

its program foods designated from time to time by the Secretary as being in abundance, either nationally or in the school area, or foods donated by the Secretary. Foods available under section 1431 of title 7 or purchased under section 612c or 1446a-1 of title 7, may be donated by the Secretary to schools, in accordance with the needs as determined by local school authorities, for utilization in their feeding programs under this chapter.

(Pub. L. 89-642, §8, Oct. 11, 1966, 80 Stat. 888.)

#### § 1778. Nonprofit programs

The food and milk service programs in schools and nonprofit institutions receiving assistance under this chapter shall be conducted on a nonprofit basis.

(Pub. L. 89-642, §9, Oct. 11, 1966, 80 Stat. 888.)

#### § 1779. Regulations

##### (a) In general

The Secretary shall prescribe such regulations as the Secretary may deem necessary to carry out this chapter and the Richard B. Russell National School Lunch Act [42 U.S.C. 1751 et seq.], including regulations relating to the service of food in participating schools and service institutions in competition with the programs authorized under this chapter and the Richard B. Russell National School Lunch Act.

##### (b) National school nutrition standards

###### (1) Proposed regulations

###### (A) In general

The Secretary shall—

- (i) establish science-based nutrition standards for foods sold in schools other than foods provided under this chapter and the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.); and
- (ii) not later than 1 year after December 13, 2010, promulgate proposed regulations to carry out clause (i).

###### (B) Application

The nutrition standards shall apply to all foods sold—

- (i) outside the school meal programs;
- (ii) on the school campus; and
- (iii) at any time during the school day.

###### (C) Requirements

In establishing nutrition standards under this paragraph, the Secretary shall—

- (i) establish standards that are consistent with the most recent Dietary Guidelines for Americans published under section 5341 of title 7, including the food groups to encourage and nutrients of concern identified in the Dietary Guidelines; and
- (ii) consider—
  - (I) authoritative scientific recommendations for nutrition standards;
  - (II) existing school nutrition standards, including voluntary standards for beverages and snack foods and State and local standards;
  - (III) the practical application of the nutrition standards; and

(IV) special exemptions for school-sponsored fundraisers (other than fundraising through vending machines, school stores, snack bars, a la carte sales, and any other exclusions determined by the Secretary), if the fundraisers are approved by the school and are infrequent within the school.

##### (D) Updating standards

As soon as practicable after the date of publication by the Department of Agriculture and the Department of Health and Human Services of a new edition of the Dietary Guidelines for Americans under section 5341 of title 7, the Secretary shall review and update as necessary the school nutrition standards and requirements established under this subsection.

#### (2) Implementation

##### (A) Effective date

The interim or final regulations under this subsection shall take effect at the beginning of the school year that is not earlier than 1 year and not later than 2 years following the date on which the regulations are finalized.

##### (B) Reporting

The Secretary shall submit to the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Education and Labor of the House of Representatives a quarterly report that describes progress made toward promulgating final regulations under this subsection.

##### (c) Transfer of funds; reserve for special projects

In such regulations the Secretary may provide for the transfer of funds by any State between the programs authorized under this chapter and the Richard B. Russell National School Lunch Act [42 U.S.C. 1751 et seq.] on the basis of an approved State plan of operation for the use of the funds and may provide for the reserve of up to 1 per centum of the funds available for apportionment to any State to carry out special developmental projects.

(Pub. L. 89-642, §10, Oct. 11, 1966, 80 Stat. 889; Pub. L. 91-248, §8, May 14, 1970, 84 Stat. 212; Pub. L. 92-433, §7, Sept. 26, 1972, 86 Stat. 729; Pub. L. 95-166, §17, Nov. 10, 1977, 91 Stat. 1345; Pub. L. 101-147, title III, §323, Nov. 10, 1989, 103 Stat. 916; Pub. L. 103-448, title II, §203, Nov. 2, 1994, 108 Stat. 4738; Pub. L. 104-193, title VII, §725, Aug. 22, 1996, 110 Stat. 2302; Pub. L. 106-78, title VII, §752(b)(16), Oct. 22, 1999, 113 Stat. 1170; Pub. L. 111-296, title II, §208, Dec. 13, 2010, 124 Stat. 3221.)

#### REFERENCES IN TEXT

The Richard B. Russell National School Lunch Act, referred to in text, is act June 4, 1946, ch. 281, 60 Stat. 230, as amended, which is classified generally to chapter 13 (§1751 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1751 of this title and Tables.

#### AMENDMENTS

2010—Pub. L. 111-296 inserted subsec. (a) heading, added subsec. (b), and struck out former subsec. (b) which related to sale of competitive foods approved by the Secretary.

1999—Pub. L. 106-78 substituted “Richard B. Russell National School Lunch Act” for “National School Lunch Act” wherever appearing.