



Tracy A. Fox, MPH, RD
President, Food, Nutrition & Policy Consultants, LLC

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Memorandum

To: Tracy Fox, MPH, RD
From: Courtney Puidk, MSN, FNPC Intern
Re: Upcoming Regulations
Date: June 18, 2014

The Semiannual Regulatory Agenda, compiled by the Regulatory Information Service Center, Office of Management and Budget, describes the regulatory actions that are under development or recently completed for each U.S. Government Agency. Below is a summary of 13 upcoming key regulations covering a host of issues ranging from nutrition, obesity prevention, menu labeling, local wellness policies and nutrition facts labels based on a scan of the recently published (Spring 2014) Semiannual Regulatory Agenda. The pertinent regulatory actions are listed for the U.S. Department of Agriculture first and the U.S. Department of Health and Human Services second. Within each government agency, the regulatory actions are listed in order of the anticipated publication date.

The list includes regulations that agencies expect to publish in the next six months. It is important to note that the dates provided are subject to change and agencies rarely meet estimated deadlines. Furthermore, there is no “penalty” for not meeting estimated deadlines. For example, the final rules on menu and vending labeling (item #'s 10 and 11 listed below) were initially scheduled to be published in 2012 but continue to be delayed. On the other hand, agencies often choose a date that provides them cushion so some regulations may come out sooner than the date indicated.

Link to the searchable regulatory agenda: <http://www.reginfo.gov/public/do/eAgendaMain>

U.S. Department of Agriculture, Food and Nutrition Service

1.

Title: Child Nutrition Programs: Local School Wellness Policy Implementation Under the Healthy, Hunger-Free Kids Act of 2010 (0584-AE25)

Proposed rule stage

Summary: This proposed rule would codify a provision of the Healthy, Hunger-Free Kids Act (Pub. L. 111-296; the Act) under 7 CFR parts 210 and 220. Section 204 of the Act requires each local educational agency (LEA) to establish, for all schools under its jurisdiction, a local school wellness policy. The Act requires that the wellness policy include goals for nutrition, nutrition education, physical activity, and other school-based activities that promote student wellness. In addition, the Act requires that local educational agencies ensure stakeholder participation in development of their local school wellness policies, and periodically assess compliance with the policies, and disclose information about the policies to the public.

Costs: Not listed in Register

Dates: NPRM 02/26/2014

NPRM comment Period End 04/28/2014

Next action undetermined: to be determined

More Information:

<http://www.reginfo.gov/public/do/eAgendaViewRule?pubId=201404&RIN=0584-AE25>

2.

Title: Child and Adult Care Food Program: Meal Pattern Revisions Related to the Healthy, Hunger-Free Kids Act of 2010 (0584-AE18)

Proposed rule stage

Summary: This proposal would implement section 221 of the Healthy, Hunger-Free Kids Act of 2010, requiring USDA to review and update, no less frequently than once every 10 years, requirements for meals served under the Child and Adult Care Food Program (CACFP) to ensure that meals are consistent with the most recent Dietary Guidelines for Americans and relevant nutrition science.

Costs: Not listed in Register

Dates: NPRM: 07/2014

NPRM Comment Period End: 10/2014

More information:

<http://www.reginfo.gov/public/do/eAgendaViewRule?pubId=201404&RIN=0584-AE18>

3.

Title: Implementing Provisions From the Child Nutrition and WIC Reauthorization Act of 2004: Seamless Summer Option for Schools Participating in the National School Lunch Program (0584-AD70)

Final Rule Stage

Summary: This interim final rule will amend 7 CFR parts 210 and 220 to codify section 116 of the Child Nutrition and WIC Reauthorization Act of 2004 (Pub. L. 108-265) amending section 13(a) of the Richard B. Russell National School Lunch Act (NSLA) to authorize a Seamless Summer Option for public or private nonprofit school food authorities to participate in the National School Lunch Program (NSLP) and School Breakfast Program (SBP).

Costs: Not listed in register

Dates: Interim Final Rule 05/2014

Interim Final Rule Comment Period End 07/2014

More Information:

<http://www.reginfo.gov/public/do/eAgendaViewRule?pubId=201404&RIN=0584-AD70>

4.

Title: Supplemental Nutrition Assistance Program: Nutrition Education and Obesity Prevention Grant (0584-AE07)

Final Rule Stage

Summary: Section 241 of the Healthy, Hunger-Free Kids Act of 2010 amends the Food and Nutrition Act of 2008 to authorize grants to States for a nutrition education and obesity prevention program that promotes healthy food choices consistent with the most recent Dietary Guidelines for Americans.

