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2016-5

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DATE: March 4, 2016

TO: Child and Adult Care Food Program (CACFP)  
Center-based Organizations

FROM: Robin Holz, CACFP Lead Consultant - Centers  
Bureau of Nutrition and Health Services

SUBJECT: Food and Drug Administration (FDA) Requirements for Vending Machines

On December 1, 2014, the U.S. Department of Health and Human Services, Food and Drug Administration (FDA) published the final rule, *Food Labeling; Calorie Labeling of Articles of Food in Vending Machines*, in the Federal Register. The purpose of this rule is to provide consumers with clear and consistent nutrition information, allowing them to make informed and healthful dietary choices when purchasing items from vending machines. CACFP organizations covered by the FDA final rule must comply by December 1, 2016. However, most CACFP organizations do not have vending machines or they have very few. Therefore, this rule will not apply to the majority of CACFP participants but may apply to organizations that operate a CACFP program and own or operate multiple vending machines.

The FDA vending machine final rule requires Child Nutrition Programs that own or operate 20 or more vending machines to disclose calorie information for foods (or beverages) sold from their machines. Vending machine operators that must comply are those who:

“Control or direct the function of the vending machine, including deciding which articles of food are sold from the vending machine or the placement of the articles of food within the vending machine, and is compensated for the control or direction of the function of the vending machine.”

The FDA regulation requires that calorie declarations disclosed be clear, conspicuous, and prominently placed. Calorie information may be disclosed on a sign (e.g., small placard, sticker, or poster) near the food item or selection button. Electronic or digital displays also may be used. If the consumer can clearly examine the Nutrition Facts label of a food item sold from the vending machine before purchase, or the nutrition information is otherwise visible at the point of purchase (e.g., through front-of-package calorie labeling), then no further calorie information is required. FDA is working with the vending and packaging industry to develop front-of-package nutrition labels, and expects many vending machine operators will benefit from this exception.

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Affected vending machine operators also must disclose their contact information on the machine to enable the FDA to contact operators for enforcement purposes. Failure to comply with the FDA regulation will render vending machine food misbranded under the Federal Food, Drug, and Cosmetic Act. During the first year of implementation, FDA will focus primarily on education and outreach. FDA is working on additional guidance including monitoring and oversight requirements which will be made available through the FDA website.

CACFP organization vending machines not covered by the new FDA regulation are encouraged to voluntarily comply. Making nutrition information available for items sold through vending machines may help children and adults make more informed choices about the foods they select.

CACFP participants may wish to incorporate requirements of this FDA regulation into their vending machine contracts in order to ensure that vending machine operators contracted by the CACFP organization include the calorie information when it is required.

Additional details about the FDA final rule [may be found online at https://www.federalregister.gov/articles/2014/12/01/2014-27834/food-labeling-calorie-labeling-of-articles-of-food-in-vending-machines](https://www.federalregister.gov/articles/2014/12/01/2014-27834/food-labeling-calorie-labeling-of-articles-of-food-in-vending-machines). [More information about the requirements may be found on the FDA Web site resource, \*Vending Machines Labeling Requirements At-A-Glance\* at http://www.fda.gov/Food/IngredientsPackagingLabeling/LabelingNutrition/ucm248732.htm#vending](http://www.fda.gov/Food/IngredientsPackagingLabeling/LabelingNutrition/ucm248732.htm#vending).

The Iowa State agency does not encourage CACFP organizations to provide vending machines. However, USDA requires that we share this information with CACFP operators.

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