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From: Jerry Jongerius [jerryj@duckware.com]
Sent: Thursday, September 16, 2010 1:51 PM
To: FCPS WATCHDOG GROUP (fcpswatchdog@stopterc.com)
Subject: FCPS WATCHDOG #7: FCPS is violating FDA Federal Regulations on Food Labeling

Title 21 ("Food and Drugs") of the Code of Federal Regulations (CFR), Part 101 ("Food Labeling") contains regulations concerning nutrition labeling of foods -- the result is the "Nutrition Facts" label that we have all seen (right).

Foods served or sold in restaurants (including schools) are totally exempt from nutrition labeling **unless the food bears a "nutrient content claim"** (but that is also all changing in the coming months due to section 4205 of 'ObamaCare').

FCPS served "Popcorn Chicken Bites" today, September 16, 2010, to our elementary children, claiming they were "Oven Baked" (menu seen immediate right).

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Breakfast:	
Mini GM Pancakes	
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Lunch:	
Oven Baked Popcorn Chicken, Bites;	
Fresh Pepperoni Pizzeria Pizza,	
Fluffy Whipped Potatoes;	
Dinner Roll; Fresh Melon;	
Cold Milk	

But according to the FDA, 'highlighting a preparation method, like baking, that affects the nutrient content of a

food', constitutes an implied nutrient content claim. And using "Oven Baked" on a food item that is usually 'fried' certainly implies less fat, doesn't it?

But, the fat content is so high in the FCPS "Oven Baked" popcorn chicken bites, that under [FDA guideline documents](#), FCPS should be providing a "disclosure statement" that eating "Popcorn Chicken Bites" may increase the risk of a disease or a health-related condition!

Please note that a 'disclosure statement' is only needed (1) when an expressed or implied nutrient content claim is made and (2) the nutrient values exceed certain (high) levels. In this case, FCPS claims that their popcorn chicken bites are oven baked, and yet, they contain more fat than what the FDA considers acceptable for such a claim.

In fact, the FCPS claim that the [Tyson "Popcorn Chicken Bites"](#) are "Oven Baked" is shown for just how crazy it really is when they are compared to ["Popcorn Chicken" from KFC](#), which are fried. Anyone want to guess which one has more fat per 230-calorie serving? Of course the answer is: **FCPS "Oven Baked Popcorn Chicken Bites" have more fat than KFC fried popcorn chicken.**

It is interesting to point out that while trying to investigate the nutritional information for the foods that FCPS served to me in their cafeteria, FCPS says "Nutritional analysis reports are available in the Food Service Office, 301-644-5061". However, this is what the FDA has to say about that:

Nutrition Facts	
Serving Size: 12 PIECES (86g)	
Servings Per Container: About 52	
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Amount Per Serving	
Calories 230	Calories from Fat 130
<hr/>	
	% Daily Value*
Total Fat 15g	23%
Saturated Fat 3g	15%
Trans Fat 0g	
Polyunsaturated Fat 6g	
Monounsaturated Fat 6g	
Cholesterol 30mg	10%
Sodium 450mg	19%
Total Carbohydrate 14g	5%
Dietary Fiber 0g	0%
Sugars 0g	
Protein 11g	22%
<hr/>	
Vitamin A 2%	Vitamin C 0%
Calcium 4%	Iron 8%
* Percent daily values are based on a 2,000 calorie diet. Your daily values may be higher or lower depending on your calorie needs.	

13. Would FDA consider a telephone number to be a reasonable means of providing nutrition information for a food sold in a restaurant or other vending facility and which makes a claim?

Answer: No. Once a food bears a claim, nutrition information must be readily accessible to consumers (e.g., on the label attached to the food or in labeling at point of purchase).

When I notified FCPS that they were serving foods that were fried during production, I was told, in writing, by an "Executive Director" at FCPS that *"The question that has not been resolved at this point is whether a process that includes immersion in heated cooking oil for 30 seconds and then oven baking for 35 to 40 minutes qualifies as a fried food."* **Whoa! There is no longer just a 3-second rule for food dropped on the floor -- There is now a 30-second rule (according to FCPS) for food dropped into a fryer!**

The core issue presented here is not one of 'baked' or 'fried' -- Rather, the issue is the "truthiness" of FCPS when it comes to high-fat content foods that it serves to our children.

▶▶ When will FCPS tell everyone the whole truth about the foods that it serves to our children?

A final thought: If I am wrong and there is some technicality in the federal regulations that gets FCPS 'off the hook' for their 'nutrient content claims', all we have done is find out that our school system can make crazy nutrient claims that anyone else selling food at a grocery store can not make -- and we are still left with the problem that FCPS is serving high-fat foods to our children, claiming them as "oven baked".

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