Requirements for Competitive Foods in Non-HFC Public Schools

This document summarizes the federal and state laws for selling and giving competitive foods to students in Connecticut public schools that participate in the U.S. Department of Agriculture's (USDA) National School Lunch Program (NSLP) and choose not to implement the healthy food option of Healthy Food Certification (HFC) under Section 10-215f of the Connecticut General Statutes (C.G.S.). Connecticut public schools include all local and regional school districts, the regional educational service centers, the Connecticut Technical Education and Career System (CTECS), charter schools, interdistrict magnet schools, and endowed academies.

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Definition of Competitive Foods

Competitive foods include all foods and beverages available for sale to students on school premises separately from reimbursable meals served through the USDA's Child Nutrition Programs (CNPs). Under Section 10-215b-1 of the Regulations of Connecticut State Agencies, competitive foods also include certain foods and beverages that are given to students while CNPs are operating.

Overview of Federal and State Laws

All foods and beverages available for sale to students separately from reimbursable meals on school premises during the school day must comply with the USDA's Smart Snacks nutrition standards. In addition, all beverages available for sale to students on school premises (as part of and separately from reimbursable meals and ASP snacks) must comply with the state beverage statute (C.G.S. Section 10-221q).

In addition to the nutrition standards for foods and beverages, non-HFC public schools must also comply with the federal and state laws for:

- **restrictions for selling and giving foods and beverages to students**, including the state statute requiring the sale of nutritious and low-fat foods (C.G.S. Section 10-221p); the state regulation that restricts selling and giving candy, coffee, tea, and soft drinks to students (Section 10-215b-1 of the Regulations of Connecticut State Agencies); and the local educational agency's (LEA) school wellness policy, as required by the USDA final rule, *National School Lunch Program and School Breakfast Program: Nutrition Standards for All Foods Sold in School as Required by the HHFKA of 2010*; and

- **accrual of income from selling foods and beverages to students**, including the state regulation that restricts income accrual (Section 10-215b-23 of the Regulations of Connecticut State Agencies); the USDA's regulation for revenue from nonprogram foods (7 CFR 210.14(f)); and the state statute requiring the right of first refusal for the Connecticut Department of Aging and Disability Services, Bureau of Education and Services for the Blind (ADS-BESB) to place vending machines in public schools (C.G.S. Section 17a-818).

These laws determine what and when foods and beverages may be sold or given to students on school premises, and where the income must accrue.

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The definitions below apply to these requirements.

- "Sales" means the exchange of a determined amount of money or its equivalent (such as tickets, coupons, tokens, and similar items) for foods and beverages. Sales also include programs and activities that charge a fee that includes the cost of foods and beverages provided to students, and activities that suggest a student donation in exchange for foods and beverages. Under Connecticut's statutes and regulations for competitive foods, sales also include tickets and similar items that are given to students (such as food rewards) and can be exchanged for foods and beverages.

- "Giving" means that foods and beverages are provided free of any charge, contribution, or suggested donations; and without the exchange of tickets, coupons, tokens, and similar items to obtain foods and beverages.

- "School premises" include all areas of the property under the jurisdiction of the local or regional board of education, CTECS, or the governing authority district or school.

For guidance on how the federal and state laws apply to different sources of competitive foods in non-HFC public schools, refer to the CSDE's resources, *Requirements for Competitive Foods in Non-HFC Public Schools* and *Summary Chart of Federal and State Requirements for Competitive Foods in Non-HFC Public Schools*. For more information, visit the "Non-HFC Public Schools" section of the CSDE's Competitive Foods in Schools webpage.



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Sources of Competitive Foods

Competitive foods are often available for sale to students from a variety of sources on school premises. Some common examples include a la carte sales (foods sold separately from reimbursable meals) in school cafeterias (refer to the CSDE's resource, *Requirements for Cafeteria A La Carte Foods and Beverages in Non-HFC Public Schools*), culinary programs (refer to the CSDE's resource, *Requirements for Foods and Beverages in Culinary Programs in Non-HFC Public Schools*), fundraisers (refer to the CSDE's resource, *Requirements for Food and Beverage Fundraisers in Non-HFC Schools*), school stores (refer to the CSDE's resource, *Requirements for Foods and Beverages in School Stores in Non-HFC Schools*), and vending machines (refer to the CSDE's resource, *Requirements for Foods and Beverages in Vending Machines in Non-HFC Schools*).

Districts may also have other sources of competitive foods such as:

- a la carte sales in other CNPs, such as the Seamless Summer Option (SSO) of the NSLP and the Summer Food Service Program (SFSP) operated by the board of education (BOE) on school premises (note that a la carte sales are not common in these CNPs);
- adult education programs operated by the BOE (if the food and beverage sales are under the control of the adult education program);
- afterschool programs and activities, e.g., enrichment programs, extracurricular classes, tutoring sessions, and student clubs;
- classroom parties and celebrations;
- clubs, organizations, and similar groups, e.g., booster clubs and parent-teacher organizations;
- family resource centers;
- programs and meetings;
- recipient schools under interschool agreements with a sponsoring NSLP district;
- school celebrations;
- sports competitions, e.g., games, matches, and tournaments;
- summer school programs (e.g., enrichment or exploratory) operated by the BOE;
- vendors on school premises, e.g., food service management companies (FSMCs), food trucks, caterers, online and mobile food delivery companies, and other outside entities that sell foods and beverages to students; and
- any other programs, organizations, and activities that sell or give foods and beverages to students on school premises or charge a fee to cover the cost of foods and beverages provided to students.

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Districts are responsible for ensuring that all sources of competitive foods available for sale to students on school premises comply with the federal and state laws summarized in this document.

When the Laws Apply

The three categories of laws for competitive foods include: 1) nutrition standards for foods and beverages; 2) restrictions for selling and giving foods and beverages to students; and 3) accrual of income from sales of foods and beverages to students. These laws impose different requirements. Where they differ, the stricter requirements apply.

Some laws apply during the school day, while others apply at all times or while Child Nutrition Programs (CNPs) are operating.

- The "school day" is the period from the midnight before to 30 minutes after the end of the official school day. For example, if school ends at 3:00 p.m., the school day is from midnight to 3:30 p.m. Summer school programs operated by the BOE on school premises are part of the regular school day.

