

about plate waste. For the most part, however, commenters discussed increasing or decreasing specific food components. Approximately 1,000 commenters recommended increasing the amounts of fruits and vegetables, and another 500 wanted more breads and grain products. On the other hand, approximately 400 commenters recommended using either lower fat meats or meat substitutes such as soy, while over 1,200 opposed the milk requirement.

The Department appreciates commenters' concerns. The Department agrees that it is important for children to receive plenty of fruits and vegetables as well as grain products. Although there are no component or quantity requirements under NuMenus and Assisted NuMenus, the Department believes that menu planners will use more of these food groups since they are prime sources of low-fat, nutrient-dense foods needed to meet the recommendations of the Dietary Guidelines. The Department's January 27, 1995, proposal did, in fact, significantly increase the quantity requirements for both fruits/vegetables and grains/breads. In addition, the Department believes that the nutrition standards established for school meals will ensure that a wide variety and ample amount of these items will be served.

With respect to meats, the Department reiterates that it is important to obtain essential nutrients from a variety of foods. The Department agrees that foods, particularly those high in fat, must be eaten in moderation, but the Department does not share the view that any given foods are necessarily "good" or "bad." For this reason, the January 27, 1995, proposal retained the quantity requirements for meats/meat alternates currently in effect, and the Department does not plan to limit or eliminate items from this food group in any future rulemakings. It is also important to note that meat is a significant source of iron, a nutrient that was not adequately met for some participants in the school meal programs reviewed in the 1993 SNDA study. As one final note, the Department is aware that yogurt can be a useful meat alternate, and the Department is considering a future action which would allow meal planners to substitute yogurt for meat.

The Department also appreciates commenters' suggestions to eliminate the whole milk requirement or permit alternatives to milk. The requirement that schools offer fluid milk as part of a reimbursable lunch is statutory (42 U.S.C. 1758(a)(2)(A)(i)). The Department notes, however, that section 107 of Pub.

L. 103-448 did modify this requirement. In the past, schools were required to offer fluid whole milk and fluid unflavored low-fat milk. Schools now are required to offer a variety of fluid milk consistent with children's preferences in the prior year. Schools also may cease offering any variety which constituted less than one percent of the total milk consumed in the prior year (42 U.S.C. 1758(a)(2)(A)(ii)). Therefore, while schools must still make milk available as part of all reimbursable lunches, they will have somewhat more flexibility than in the past to reflect their children's changing preferences. This provision is found at § 210.10(l)(1).

NuMenus and Assisted NuMenus for Meals Served Under the Child and Adult Care Food Program and the Summer Food Service Program

A few commenters recommended that schools using NuMenus or Assisted NuMenus should be allowed to use these systems when the school is providing meals under the Child and Adult Care Food Program (CACFP) or the Summer Food Service Program (SFSP). Otherwise, the school food service could be placed in the position of following multiple sets of meal requirements. The Department agrees that schools should be able to use the same menu planning system for all meals it prepares and serves. Moreover, once the analysis has been properly completed and appropriate adjustments made, meals served under NuMenus or Assisted NuMenus will generally be more healthful and nutritious than meals planned and prepared under the old meal patterns. Therefore, although NuMenus and Assisted NuMenus has not yet been proposed for the CACFP or the SFSP, the Department is providing in this final rule (§ 210.10 (i)(12) and (j)(7); § 220.8 (e)(12) and (f)(7)) that schools, with State agency approval, may use, in addition to the food-based menu planning systems, nutrient analysis for all of the meal programs receiving USDA reimbursement that they operate. These exceptions are consistent with the current requirements in the regulations governing the CACFP and the SFSP. The Department emphasizes, however, that schools would still be required to follow the existing meal patterns for snacks and for meals served to children under two years of age.

Implementation Schedules

The June 10, 1994, proposal would have required all schools to comply with the Dietary Guidelines and nutrition standards established by that

proposal by School Year 1998. Over 750 commenters agreed with the proposed implementation schedule, although 40 commenters believed implementation should be sooner. Over 200 commenters, however, believed that School Year 1998 would be too early for full implementation or requested that waivers be authorized for schools unable to comply. Subsequently, Congress amended the NSLA to require that school meals comply with the Dietary Guidelines by School Year 1996/97, unless a waiver not to exceed two years is authorized by the State agency. This provision (42 U.S.C. 1758 (f)(2)) affirms the importance of having school meals that comply with the best scientific research regarding nutrition, and the Department appreciates Congressional support on this issue. Therefore, this final regulation, at § 210.10(o) and § 220.8(m), will require implementation by School Year 1996, although State agencies may authorize schools to delay implementation on a case by case basis until a later date, but not later than School Year 1998/1999. This provision of the law will accommodate schools that have training or resource needs that require delayed implementation. However, State agencies and school food authorities may implement the provisions in this rule, such as the streamlining/paperwork reduction provisions including the extension of the CRE review period, prior to that date. Nonetheless, while the revised menu planning alternatives may be implemented early, they must be implemented in their entirety.

List of Subjects

7 CFR Part 210

Children, Commodity School Program, Food assistance programs, Grants programs-social programs, National School Lunch Program, Nutrition, Reporting and recordkeeping requirements, Surplus agricultural commodities.

7 CFR Part 220

Children, Food assistance programs, Grant programs-social programs, Nutrition, Reporting and recordkeeping requirements, School Breakfast Program.

Accordingly, 7 CFR Parts 210 and 220 are amended as follows:

PART 210—NATIONAL SCHOOL LUNCH PROGRAM

1. The authority citation for 7 CFR Part 210 continues to read as follows:

Authority: 42 U.S.C. 1751-1760, 1779.

2. In § 210.2: