



Office for Prekindergarten through Grade 12 Education
Child Nutrition Program Administration
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To: School Food Authorities
From: Paula Tyner-Doyle, Coordinator
Date: March 2015
Subject: Requests for Exemption from the School Meals' Whole Grain Rich Requirement for School Years 2014-2015 and 2015-2016

In Section 751 of the Consolidated and Further Continuing Appropriations Act, 2015 (Public Law 113-235), Congress directed the Secretary of Agriculture to allow State agencies that administer the National School Lunch Program (NSLP) and School Breakfast Program (SBP) to grant an exemption from the regulatory whole grain-rich requirement in the meal programs, in school years (SY) 2014-2015 and 2015-2016, to a School Food Authority (SFA) that demonstrates hardship in procuring compliant whole grain-rich products that are acceptable to students. The provision requires that SFAs that are approved for an exemption from the current whole grain-rich requirement must continue, at a minimum, to meet the whole grain rich requirement that was in effect for the SY 2013-2014.

The progression to offer all whole grain-rich grains in school meals represents a significant transition for industry, program operators, and students. The authority provided to the Secretary and State agencies in Public Law 113-235 offers State agencies the opportunity to provide SFAs that demonstrate hardship in procuring specific whole grain-rich products the ability to seek exemptions for one or more products. Therefore, for the remainder of SY 2014-2015 and in SY 2015-2016, the New York State Education Department, Child Nutrition Program Administration will approve an SFA's exemption request for specific products if the SFA can demonstrate hardship(s) in procuring, preparing, or serving compliant whole grain-rich product(s) that are accepted by students. The temporary exemptions are allowed for any type of grain product(s), (e.g., pasta, bread, brown rice, etc.) and for one or more different products.

SFAs granted an exemption must comply with the SY 2013-2014 requirement to offer at least half of the grains as whole grain-rich products. SFAs that receive an exemption will be considered compliant with the whole grain-rich requirements during an Administrative review if the grain offerings are consistent with the exemption granted by the State agency and at least half of the grains offered weekly are whole grain-rich.

Please note that if you received the pasta exemption for the 2014-15 school year you must complete this exemption request process and provide supporting documentation to continue the exemption for the 2015-16 school year. In addition, if you would like to request additional grain items for exemption in the 2014-15 school year, these must be included in the exemption request process.

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Individuals who are deaf, hard of hearing or have speech disabilities, may contact USDA through the Federal Relay Service at (800) 877-8339; or (800) 845-6136 (Spanish).

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To request an exemption, SFAs must complete the Whole Grain Rich Exemption Request Form.

SFAs must indicate the hardship(s) incurred in meeting the whole grain rich requirement and provide a written justification or supporting documentation (e.g., production records, meal count records, financial statements, etc.) to demonstrate hardship(s) in procuring, preparing, or serving whole grain-rich products. SFAs must also provide a detailed list of the grain product or group of grain products the SFA is seeking an exemption for and the enriched product that will replace it. **All SFAs that are applying for this exemption must be .06 cents certified.** Please submit the exemption request form to the Child Nutrition Administration office by email at cn@nysed.gov. SFAs will receive an email indicating that their exemption request has been approved.

Hardships may include but are not limited to:

- Financial – The SFA demonstrates a significant drop in meal counts after the whole grain-rich product(s) was offered, or experienced a significant cost increase when procuring whole grain-rich products.
- Limited Product Availability – The SFA does not have access to compliant whole grain-rich products(s) in the local market and would like to offer enriched grain item(s) temporarily.
- Unacceptable Product Quality - The whole grain-rich products offered by the SFA did not retain the desired texture or lost palatability during the typical holding time.
- Poor Student Acceptability - The whole grain-rich product(s) offered by the SFA received significant negative student/parent feedback or there was increased plate waste of that menu item when a whole grain-rich product was offered multiple times and over a sustained period of time.
- Other - The SFA provides an explanation of the hardship incurred prompting them to seek an exemption.

The “Whole Grain Resource for National School Lunch and Breakfast Programs” provides information to help program operator’s identify foods that meet the whole grain-rich criteria, and offers suggestions for incorporating whole grain-rich foods into school menus.

Click here for Questions and Answers regarding the exemption for School Meals Whole Grain-rich requirement.

For more information on requests for exemption from the School Meals Whole Grain-Rich Requirement, please contact a child nutrition representative at 518-473-8781.

Whole Grain-Rich Exemption Request Form

SFA Name: _____ LEA #: _____

Contact Person _____ Phone: _____ Ext. _____

We hereby submit the following request for exemption from the Whole Grain-Rich requirements set forth in the National School Lunch Program and School Breakfast program regulations at 7CFR 210.10 and 7CFR 220.8. An exemption request may be for one or more different grain products, or for a group of products. This exemption request applies to the remainder of the 2014-15 school year and extends through the 2015-16 school year.