- The CNPs include the NSLP, School Breakfast Program (SBP), ASP of the NSLP, Seamless Summer Option (SSO) of the NSLP, Special Milk Program (SMP), Fresh Fruit and Vegetable Program (FFVP), Child and Adult Care Food Program (CACFP) At-risk Afterschool Meals operated in schools, and Summer Food Service Program (SFSP) operated in schools.

The charts below summarize when these laws apply to non-HFC public schools, which foods and beverages they regulate, and whether they apply to selling or giving foods and beverages to students.

Food and beverage orders

In addition to sales of foods and beverages, the state statutes and competitive foods regulations also apply to student orders for foods and beverages on school premises (such as fundraisers), regardless of when students will receive or consume the foods and beverages. This includes orders for foods that will be distributed later and purchases of frozen or uncooked products (such as frozen pies and cookie dough) and bulk products that contain multiple servings per package (such as boxes of candy bars or cookies and bags of popcorn kernels or gourmet coffee beans).

Requirements for Competitive Foods in Non-HFC Public Schools

Category 1: Nutrition standards for foods and beverages

Category 1 Laws	Applies to	When applies
Federal Law: Smart Snacks Nutrition Standards USDA final rule, National School Lunch Program and School Breakfast Program: Nutrition Standards for All Foods Sold in School as Required by the HHFKA of 2010	**Selling foods and beverages:** All foods and beverages available for sale to students on school premises, separately from reimbursable meals and ASP snacks through the CNPs. **Note:** Effective June 8, 2026, the Smart Snacks beverage standards for milk were updated by the USDA final rule, Expanding Fluid Milk Options in Child Nutrition Programs, to allow unflavored and flavored whole and reduced-fat (2%) milk in addition to the previously allowed low-fat (1%) and fat-free milk. Flavored milk cannot exceed 1.25 grams of added sugars per fluid ounce.	During the school day.
State Law: Beverages C.G.S. Section 10-221q: Sale of beverages	**Selling beverages:** All beverages available for sale to students on school premises as part of and separately from reimbursable meals and ASP snacks (refer to "Allowable Beverages" in this document).	At all times, except for sales that meet the exemption criteria of the state beverage statute (refer to "Beverage Exemptions" in this document). **Note:** The state beverage statute specifically prohibits beverage exemptions for vending machines and school stores. All beverages available for sale to students from vending machines and school stores must always comply with the state beverage statute.

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Category 1 Laws	Applies to	When applies
Federal Law: Fluid Milk Options USDA final rule, Expanding Fluid Milk Options in Child Nutrition Programs	**Selling milk:** All milk available for sale to students on school premises as part of reimbursable meals and ASP snacks through the CNPs. Also applies to the USDA Smart Snacks Nutrition Standards for milk sold as competitive foods (separately from reimbursable meals and ASP snacks) during the school day.	During the CNPs and the school day.
Federal Law: School Wellness Policy USDA final rule, Local School Wellness Policy Implementation Under the HHFKA of 2010	**Selling and giving foods and beverages:** Locally determined nutrition standards and guidelines for all foods and beverages on school premises available for sale to students or provided to students free of charge (refer to "USDA School Wellness Policy (SWP) Requirements" in this document).	During the school day.

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Category 2: Restrictions for selling and giving foods and beverages to students

Category 2 Laws	Applies to	When applies
State Law: Nutritious and Low-fat Foods C.G.S. Section 10-221p: Nutritious and low-fat foods available for sale	**Selling foods:** All sales of foods to students on school premises (refer to "State Statute Requiring Nutritious and Low-fat Foods" in this document). **Note:** This statute does not apply to the cafeteria if the cafeteria does not have a la carte sales.	During the school day.
State Law: Candy, Coffee, Tea, and Soft Drinks Section 10-215b-1 of the Regulations of Connecticut State Agencies: Competitive foods	Selling and giving certain foods and beverages: Selling and giving candy, coffee, tea, and soft drinks to students on school premises while any CNPs are operating (refer to "Section 10-215b-1: Restrictions for candy, coffee, tea, and soft drinks" in this document).	From 30 minutes before up through 30 minutes after the operation of any CNPs, including during and after the school day. **Note:** The Smart Snacks nutrition standards supersede this timeframe for candy because they apply during the school day. The state beverage statute supersedes this timeframe for coffee, tea, and soft drinks because it applies at all times, not just while CNPs are operating.

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Category 3: Income accrual from sales of foods and beverages to students

Category 3 Laws	Applies to	When applies
State Law: Income Accrual Section 10-215b-23 of the Regulations of Connecticut State Agencies: Income from the sale of food items	**Selling foods and beverages:** Accrual of income from all sales of foods and beverages to students on school premises while any CNPs are operating (refer to "Section 10-215b-23: Accrual of income" in this document).	From 30 minutes before up through 30 minutes after the operation of any CNPs, including during and after the school day.
Federal Law: Nonprogram Foods 7 CFR 210.14(f). Revenue from nonprogram foods	Selling foods and beverages from the CNPs: Accrual of income from the sale of nonprogram foods in the CNPs (refer to "USDA Regulation for Revenue from Nonprogram Foods" in this document).	At all times.
State Law: Right of First Refusal for Vending Machines in Public Schools C.G.S. Section 17a-818: Food service facilities and vending stands in public buildings controlled by Department of Aging and Disability Services. Permissible uses of vending machine income	**Selling foods and beverages from vending machines:** Connecticut Department of Aging and Disability Services, Bureau of Education and Services for the Blind (ADS-BESB) right of first refusal to place vending machines in public buildings, including schools (refer to "State Statute for ADS-BESB Right of First Refusal for Vending Machines in Public Schools" in this document).	At all times.

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Allowable Foods

Allowable foods include commercial products and foods made from scratch that meet the following Smart Snacks requirements:

- the food must meet at least one general standard; and
- the serving with its accompaniments (such as butter, cream cheese, salad dressing, and condiments) must meet the specific nutrition standards for the applicable Smart Snacks food category. Some examples of foods with accompaniments include bagels with cream cheese, muffins with butter, french fries with ketchup, pancakes with syrup, tortilla chips with salsa, and chicken nuggets with dipping sauce.