Costs: Not listed in Register

Date: Interim Final Rule 04/05/2013

Interim Final Rule Comment Period End 06/04/2013

Final Action 05/2014

More information:

<http://www.reginfo.gov/public/do/eAgendaViewRule?pubId=201404&RIN=0584-AE07>

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5.

Title: Child Nutrition Programs: Professional Standards for School Food Service and State Child Nutrition Program Directors as Required By the Healthy, Hunger-Free Kids Act of 2010 (0584-AE19)

Final Rule Stage

Summary: This proposed rule would codify section 306 of the Healthy, Hunger-Free Kids Act (Pub. L. 111-296; the Act) under 7 CFR parts 210 and 220 which requires the Secretary to establish a program of required education, training, and certification for all school food service directors responsible for the management of a school food authority; and criteria and standards for States to use in the selection of State agency directors with responsibility for the school lunch program and the school breakfast program.

Costs: Not listed in Register

Dates: NPRM 02/04/2014

NPRM Comment period end 04/07/2014

Final Action 01/2015

More information:

<http://www.reginfo.gov/public/do/eAgendaViewRule?pubId=201404&RIN=0584-AE19>

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6.

Title: Enhancing Retailer Eligibility Standards in SNAP (0584-AE27)

Proposed Rule Stage

Summary: Sections 3(k), (p) and (r), Section 7, and Section 9 of the Food and Nutrition Act and Title 7 Parts 271, 274, and 278 of the Code of Federal Regulations provide factors for determining the eligibility of retail food stores to participate in the Supplemental Nutrition Assistance Program ("SNAP"). The Food and Nutrition Service (FNS) has published a notice requesting information from any and all interested parties on opportunities to enhance retailer definitions and requirements in a manner that improves access to healthy food choices for SNAP participants as well as program integrity, and ensures that only those retailers that effectuate the purpose of SNAP are authorized to accept benefits. FNS is requesting information to understand what policy changes and, as needed, statutory changes, should be considered for retailer authorizations. FNS will use this information in determining how to make positive progress in the available healthy choices for program participants at authorized SNAP retail stores. FNS will propose revisions to existing regulations following this process of gathering stakeholder input

Costs: Not listed in register

Dates: NPRM 08/2014

NPRM Comment Period End 10/2014

More Information:

<http://www.reginfo.gov/public/do/eAgendaViewRule?pubId=201404&RIN=0584-AE27>

7.

Title: Supplemental Nutrition Assistance Program: Farm Bill of 2008 Retailer Sanctions_(0584-AD88)

Final Rule Stage

Summary: This final rule would implement provisions under section 4132 of the Food, Conservation, and Energy Act of 2008, giving the Department of Agriculture's Food and Nutrition Service (FNS) the authority to assess a civil

penalty and to disqualify a retail or wholesale food store authorized to participate in SNAP

Costs: Not listed in register

Dates: NPRM 08/2012

NPRM Comment Period End 10/2012

Final action 07/2014

Note: This RIN replaces the previously issued RIN 0584-AD78

More Information:

<http://www.reginfo.gov/public/do/eAgendaViewRule?pubId=201404&RIN=0584-AD88>

8.

Title: Fresh Fruit and Vegetable Program (0584-AD96)

Final Rule Stage

Summary: The Food, Conservation, and Energy Act of 2008 amended the National School Lunch Act (NSLA) to add section 19, the Fresh Fruit and Vegetable Program (FFVP). Section 19 establishes the FFVP as a permanent national program in a select number of schools in each State, the District of Columbia, Guam, Puerto Rico, and the Virgin Islands. Schools in all States must apply annually in order to receive FFVP funding. This rule would implement statutory requirements currently established through program policy and guidance for operators at the State and local level.

Costs: Not listed in register

Dates: NPRM 02/24/2012

NPRM Comment Period End 04/24/2012

Final Action 08/2014

More Information:

<http://www.reginfo.gov/public/do/eAgendaViewRule?pubId=201404&RIN=0584-AD96>

9.

Title: Supplemental Nutrition Assistance Program: 2008 Farm Bill Provisions on Clarification of Split Issuance; Accrual of Benefits, Interchange Fees, and Definition Updates (0584-AE02)

Proposed Rule Stage

Summary: This rulemaking will propose to implement sections 4113 (Split Issuance), 4114 (Accrual of Benefits), and part of 4115 (Interchange Fees) of the 2008 Farm Bill, which pertain to Supplemental Nutrition Assistance Program (SNAP) benefit issuance and redemption. The provisions of section 4115 to deobligate coupons and make Electronic Benefit Transfer cards the sole method of benefit delivery will be addressed in a separate rulemaking.