1. Please list the grain products and/or group of grain products the SFA is seeking an exemption for and specify the enriched grain item the SFA would like to use temporarily.

<u>Whole Grain-Rich Product</u>	<u>Enriched Grain Replacement</u>

2. Select the reason(s) for requesting an exemption. You must provide written justification or other documented evidence (e.g., photos, meal count records,

production records) to demonstrate hardship(s) in procuring, preparing, or serving whole grain-rich products.

Drop in participation

Significant cost increase for WGR products

Limited product availability

Unacceptable product quality

Poor student acceptability

Other _____

I, _____, as the duly authorized representative of

_____ [SFA Name], do hereby attest that the aforementioned SFA and all schools under its jurisdiction operating the National School Lunch Program authorized under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq), and/or the School Breakfast Program authorized under the Child Nutrition Act of 1966 (42 U.S.C. 1773), are in compliance with the 2013-14 requirement to offer at least half of the grains as whole grain -rich products over the course of a school week.

I understand that if the State agency determines the SFA to be noncompliant with one or more of the requirements set forth in the whole grain-rich exemption request, fiscal action may include but not be limited to include deactivating the performance-based reimbursement, disallowance of meals, and/or withholding of payment.

By checking this box I certify that this attestation is true and correct.

Submit to the Child Nutrition Administration Office at: cn@nysed.gov

Questions and Answers for Exemption for School Meals Whole Grain Rich Requirement SY 2014-2015 and SY 2015-2016

1. Who may submit an exemption request?

An SFA may submit an exemption request to the State agency if it can demonstrate hardships in procuring, preparing, or serving a whole grain-rich product for a previously offered enriched grain item. An exemption request may be for one or more different grain products, or for a group of products, and must specify the enriched grain item the SFA would like to offer temporarily.

SFAs that are .06 cent certified must complete the exemption form and submit it to cn@nysed.gov. SFAs must indicate the hardship(s) incurred in meeting the whole grain rich requirement and provide a written justification or supporting documentation (e.g., production records, meal count records, financial statements etc.) to demonstrate hardship(s) in procuring, preparing, or serving whole grain-rich products. SFAs must also provide a detailed list of the grain product or group of grain products the SFA is seeking an exemption for and the enriched product that will replace it.

2. Does this exemption approval relieve the SFA from offering any whole grain-rich foods?

No. SFAs that receive an exemption will remain responsible for incorporating whole grain-rich products into school menus and must ensure that at least half of the grain items offered weekly are whole grain-rich.

3. How would the enriched grains offered under this exemption count toward the meal pattern requirements?

The enriched grain products approved for the exemption would count toward the required grains component, but the SFA would be required to offer other products that meet whole grain-rich requirements during the school week. An SFA that receives the exemption must comply with the SY 2013-2014 requirement to offer at least half of the grains as whole grain-rich products. For example, if an enriched pasta product is allowed under the exemption, other grains offered such as rice or bread must be whole grain-rich.

4. What documentation must a SFA submit along with the exemption request form?

Acceptable documentation would include menu planning records, production records, financial statements and pictures with additional information that may assist in the determination of the exemption request.

5. Do the whole grain flexibilities included in this memo impact the nutrient standards included in the interim final rule for Smart Snacks in School?

The Smart Snacks in School interim final rule provides for an exemption from the Smart Snacks nutrient requirements only for entrees served in National School Lunch Program and the School Breakfast Program (SBP) the day of and the day after service in the reimbursable school meal. All other grain products sold to students on the school campus

during the school day shall comply with the whole grain rich standards specified in 210.11(c) (2) (ii).

6. What is USDA doing to support schools in obtaining compliant whole grain and whole grain-rich food options?

USDA Foods offer a variety of whole grain and whole grain-rich products to schools to support successful implementation of the whole grain requirements. Current options include: whole wheat flour, white whole wheat flour/enriched flour blend, rolled oats, whole grain-rich pancakes, whole grain-rich tortillas, brown rice, and both 100% grain and whole grain-rich spaghetti, macaroni, rotini, and penne pasta. USDA Foods staff continues to explore additional options and will accept suggestions for new items to support school districts' needs via email: USDAFoods@fns.usda.gov.

7. How does this exemption affect the SFAs exercising the flexibility to use enriched pasta in schools meals for the remainder of the 2014-15 school year?

The 2014-15 pasta waiver is superseded by this exemption process. If you received the pasta exemption in the 2014-15 school year, you may continue to exercise this exemption for the remainder of the school year with no further action. If you would like to continue the pasta exemption for the 2015-16 school year, or would like to request exemptions for additional grains in the 2014-15 school year, you must complete this exemption process and provide supporting documentation.