For specific information on the Smart Snacks requirements, refer to the CSDE's resource, *Summary of Smart Snacks Nutrition Standards*, and visit the CSDE's Smart Snacks Nutrition Standards webpage.

Commercial food products

The CSDE's List of Acceptable Foods and Beverages webpage identifies commercial food products that comply with Smart Snacks. Schools may also use the Alliance for a Healthier Generation's Smart Snacks Product Calculator to assess food products for compliance with Smart Snacks. This tool cannot be used to identify allowable beverages because some requirements of the state beverage statute are stricter and supersede Smart Snacks.



Foods made from scratch

The selling entity must evaluate all foods made from scratch for Smart Snacks compliance before they are sold a la carte to students. Foods made from scratch include the two categories below.

- **Category 1: foods prepared from ingredients using a standardized recipe:** Examples include entrees sold only a la carte (i.e., not as part of reimbursable NSLP and SBP meals) such as pizza, chef's salad, lasagna, and sandwiches; soups; cooked grains like rice or pasta with added salt and fat, e.g., oil, margarine, or butter; cooked vegetables with added salt and fat; salad with dressing; fruit smoothies; and baked goods like muffins and cookies.

- **Category 2: commercial foods with ingredients added after purchasing:** Examples include popping popcorn kernels in oil and adding salt; making muffins from a mix and adding butter and eggs; and adding sprinkles to commercial frozen cookie dough.

> Adding ingredients to a commercial product changes its nutrition information per serving. To determine Smart Snacks compliance, these foods require a standardized recipe that indicates the amount of each ingredient and the nutrition information per serving.

The required Smart Snacks documentation for foods made from scratch includes: 1) a standardized recipe with the nutrition information per serving (including any accompaniments served with the food); and 2) documentation indicating that the nutrition information for the standardized recipe's serving with its accompaniments complies with Smart Snacks.

Standardized recipes with nutrition information are not required for entrees that are sold a la carte on the day of service or the day after service in the NSLP or SBP. These entrees are exempt from Smart Snacks and may be sold a la carte during the meal service if they are offered in the same or smaller portion sizes as the NSLP/SBP and include the same accompaniments.

This entree exemption applies only to the three Smart Snacks categories of main dish entree items (refer to the CSDE's resource, *Summary of Smart Snacks Nutrition Standards*). Any other non-entree meal components sold separately from reimbursable meals must comply with Smart

Snacks. For example, french fries that are part of reimbursable meals cannot be sold a la carte unless they meet Smart Snacks.

Steps for evaluating foods made from scratch

The selling entity must complete the steps below to document that a la carte foods made from scratch comply with Smart Snacks. Foods without this documentation cannot be sold to students.

1. **Determine the nutrition information per serving:** Foods made from scratch must have an accurate standardized recipe that indicates the calories, fat, saturated fat, sodium, and sugars per serving, including any accompaniments served with the food. If this nutrition information is missing, the selling entity must conduct a nutrient analysis using a nutrient analysis software program, or a nutrient analysis database and the CSDE's *Connecticut Nutrition Standards Worksheet 9: Nutrient Analysis of Recipes*. For guidance on developing and using standardized recipes, visit the "Standardized Recipes" section of the CSDE's Crediting Documentation for the Child Nutrition Programs webpage.

2. **Verify that the nutrition information per serving complies with Smart Snacks:** Compare the nutrition information for the standardized recipe's serving and its accompaniments with the required nutrition standards for the applicable Smart Snacks food category.

3. **Maintain documentation of Smart Snacks compliance on file:** Maintain each standardized recipe with its documentation of Smart Snacks compliance for the CSDE's Administrative Review of the school nutrition programs. For easy access, the CSDE recommends storing this information electronically in a computer folder. For more information on records retention, refer to the CSDE's resource, *Records Retention Requirements for the School Nutrition Programs*.

For additional guidance on how to evaluate foods made from scratch, refer to the CSDE's resources, *Guidance on Evaluating Recipes for Compliance with the Connecticut Nutrition Standards* and *How to Evaluate Foods Made from Scratch for Compliance with the Connecticut Nutrition Standards*, and visit "Foods Made from Scratch" in the "Evaluating Foods for CNS Compliance" section of the CSDE's CNS webpage. **Note:** These resources are intended for public schools that follow CNS under the state HFC statute. However, the general steps for evaluating if a standardized recipe complies with specific nutrition standards are the same. Non-HFC public schools may use these resources as a guide, substituting the Smart Snacks' requirements for the CNS.

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Allowable Beverages

Allowable beverages comply with the state beverage statute (C.G.S. Section 10-221q) and any stricter Smart Snacks requirements. The state beverage statute applies to all beverages available for sale to students on school premises at all times, including beverages sold as part of and separately from reimbursable meals and ASP snacks. Smart Snacks applies to all beverages sold separately from reimbursable meals to students on school premises during the school day.

Five categories of beverages are allowed for sale to students in public schools: 1) milk; 2) 100 percent juice; 3) nondairy milk substitutes; 4) beverages containing only water and juice; and 5) water. Each category must meet the specific nutrition requirements of the federal and state beverage standards. For information on these requirements, refer to the CSDE's resource, *Allowable Beverages in Connecticut Public Schools*, and visit the CSDE's Beverage Requirements webpage.

> Beverages that do not comply with the state beverage statute (such as juice drinks, soda, coffee, tea, hot chocolate, sports drinks, and sweetened water) cannot be sold to students on school premises unless the sales meet the beverage exemption criteria of the state beverage statute (refer to "Beverage Exemptions" and "Allowable Sales of Noncompliant Foods and Beverages" in this document). The state beverage statute specifically prohibits beverage exemptions for vending machines and school stores.

The CSDE's List of Acceptable Foods and Beverages webpage identifies commercial beverage products that comply with the state beverage statute and Smart Snacks.



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Beverage Exemptions

Beverages that do not comply with the state beverage cannot be sold to students on school premises unless the BOE has voted to allow exemptions and the sales meet the following exemption criteria: 1) the sale is in connection with an event occurring after the end of the regular school day or on the weekend; 2) the sale is at the location of the event; and 3) the beverages are not sold from a vending machine or school store. The definitions below apply to these requirements.

