



# IAAPA

International Association  
of Amusement Parks and  
Attractions  
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Ms. Claudine Kavanaugh  
Office of Foods,  
Food and Drug Administration  
10903 New Hampshire  
Building 1, rm. 3234  
Silver Spring, MD 20993

Re: Docket No. FDA-2011-F-0172, RIN 0910-AG57

Dear Ms. Kavanaugh:

The International Association of Amusement Parks and Attractions (IAAPA) is the largest trade association for permanently situated amusement facilities and attractions. IAAPA represents nearly 3,000 facility, supplier, and individual members in the U.S. Member facilities include amusement/theme parks, waterparks, attractions, family entertainment centers, arcades, zoos, aquariums, museums, science centers, resorts, and casinos. IAAPA members range from large, multi-location facilities to small, single-site, family-owned operations. IAAPA strongly supports the Federal Drug Administration (FDA's) proposed definition of restaurant or similar retail food establishment.

Listed below are IAAPA's comments, questions, and concerns with regard to the FDA request for comments, data, and information on the Disclosure of Nutrient Content Information for Standard Menu Items Offered for Sale at Chain Restaurants or Similar Retail Food Establishments and for Articles of Food Sold from Vending Machines (Docket No. FDA-2011-F-0172).

**Covered Establishments, Restaurant and Similar Retail Food Establishments.**

IAAPA agrees with the FDA's definition of retail food establishment as "an establishment whose primary business activity is the sale of food to consumers," and the FDA's example that generally speaking, amusement parks are not restaurants. Amusement parks and attractions generally do not consider themselves, nor do they hold themselves out to be, "restaurants" or "retail food establishments." Guests go to amusement facilities and attractions for the primary purpose of being entertained. Amusement park and attractions guests do not attend their facilities for the primary purpose of dining; if they choose to eat it is incidental to their attendance. A typical daily gate ticket at an amusement park is \$50 for an adult and \$40 for a child. It is hard to imagine the family of four who would spend \$180 up front to get into a park for the primary purpose of accessing food within the park's gates. A family attends the park for entertainment. Any food they may consume is ancillary to their attendance at the facility.

IAAPA believes that the FDA's test of whether an establishment presents or has presented itself publicly as a restaurant as its primary purpose, is sufficient for determining whether a facility is a "covered establishment."

However, if the Administration thinks another test is needed, IAAPA believes looking at whether more than 50 percent of the establishment's gross floor area is used for "food preparation, purchase, service consumption or storage of food" is a more accurate way to determine a business' primary purpose than looking at the establishment's revenue. The space utilized approach is more reflective of the establishment's purpose than revenue. Revenues are dependent on many issues which may not accurately reflect business purpose.

IAAPA would like the definition of "gross floor area" to be clarified for facilities which are largely defined by their total outdoor space such as amusement parks and attractions and stadiums. The "gross floor area" should include all useable area which in the case of a park would be the space inside its property boundaries rather than space confined by building walls.

In instances in which an independent franchise restaurant operates within an amusement park as well as independently and inside other venues, if the restaurant is found to be "covered", the FDA should clarify that the chain "restaurant" is liable, not the business within which the food franchise operates, for adherence to the regulation. In the case of amusement parks and attractions, the park or attraction would have no way of knowing whether the franchise restaurant meets the requirements for compliance.

IAAPA appreciates the opportunity to comment on the Disclosure of Nutrient Content Information for Standard Menu Items Offered for Sale at Chain Restaurants or Similar Retail Food Establishments and for Articles of Food Sold from Vending Machines proceeding (Docket No. FDA-2011-F-0172).

Sincerely,

A handwritten signature in cursive script that reads "Randy Davis".

Randy Davis  
Senior Vice President  
Government Relations & Safety Services