to promote the use of the Internet and other information technologies, to provide increased opportunities for citizen access to Government information and services, and for other purposes. For information pertinent to E-Government Act compliance related to this proposed rule, please contact Mrs. Celeste Sickles, APHIS’ Information Collection Coordinator, at (301) 851–2908.

List of Subjects in 7 CFR Part 319

Coffee, Cotton, Fruits, Imports, Logs, Nursery stock, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Rice, Vegetables.

Accordingly, we propose to amend 7 CFR part 319 as follows:

PART 319—FOREIGN QUARANTINE NOTICES

1. The authority citation for part 319 continues to read as follows:

2. A new § 319.56–51 is added to read as follows:
§ 319.56–51 Fresh baby kiwi from Chile.

Fresh baby kiwi (Actinidia arguta) may be imported into the continental United States from Chile under the following conditions:

(a) Production site registration. The production site where the fruit is grown must be registered with the national plant protection organization (NPPO) of Chile. Harvested baby kiwi must be placed in field cartons or containers that are marked to show the official registration number of the production site. Registration must be renewed annually.

(b) Low-prevalence production site certification. The fruit must originate from a low-prevalence production site to be imported under the conditions in this section. Between 1 and 30 days prior to harvest, random samples of fruit must be collected from each registered production site under the direction of the NPPO of Chile. These samples must undergo a pest detection and evaluation method as follows: The fruit must be washed using a flushing method, placed in a 20-mesh sieve on top of a 200-mesh sieve, sprinkled with a liquid soap and water solution, washed with water at high pressure, and washed with water at low pressure. The process must then be repeated. The contents of the 200-mesh sieve must then be placed on a petri dish and analyzed for the presence of live Brevipalpus chilensis mites. If a single live B. chilensis mite is found during the inspection process, the certified low-prevalence production site where the fruit was grown will lose its certification.

(c) Post-harvest processing. After harvest, all damaged or diseased fruits must be culled at the packinghouse and must be packed into new, clean boxes, crates, or other APHIS-approved packing containers. Each container must have a label identifying the registered production site where the fruit originated and the packing shed where it was packed.

(d) Phytosanitary inspection. Fruit must be inspected in Chile at an APHIS-approved inspection site under the direction of APHIS inspectors in coordination with the NPPO of Chile following any post-harvest processing. A biometric sample must be drawn and examined from each consignment. Baby kiwi in any consignment may be shipped to the continental United States under the conditions of this section only if the consignment passes inspection as follows:

(1) Fruit presented for inspection must be identified in the shipping documents accompanying each lot of fruit to specify the production site or sites in which the fruit was produced and the packing shed or sheds in which the fruit was processed. This identification must be maintained until the fruit is released for entry into the United States.

(2) A biometric sample of the boxes, crates, or other APHIS-approved packing containers from each consignment will be selected by the NPPO of Chile, and the fruit from these boxes, crates, or other APHIS-approved packing containers will be visually inspected for quarantine pests. A portion of the fruit must be washed with soapy water and the collected filtrate must be microscopically examined for B. chilensis. If a single live B. chilensis mite is found during the inspection process, the certified low-prevalence production site where the fruit was grown will lose its certification.

(e) Phytosanitary certificate. Each consignment of fresh baby kiwi must be accompanied by a phytosanitary certificate issued by the NPPO of Chile that contains an additional declaration stating that the fruit in the consignment was inspected and found free of Brevipalpus chilensis based on field and packinghouse inspections.

Done in Washington, DC, this 15th day of March 2011.

Kevin Shea,
Acting Administrator, Animal and Plant Health Inspection Service.

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BILLING CODE 3410–34–P