- An "event" is an occurrence that involves more than just a regularly scheduled practice, meeting, or extracurricular activity. Events involve a gathering of people in a social context, such as sports competitions, awards banquets, school concerts, and theatrical productions. For example, soccer games, school plays, and school debates are events, but soccer practices, play rehearsals, and debate team meetings are not.

- "Location" means the same place where the event is being held, such as the gym, soccer field, or auditorium. For example, cupcakes and lemonade may be sold to students on the side of the soccer field during a soccer game but cannot be sold to students in the school cafeteria while a soccer game is played on the soccer field.

The vote to allow beverage exemptions is not part of the annual HFC Statement (Addendum to Agreement for Child Nutrition Programs (ED-099)) that public school sponsors of the NSLP must submit to the CSDE by July 1 of each year. If the district chooses to allow beverage exemptions, the BOE must vote separately. For guidance on beverage exemptions, refer to the CSDE's resource, *Exemptions for Foods and Beverages in Public Schools*.

Strategies to Ensure Compliance

Districts are responsible for developing and implementing procedures to ensure that all sources of competitive foods available for sale to students comply with Smart Snacks and the state beverage statute (refer to "Sources of Competitive Foods" in this document).

- **Commercial products:** The most common noncompliance issues for commercial products include: 1) not verifying that the food or beverage is included on the CSDE's List of Acceptable Foods and Beverages webpage or reviewed using the Alliance for a Healthier Generation's Smart Snacks Product Calculator; and 2) not checking deliveries to ensure that vendors do not substitute noncompliant products.

- **Foods made from scratch:** The most common noncompliance issues for foods made from scratch include missing: 1) not having an accurate standardized recipe that provides the required nutrition information; and 2) not having documentation that the standardized recipe's serving with its accompaniments complies with Smart Snacks.

To prevent these noncompliance issues, school cafeterias must implement the strategies below.

1. **Clearly communicate what foods and beverages are allowed:** Notify all entities that sell foods and beverages to students on school premises what commercial products are allowed, based on the CSDE's List of Acceptable Foods and Beverages webpage or the Alliance for a Healthier Generation's Smart Snacks Product Calculator, and specify that substitutions are not allowed. Examples of people to inform include food service directors and cafeteria staff, culinary programs staff, school store operators, vending machine operators, fundraiser operators, coordinators of school clubs and organizations, and staff from outside entities such as food service management companies and vendors. Provide clear instructions to vendors about allowable foods and beverages and indicate that substitutions are not allowed when an approved product is not available.

2. **Evaluate all commercial products before purchasing:** Before purchasing any commercial products, determine that foods comply with Smart Snacks and beverages comply with the state beverage statute and Smart Snacks. Use the CSDE's List of Acceptable Foods and Beverages webpage or the Alliance for a Healthier Generation's Smart Snacks Product Calculator to verify compliance. Check that the product's information exactly matches the approved product on the CSDE's list, including the manufacturer name, product name, product description (e.g., variety/flavor), serving size, case pack, product code, and nutrition information. **Note:** The Smart Snacks

Product Calculator cannot be used to identify allowable beverages because some requirements of the state beverage statute are stricter and supersede Smart Snacks.

- If the food includes accompaniments, add the nutrition information for the food and its accompaniments together to determine if the product still complies with Smart Snacks. Accompaniments that cause an approved product to exceed the Smart Snacks limits cannot be served with the product.

- Districts may submit products to the CSDE for review using the steps in the CSDE's *Submitting Food and Beverage Products for Approval*.

- Commercial products that are not included on the CSDE's List of Acceptable Foods and Beverages webpage or not verified with the Smart Snacks Product Calculator cannot be sold to students.

3. **Verify vendor assurances of product compliance:** When a food manufacturer, vendor, distributor, or salesperson indicates that a product complies with Smart Snacks, verify that these products are included on the CSDE's List of Acceptable Foods and Beverages webpage or meet the Smart Snacks criteria using the Alliance for a Healthier Generation's Smart Snacks Product Calculator. The CSDE does not review or approve vendor lists of compliant products or vendor statements about compliant products.

4. **Review orders before submitting to vendors:** For each source of competitive foods, designate the school staff responsible for reviewing orders to ensure all foods and beverages comply (refer to strategy 2). Examples include the food service manager who is responsible for reviewing the cafeteria snack orders and the district's fundraiser coordinator who is responsible for using the district's fundraiser approval form to review foods and beverages that will be sold from fundraisers (refer to strategy 7).

5. **Check deliveries when received:** Ordering compliant products does not guarantee they will be delivered. For each source of competitive foods, designate the school staff responsible for checking deliveries to ensure that vendors do not substitute noncompliant products. Examples include a food service employee who checks deliveries of snack foods (such as cookies, chips, and ice cream) for the cafeteria and school staff who check vending machines when they are stocked by an outside vending company (refer to strategy 8).

6. **Identify the steps for handling noncompliant products:** Ensure that all school staff involved with sales of competitive foods understand and follow the steps for handling deliveries of noncompliant foods and beverages. Refuse delivery of all noncompliant products and remind the vendor that substitutions are not allowed. Noncompliant products discovered after an order is delivered must be returned to the vendor.

7. **Evaluate all competitive foods made from scratch before selling to students:** The district's procedures for sales of competitive foods must require prior approval to ensure that all competitive foods made from scratch comply with Smart Snacks (refer to "Foods made from scratch" in this document). These foods cannot be sold to students unless the selling entity has the following documentation on file: 1) an accurate standardized recipe with the nutrition information per serving (including the nutrition information for any accompaniments served with the food); and 2) documentation that the standardized recipe's serving with its accompaniments complies with Smart Snacks.

8. **Develop and implement a fundraiser approval process:** Districts must implement a fundraiser approval process for reviewing fundraisers in advance to determine that they comply with one of the following allowable fundraiser procedures: a) the fundraiser sells compliant foods and beverages to students on school premises and does not occur while any CNPs are operating; b) the fundraiser sells noncompliant foods to students after the school day but not while any CNPs are operating; c) the fundraiser meets the exemption criteria of the state beverage statute and sells noncompliant beverages to students at the location of an event held after the school day or on the weekend, that does not occur while any CNPs are operating (refer to "Beverage Exemptions" in this document); or d) students take orders for noncompliant foods and beverages off school premises and bring the orders and money to school, but do not pick up the foods and beverages on school premises for delivery to customers.

    - The CSDE's *Sample Fundraiser Form for Healthy Food Certification* provides guidance on developing a district fundraiser approval form for HFC that may be modified for Smart Snacks. For detailed guidance on the fundraiser requirements, refer to the CSDE's resource, *Requirements for Food and Beverage Fundraisers in Non-HFC Public Schools*. For guidance on the state restrictions while CNPs are operating, refer to "State Competitive Foods Regulations" in this document.

9. **Monitor vending machines operated by an outside vendor:** Non-HFC public schools are responsible for ensuring that all vending machines sell compliant foods and beverages, regardless of who owns or operates them. Schools must prevent substitutions of noncompliant products by: a) clearly communicating to the vending company what foods and beverages are allowed (refer to strategy 1); b) including language in the vending contract that substitutions are not allowed and that the vending company must train their employees who stock the vending machines on this requirement; c) designating school staff to monitor vending machines when they are stocked (refer to strategy 4); and d) refusing delivery of noncompliant products (refer to strategy 5). Vending machines stocked with noncompliant products must be turned off immediately and cannot operate until the vending company removes these products. For detailed guidance on the requirements for vending machines, refer to the CSDE's resource, *Requirements for Foods and Beverages in Vending Machines in Non-HFC Public Schools*.

10. **Monitor compliance:** Develop local procedures for monitoring Smart Snacks compliance in all schools, including a process for reviewing and approving fundraisers (refer to strategy 8).

Allowable Sales of Noncompliant Foods and Beverages

Noncompliant foods and beverages may be sold to adults (such as school staff and parents) at any time. The state and federal laws for competitive foods apply only to students.

Noncompliant foods may be sold to students after the school day. For example, if school ends at 3:00 p.m., cupcakes and cookies could be sold to students anytime from 3:31 p.m. through 11:59 p.m. If the sales occur while any CNPs are operating, Sections 10-215b-1 and 10-215b-23 of the Regulations of Connecticut State Agencies require additional restrictions (refer to "State Competitive Foods Regulations" in this document).

Noncompliant beverages cannot be sold to students on school premises unless the BOE has voted to allow beverage exemptions, and the sales occur at the location of an event that meets the exemption criteria of the state beverage statutes (refer to "Beverage Exemptions" in this document). If the event occurs while any CNPs are operating, Sections 10-215b-1 and 10-215b-23 of the Regulations of Connecticut State Agencies require additional restrictions (refer to "State Competitive Foods Regulations" in this document).

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USDA School Wellness Policy (SWP) Requirements

The LEA's locally developed SWP may have additional requirements for selling and giving foods and beverages to students. The Child Nutrition and Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) Reauthorization Act of 2004 (Public Law 108-265) required all schools and institutions participating in the NSLP and SBP to develop a SWP by the first day of school year 2006-07. Section 204 of this Act strengthened the SWP law by adding requirements for public participation, transparency, and implementation. These requirements were effective August 29, 2016, under USDA' s final rule, *Local School Wellness Policy Implementation Under the HHFKA of 2010*.

Among other requirements, the LEA's SWP must include nutrition guidelines for all foods and beverages that are available for sale to students, or provided to students free of charge, on school premises during the school day. At a minimum, the LEA's SWP for foods and beverages must meet all applicable federal and state nutrition standards and requirements. For more information on SWPs, visit the CSDE's School Wellness Policies webpage.

State Statute Requiring Nutritious and Low-fat Foods

C.G.S. Section 10-221p requires that whenever foods are available for sale to students during the school day, nutritious and low-fat foods must also be available for sale at the same time, either at the location of the food sales or elsewhere in the school. The statute defines "nutritious and low-fat foods" as low-fat dairy foods (such as low-fat cheese and low-fat or nonfat yogurt) and fresh or dried fruit. Low-fat milk is a beverage and cannot be used to meet the statutory requirement for low-fat foods.

Entities that sell foods to students on school premises during the school day must also sell low-fat dairy foods and fresh or dried fruit unless these foods are available for sale to students elsewhere on school premises at the same time. For sales that consist of preordered foods, the nutritious low-fat foods specified in the statute must be available for sale when students receive the foods, not when students order the foods. For more information on C.G.S. Section 10-221p, refer to section 4 of the CSDE's resource, *Questions and Answers on Connecticut Statutes for School Foods and Beverages*.

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State Competitive Foods Regulations

Sections 10-215b-1 and 10-215b-23 of the Regulations of Connecticut State Agencies restrict selling and giving candy, coffee, tea, and soft drinks to students; and regulate the accrual of income from all foods and beverages sold to students anywhere on school premises. These requirements apply to all entities that sell or give foods and beverages to students when any CNPs are operating, including:

- sales of beverages at events on school premises that meet the exemption criteria of the state beverage statute;
- fee-based programs and activities on school premises that include the cost of foods and beverages provided to students;
- programs and activities on school premises where students can exchange tickets, coupons, tokens, and similar items for foods and beverages (including tickets and similar items that are sold or given to students);
- student orders for foods and beverages from fundraisers on school premises;
- distribution of fundraiser foods and beverages to students on school premises; and
- fundraisers on school premises that offer foods and beverages to students in exchange for a suggested donation.

Sections 10-215b-1 and 10-215b-23 apply regardless of when students will consume the foods and beverages, such as preordered foods and beverages (refer to "Food and beverage orders" in this document).

Section 10-215b-1: Restrictions for candy, coffee, tea, and soft drinks

Section 10-215b-1 of the state competitive foods regulations prohibits selling and giving candy, coffee, tea, and soft drinks to students anywhere on school premises from 30 minutes before up through 30 minutes after the operation of any CNPs.

- "Candy" includes all types of regular and sugar-free varieties, such as chocolates; candy bars; chocolate-covered nuts and fruits; hard candies and lollipops; chewy candies like caramels, taffy, and licorice; jelly candies like gumdrops, gummies, and jelly beans; and breath mints.

- "Coffee" and "tea" include all types, e.g., regular, decaffeinated, herbal and iced.

