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FDA NEWS RELEASE

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FDA proposes draft menu and vending machine labeling requirements, invites public to comment on proposals

The U.S. Food and Drug Administration today issued two proposed regulations regarding calorie labeling on menus and menu boards in chain restaurants, retail food establishments, and vending machines. The FDA invites input on the proposed regulations by visiting <http://www.regulations.gov>¹.

"These proposals will ensure that consumers have more information when they make their own food choices," said Department of Health and Human Services Secretary Kathleen Sebelius. "Giving consumers clear nutritional information makes it easier for them to choose healthier options that can help fight obesity and make us all healthier."

The menu labeling rule proposed today applies to chain restaurants and similar retail food establishments. Specifically, consumers would see calories listed in restaurants and similar retail food establishments that are part of a chain with 20 or more locations doing business under the same name and offering for sale substantially the same menu items. Examples of these establishments include fast food establishments, bakeries, coffee shops and certain grocery and convenience stores. Movie theaters, airplanes, bowling alleys, and other establishments whose primary purpose is not to sell food would not be subject to this proposed regulation. Additionally, the proposal invites the public to comment on whether additional types of food establishments should or should not be covered by the new rule. A companion rule proposes calorie posting for food sold in vending machines. The FDA is accepting comments on both proposed rules.

"Americans now consume about one-third of their total calories on foods prepared outside the home," said FDA Commissioner Margaret A. Hamburg, M.D. "While consumers can find calorie and other nutrition information on most packaged foods, it's not generally available in restaurants or similar retail establishments. This proposal is aimed at giving consumers consistent and easy-to-understand nutrition information."

The Affordable Care Act requires the disclosure of calorie and other nutrition information in certain food establishments and for certain foods sold in vending machines. Additionally, on menus and menu boards, statements would be posted concerning suggested daily calorie intake and indicating that additional nutrition information is available on request. Under the proposal, this information would be displayed clearly and prominently on menus and menu boards, including menu boards in drive-through locations; and for individual foods on display. Consistent with the law, the agency is proposing that the following statement on daily caloric intake be on menus and menu boards to help consumers understand the significance of the calorie information in the context of a total daily diet:

"A 2,000 calorie diet is used as the basis for general nutrition advice;
however, individual calorie needs may vary."

Under the proposed rules, operators who own or operate 20 or more vending machines would post calorie information for food sold in a vending machine, unless certain nutrition information is already visible on individual packages of food inside the machine.

State and local governments could not impose any different nutrition labeling requirements for food sold in restaurants, similar retail food establishments, and vending machines covered by the Federal requirements. Restaurants, similar retail food establishments, and vending machine operators that are not covered by the Federal requirements could voluntarily register to be covered under the Federal nutrition labeling regulations.

The FDA is seeking public comment on the proposed rule for menu labeling for 60 days (until 06-06-2011). Comments on the proposed rule on vending machines may be submitted for 90 days (until 07-05-2011). The FDA plans to issue final rules before the end of 2011.

To submit your comments [electronically](#)² to the docket:

1. Choose "Submit a Comment" from the top task bar
2. Enter the follow docket numbers in the "Keyword" space: docket number FDA-2011-F-0172 for menu items in

restaurants and similar retail food establishments, and docket number FDA-2011-F-0171 for vending machines.

3. Select "Search"

To submit your comments to the docket by mail, use the following address:

The Division of Dockets Management
HFA-305
Food and Drug Administration
5630 Fishers Lane, Room 1061
Rockville, MD 20852

Be sure to include the appropriate docket number on each page of your written comments.

For more information:

<http://www.ofr.gov/inspection.aspx>³

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