Costs: Not listed in Register

Dates: NPRM 07/2014

NPRM Comment Period End 09/2014

More Information:

<http://www.reginfo.gov/public/do/eAgendaViewRule?pubId=201404&RIN=0584-AE02>

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U.S. Department of Health and Human Services, Food and Drug Administration

10.

Title: Food Labeling: Nutrition Labeling of Standard Menu Items in Restaurants and Similar Retail Food Establishments (0910-AG57)

Final Rule Stage

Summary: The Food and Drug Administration (FDA) published a proposed rule in the Federal Register to establish requirements for nutrition labeling of standard menu items in chain restaurants and similar retail food establishments. FDA also proposed the terms and conditions for restaurants and similar retail food establishments registering to voluntarily be subject to the Federal requirements.

Costs: FDA estimates that the total cost of complying with section 4205 of the Affordable Care Act and this rulemaking will be approximately \$80 million, annualized over 10 years, with a low annualized estimate of approximately \$33 million and a high annualized estimate of approximately \$125 million over 10 years. These costs include an initial cost of approximately \$320 million with an annually recurring cost of \$45 million.

Date: NPRM 04/06/2011

NPRM Comment Period End 05/07/2011

Final Action 06/2014

More Information:

<http://www.reginfo.gov/public/do/eAgendaViewRule?pubId=201404&RIN=0910-AG57>

11.

Title: Food Labeling: Nutrition Labeling for Food Sold in Vending Machines (0910–AG56)

Final Rule Stage

Summary: The Food and Drug Administration (FDA) published a proposed rule to establish requirements for nutrition labeling of certain food items sold in certain vending machines. FDA also proposed the terms and conditions for vending machine operators registering to voluntarily be subject to the requirements.

Costs: Any vending machine operator operating fewer than 20 machines may voluntarily choose to be covered by the national standard. It is anticipated that vending machine operators that own or operate 20 or more vending machines will bear costs associated with adding calorie information to vending machines. FDA estimates that the total cost of complying with section 4205 of the Affordable Care Act and this rulemaking will be approximately \$25.8 million initially, with a recurring cost of approximately \$24 million.

Date: NPRM 04/06/2011

NPRM Comment Period End 07/05/2011

Final Action 06/2014

More Information:

<http://www.reginfo.gov/public/do/eAgendaViewRule?pubId=201404&RIN=0910-AG56>

12.

Title: Food Labeling; Revision of the Nutrition and Supplement Facts Labels (0910–AF22)

Proposed rule stage

Summary: FDA is proposing to amend the labeling regulations for conventional foods and dietary supplements to provide updated nutrition information on the label to assist consumers in maintaining healthy dietary practices. If finalized, this rule will modernize the nutrition information found on the Nutrition Facts label, as well as the format and appearance of the label.

Costs: Not listed in Register

Date: ANPRM 07/11/2003

ANPRM Comment Period End 10/09/2003

2nd ANPRM 04/04/2005

2nd ANPRM Comment Period End 06/20/2005

3rd ANPRM 11/02/2007

3rd ANPRM Comment Period End 1/31/2008

NPRM 03/03/2014

NPRM Comment Period End 06/02/2014

Note: Comment period extended to 8/01/14:

<http://www.fda.gov/Food/NewsEvents/ConstituentUpdates/ucm398174.htm>

Note: Includes Retrospective Review under E.O. 13563.

More Information: <http://www.reginfo.gov/public/do/eAgendaViewRule?pubId=201404&RIN=0910-AF22>

13.

Title: Food Labeling: Serving Sizes of Foods That Can Reasonably Be Consumed in One Eating Occasion; Dual Column Labeling; and Modifying the Reference Amounts Customarily Consumed (0910–AF23)

Proposed rule stage

Summary: FDA is proposing to amend its labeling regulations for foods to provide updated Reference Amounts Customarily Consumed (RACCs) for certain food categories. If finalized, this rule would provide consumers with nutrition information based on the amount of food that is customarily consumed, which would assist consumers in maintaining healthy dietary practices. In addition to updating certain RACCs, FDA is also considering amending the definition of single-serving containers and providing for dual column labeling, which would provide nutrition information per serving and per container, for certain containers.

Costs: Not listed in Register

Date: NPRM 03/03/2014

NPRM comment period end 06/02/2014

Note: Comment period extended to 8/01/14:

<http://www.fda.gov/Food/NewsEvents/ConstituentUpdates/ucm398174.htm>

More Information:

<http://www.reginfo.gov/public/do/eAgendaViewRule?pubId=201404&RIN=0910-AF23>

1214 Constitution Ave. NE, Washington, DC 20002· cell: 301-922-3570

@TracyFoxRD

tracy@foodnutritionpolicy.com

www.foodnutritionpolicy.com