- "Soft drinks" include all beverages (with or without carbonation) that contain water and/or juice and added sweeteners (including nutritive sweeteners, nonnutritive sweeteners,

and sugar alcohols) and may also contain other ingredients such as edible acids, natural or artificial flavors and colors, and added nutrients. Examples include soda (regular and diet), sports drinks (regular, low-calorie, and zero calorie), sweetened beverages (with or without carbonation) that are not 100 percent juice (such as lemonade and fruit punch drinks), and flavored water with added sweeteners.

Depending on when CNPs operate, Smart Snacks and the state beverage statute may supersede Section 10-215b-1, or Section 10-215b-1 may supersede Smart Snacks and the state beverage statute. These requirements are summarized below.

- **Selling candy:** Smart Snacks prohibits selling candy to students on school premises during the school day. In addition, Section 10-215b-1 prohibits selling candy to students anywhere on school premises from 30 minutes before up through 30 minutes after the operation of any CNPs, including during and after the school day.
    - **Example:** The ASP operates from 3:30 p.m. to 4:30 p.m. Candy cannot be sold to students anywhere on school premises from 3:00 p.m. to 5:00 p.m.
- **Selling coffee, tea, and soft drinks:** The state beverage statute supersedes Section 10-215b-1 because it applies at all times, not just when CNPs are operating. Schools cannot sell coffee, tea, and soft drinks to students unless 1) the BOE has voted to allow beverage exemptions; 2) the sales meet the exemption criteria of the state beverage statute (refer to "Beverage exemptions" in this document); and 3) the sales do not occur while any CNPs are operating. Coffee, tea, and soft drinks can never be sold to students from vending machines or school stores.
- **Giving candy, coffee, tea, and soft drinks***:* Smart Snacks and the state beverage statute do not apply when foods and beverages are given to students. However, Section 10-215b-1 prohibits giving candy, coffee, tea, and soft drinks to students anywhere on school premises from 30 minutes before up through 30 minutes after the operation of any CNPs, including during and after the school day. The example below shows how Section 10-215b-1 applies.
    - **Example:** The SBP operates from 7:00 a.m. to 8:00 a.m. and the NSLP operates from 11:30 a.m. to 1:00 p.m. Candy, coffee, tea, and soft drinks cannot be given to students anywhere on school premises from 6:30 a.m. to 8:30 a.m. and 11:00 a.m. to 1:30 p.m. Some examples include giving candy, coffee, tea, and soft drinks as food rewards; giving candy, coffee, tea, and soft drinks to students at classroom parties; giving students coupons, tickets,

tokens, or similar items that can be exchanged for candy, coffee, tea, and soft drinks; and giving candy, coffee, tea, and soft drinks to students in exchange for a suggested donation at a fundraiser.

The CSDE strongly encourages schools to promote consistent health messages to students by eliminating candy, coffee, tea, and soft drinks on school premises; even when allowed by federal and state laws. For more information, refer to the CSDE's resources, *Healthy Fundraising* and *Healthy Celebrations*, and the University of Connecticut Rudd Center's resource, *Nonfood Rewards: Promoting Healthy School Environments*.

Section 10-215b-23: Accrual of income

Section 10-215b-23 of the state competitive foods regulations *requires that* the gross income from all foods and beverages sold to students anywhere on school premises from 30 minutes before up through 30 minutes after the operation of any CNPs must accrue to the NSFSA. The NSFSA is the restricted revenue account used only for the operation or improvement of the nonprofit school food service.

All sales of foods and beverages to students anywhere on school premises during this time must comply with this regulation, including:

- sales of foods that comply with Smart Snacks;
- sales of beverages that comply with the state beverage statute and Smart Snacks;
- sales of beverages at events that meet the exemption criteria of the state beverage statute;
- sales of coupons, tickets, tokens, and similar items that students can exchange for foods and beverages;
- program and activity fees charged to cover the cost of foods and beverages provided to students;
- student orders for foods and beverages; and
- student donations in exchange for foods and beverages.

The examples below show how Section 10-215b-23 applies to food and beverage sales.

- **Example 1:** A fundraiser on school premises sells foods to students during the school day. These foods comply with Smart Snacks. The SBP operates from 7:00 a.m. to 8:00 a.m. and the NSLP operates from 11:30 a.m. to 1:00 p.m. The NSFSA must receive the fundraiser's income from all foods and beverages sold to students from 6:30 a.m. to 8:30 a.m. and 11:00 a.m. to 1:30 p.m. For more

information on fundraisers, refer to the CSDE's resource, *Requirements for Food and Beverage Fundraisers in Non-HFC Public Schools*.

- **Example 2:** The district's vending machine contract specifies that the school food service department will receive 20 percent of the total vending sales. The NSLP operates from 11:30 a.m. to 1:00 p.m. and the ASP operates from 3:30 p.m. to 4:30 p.m. The NSFSA must receive 100 percent of the vending machine's gross income from all foods and beverages sold to students from 11:00 a.m. to 1:30 p.m. and 3:00 p.m. to 5:00 p.m. For more information on vending machines, refer to the CSDE's resource, *Requirements for Foods and Beverages in Vending Machines in Non-HFC Public Schools*.

LEAs must ensure that vending machine contracts comply with Section 10-215b-23. All vending machines must be turned off from 30 minutes before up through 30 minutes after the operation of any CNPs unless 100 percent of the gross vending income accrues to the NSFSA.

For more information on the competitive foods regulations, refer to the CSDE's resources, *Overview of Connecticut's Competitive Foods Regulations* and Operational Memorandum No. 1-18: *Accrual of Income from Sales of Competitive Foods in Schools*.



Requirements for Competitive Foods in Non-HFC Public Schools

USDA Regulation for Revenue from Nonprogram Foods

Section 7 CFR 210.14(f) of the NSLP regulations requires that all revenue from the sale of nonprogram foods must accrue to the NSFSA. "Nonprogram foods" are foods and beverages purchased using funds from the NSFSA and sold to students or adults at any time or location on school premises, other than reimbursable meals served through the CNPs.

Nonprogram foods include all foods and beverages sold in schools, adult meals, outside-of-school hours, and catering or vending activities. They also include competitive foods purchased using funds from the NSFSA, such as cafeteria a la carte sales or foods and beverages for vending machines operated by the food service department. For school food authorities (SFAs), cafeteria a la carte sales account for the majority of nonprogram foods. Another common source is vending machines operated by the NSFSA.

> Nonprogram foods are different from competitive foods. Competitive foods include all foods and beverages available for sale to students on school premises separately from reimbursable meals served through the CNPs, regardless of the funding source that purchased them. Some competitive foods are nonprogram foods because they are purchased using funds from the NSFSA, but many are not. For example, funds from the NSFSA might be used to purchase competitive foods that are sold from vending machines in the cafeteria; however, NSFSA funds are not typically used to purchase competitive foods that are sold from school stores and fundraisers.

This regulation also requires that when school food service labor is used to prepare foods for an outside entity (such as catering), the SFA must ensure that all costs, including labor and any other costs incurred, are covered by the entity being served by the school food service program. For more information, refer to USDA Memo SP 13-2014: *School Food Service Account Revenue from the Sale of Nonprogram Foods* and USDA Memo SP 20-2016: *Nonprofit School Food Service Account Nonprogram Food Revenue Requirements*.

Requirements for Competitive Foods in Non-HFC Public Schools

State Statute for ADS-BESB Right of First Refusal for Vending Machines in Public Schools

C.G.S. Section 17a-818 (formerly Section 10-303) requires that the Connecticut Department of Aging and Disability Services, Bureau of Education and Services for the Blind (ADS-BESB) has the right of first refusal to place vending machines in public buildings, including schools. A school district must grant a permit to ADS-BESB to operate a vending machine if the school district has determined that a vending machine is desirable in the location.

School districts cannot allow another organization to place a vending machine in a school building unless 1) the school district has first offered to grant a permit to ADS-BESB to operate the vending machine; and 2) ADS-BESB has declined the opportunity. C.G.S. Section 17a-818 does not apply to vending machines that are owned and operated by the school district without outside assistance. For additional guidance, refer to "Placement of Vending Machines (ADS-BESB)" in the "Laws/Regulations" section of the CSDE's Competitive Foods in Schools webpage.



Requirements for Competitive Foods in Non-HFC Public Schools

Resources

A Guide to Smart Snacks in School (USDA):
https://www.fna.usda.gov/tn/guide-smart-snacks-school

Allowable Beverages in Connecticut Public Schools (CSDE):
https://portal.ct.gov/-/media/sde/nutrition/compfoods/allowable_beverages_public_schools.pdf

Beverage Requirements (CSDE webpage):
https://portal.ct.gov/sde/nutrition/beverage-requirements

C.G.S. Section 10-215e: Nutrition standards for food that is not part of lunch or breakfast program:
https://www.cga.ct.gov/current/pub/chap_170.htm#sec_10-221q

C.G.S. Section 10-215e: Nutrition standards for food that is not part of lunch or breakfast program:
https://www.cga.ct.gov/current/pub/chap_170.htm#sec_10-221q

C.G.S. Section 10-221p: Boards to make available for purchase nutritious and low-fat foods:
https://www.cga.ct.gov/current/pub/chap_170.htm#sec_10-221p

C.G.S. Section 10-221p: Nutritious and low-fat foods available for sale:
https://www.cga.ct.gov/current/pub/chap_170.htm#sec_10-221p

C.G.S. Section 10-221p: Nutritious and low-fat foods available for sale:
https://www.cga.ct.gov/current/pub/chap_170.htm#sec_10-221p

C.G.S. Section 10-221q: Sale of beverages:
https://www.cga.ct.gov/current/pub/chap_170.htm#sec_10-221q

C.G.S. Section 10-221q: Sale of beverages:
https://www.cga.ct.gov/current/pub/chap_170.htm#sec_10-221q

C.G.S. Section 10-221q: Sale of beverages:
https://www.cga.ct.gov/current/pub/chap_170.htm#sec_10-221q

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C.G.S. Section 17a-818: Food service facilities and vending stands in public buildings controlled by Department of Aging and Disability Services. Permissible uses of vending machine income:
https://www.cga.ct.gov/current/pub/chap_319l.htm#sec_17a-818

Competitive Foods in Schools (CSDE webpage):
https://portal.ct.gov/sde/nutrition/competitive-foods

Connecticut Nutrition Standards Worksheet 9: Nutrient Analysis of Recipes (CSDE):
https://portal.ct.gov/-/media/sde/nutrition/hfc/cns/cns_worksheet9_nutrent_analysis_recipes.xlsx

Connecticut Regulations for Competitive Foods (CSDE's Laws and Regulations for Child Nutrition Programs webpage):
https://portal.ct.gov/sde/nutrition/laws-and-regulations-for-child-nutrition-programs#ConnecticutRegulations

Exemptions for Foods and Beverages in Public Schools (CSDE):
https://portal.ct.gov/-/media/sde/nutrition/hfc/food_beverage_exemptions_public_schools.pdf

Fundraisers ("Guidance" section of CDE's Smart Snacks Nutrition Standards webpage):
https://portal.ct.gov/sde/nutrition/smart-snacks-nutrition-standards/guidance#Fundraisers

Guidance on Evaluating Recipes for Compliance with the Connecticut Nutrition Standards (CSDE):
https://portal.ct.gov/-/media/sde/nutrition/hfc/evaluating_recipes_cns_compliance.pdf

Healthy Celebrations (CSDE):
https://portal.ct.gov/-/media/sde/nutrition/resources/healthy_celebrations.pdf

Healthy Fundraising (CSDE):
https://portal.ct.gov/-/media/sde/nutrition/resources/healthy_fundraising.pdf

List of Acceptable Foods and Beverages (CSDE webpage):
https://portal.ct.gov/sde/nutrition/list-of-acceptable-foods-and-beverages

Nonfood Rewards: Promoting Healthy School Environments (University of Connecticut Rudd Center for Food Policy and Health):
https://uconnruddcenter.org/wp-content/uploads/sites/2909/2023/08/Alternatives-to-Food-Rewards-Info-Sheet.pdf

Requirements for Competitive Foods in Non-HFC Public Schools

Non-HFC Public Schools (CSDE's Competitive Foods in Schools webpage):
https://portal.ct.gov/sde/nutrition/competitive-foods/non-hfc-public-schools

NSLP Regulations 7 CFR 210.14(f). Revenue from nonprogram foods:
https://www.ecfr.gov/current/title-7/part-210#p-210.14(f)

NSLP Regulations 7 CFR 210.14(f). Revenue from nonprogram foods:
https://www.ecfr.gov/current/title-7/part-210#p-210.14(f)

Operational Memorandum No. 1-18: Accrual of Income from Sales of Competitive Foods in Schools (CSDE):
https://portal.ct.gov/-/media/sde/nutrition/nslp/memos/om2018/om01-18.pdf

Overview of Connecticut Competitive Foods Regulations (CSDE):
https://portal.ct.gov/-/media/sde/nutrition/compfoods/overview_ct_competitive_foods_regulations.pdf

Overview of Federal and State Laws for Competitive Foods in Connecticut Public Schools, Private Schools, and Residential Child Care Institutions (CSDE):
https://portal.ct.gov/-/media/sde/nutrition/compfoods/overview_federal_state_laws_competitive_foods.pdf

Questions and Answers on Connecticut Statutes for School Foods and Beverages (CSDE):
https://portal.ct.gov/-/media/sde/nutrition/hfc/questions_answers_connecticut_statutes_school_foods_beverages.pdf

Records Retention Requirements for the School Nutrition Programs (CSDE):
https://portal.ct.gov/-/media/sde/nutrition/nslp/adminrev/records_retention_snp.pdf

Records Retention Requirements for the School Nutrition Programs (CSDE):
https://portal.ct.gov/-/media/sde/nutrition/nslp/adminrev/records_retention_snp.pdf

Regulations of Connecticut State Agencies (Sections 10-215b-1 and 10-215b-23):
https://eregulations.ct.gov/eRegsPortal/Browse/RCSA/Title_10Subtitle_10-215b/

Requirements for Cafeteria A La Carte Foods and Beverages in Non-HFC Public Schools (CSDE):
https://portal.ct.gov/-/media/sde/nutrition/hfc/cafeteria_requirements_nonhfc.pdf

Requirements for Food and Beverage Fundraisers in Non-HFC Public Schools (CSDE):
https://portal.ct.gov/-/media/sde/nutrition/hfc/fundraiser_requirements_nonhfc.pdf

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Requirements for Foods and Beverages in Culinary Programs in Non-HFC Public Schools (CSDE):
https://portal.ct.gov/-/media/sde/nutrition/hfc/culinary_programs_requirements_nonhfc.pdf

Requirements for Foods and Beverages in School Stores in Non-HFC Public Schools (CSDE):
https://portal.ct.gov/-/media/sde/nutrition/hfc/school_store_requirements_nonhfc.pdf

Requirements for Foods and Beverages in Vending Machines in Non-HFC Public Schools (CSDE):
https://portal.ct.gov/-/media/sde/nutrition/hfc/vending_machine_requirements_nonhfc.pdf

Resources for Meeting the Federal and State Requirements for Competitive Foods in Schools (CSDE):
https://portal.ct.gov/-/media/sde/nutrition/hfc/resources_federal_state_requirements_competitive_foods.pdf

Sample Fundraiser Form for Healthy Food Certification (CSDE):
https://portal.ct.gov/-/media/sde/nutrition/hfc/sample_fundraiser_form_hfc_introduction.pdf

Sample Fundraiser Form for Healthy Food Certification (CSDE):
https://portal.ct.gov/-/media/sde/nutrition/hfc/sample_fundraiser_form_hfc_introduction.pdf

School Wellness Policies (CSDE webpage):
https://portal.ct.gov/sde/nutrition/school-wellness-policies

Smart Snacks Nutrition Standards (CSDE webpage):
https://portal.ct.gov/sde/nutrition/smart-snacks-nutrition-standards

Smart Snacks Product Calculator (Alliance for a Healthier Generation):
https://foodplanner.healthiergeneration.org/

Summary Chart of Federal and State Requirements for Competitive Foods in Non-HFC Public Schools (CSDE):
https://portal.ct.gov/-/media/sde/nutrition/compfoods/summary_chart_requirements_competitive_foods_nonhfc.pdf

Summary of Smart Snacks Nutrition Standards (CSDE):
https://portal.ct.gov/-/media/sde/nutrition/compfoods/summary_smart_snacks_nutrition_standards.pdf

Requirements for Competitive Foods in Non-HFC Public Schools

USDA Final Rule: Expanding Fluid Milk Options in Child Nutrition Programs:
https://www.fna.usda.gov/cn/fr-050826

USDA Final Rule: Local School Wellness Policy Implementation Under the HHFKA of 2010:
https://www.fna.usda.gov/cn/fr-072916c

USDA Final Rule: National School Lunch Program and School Breakfast Program: Nutrition Standards for All Foods Sold in School as Required by the HHFKA of 2010:
https://www.fna.usda.gov/cn/fr-072916d

USDA Memo SP 13-2014: School Food Service Account Revenue from the Sale of Nonprogram Foods:
https://www.fna.usda.gov/cn/school-food-service-account-revenue-sale-non-program-foods

USDA Memo SP 20-2016: Nonprofit School Food Service Account Nonprogram Food Revenue Requirements:
https://www.fna.usda.gov/cn/nonprofit-school-food-service-account-nonprogram-food-revenue-requirements

Requirements for Competitive Foods in Non-HFC Public Schools

For more information, visit the CSDE's Competitive Foods in Schools webpage and Smart Snacks Nutrition Standards webpage or contact the school nutrition programs staff at the Connecticut State Department of Education, Bureau of Child Nutrition Programs, 450 Columbus Boulevard, Suite 504, Hartford, CT 06103-1841. This document is available at https://portal.ct.gov/-/media/sde/nutrition/hfc/requirements_competitive_foods_nonhfc.pdf.

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Requirements for Competitive Foods in Non-HFC Public Schools

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1. mail: U.S. Department of Agriculture
   Office of the Assistant Secretary for Civil Rights
   1400 Independence Avenue, SW
   Washington, D.C. 20250-9410; or
2. fax: (833) 256-1665 or (202) 690-7442; or
3. email: program.intake@usda.gov

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