

The 2010 Dietary Guidelines Advisory Committee Calls for a Coordinated Strategic Plan and Evidence-Based Actions to Help All Americans Adopt Health-Promoting Behaviors and Bring an End to the Obesity Crisis

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On June 15, 2010, the Dietary Guidelines Advisory Committee issued the “Report of the Dietary Guidelines Advisory Committee on the Dietary Guidelines for Americans, 2010” (“Advisory Report” or “Report”). The Advisory Report is intended to provide the United States Department of Agriculture (USDA) and the Department of Health and Human Services (HHS) “with a strong foundation for preparing the 2010 Dietary Guidelines for Americans,” which will be released at the end of 2010. The Dietary Guidelines, which are jointly issued by USDA and HHS and updated every five years, provide diet-related recommendations for promoting public health, guide Federal food and nutrition policies governing foods served in schools, food assistance and nutrition education programs, and Food and Drug Administration (FDA) regulation of food and dietary supplement products. The 2010 Report’s recommendations, discussed below, are based on a newly developed, web-based electronic compilation of nutrition and health research, known as the Nutrition Evidence Library (NEL). ^[1]

The overall theme of the Report focuses on addressing an overweight and obese American population. The Advisory Committee noted “that this report is unprecedented in addressing the obesity epidemic, and stated that the obesity epidemic is the single greatest threat to public health in this century. Every section of the report was developed in a way that addresses the challenges of obesity. [The Committee] noted that this was especially true for children, whose prevalence of obesity has tripled in the past 30 years.”

The 2010 Report includes new chapters focused on a “total diet” approach and integrating the Report’s recommendations and a second chapter translating the scientific findings into practical advice. The “total diet” approach focuses on helping Americans achieve “good health and optimal functionality across their life span,” through a diet that is energy balanced and nutrient-dense. The Report does not recommend a rigid diet, but rather a flexible approach that takes into consideration individual tastes and food preferences and that focuses on increasing the intake of healthier, nutrient-dense foods, while decreasing the use of foods high in solid fats and added sugars, sodium, and refined grains.

The Report also makes several key recommendations aimed at improving the nutritional quality of

the overall “food environment,” particularly for vulnerable populations, including by enabling lower income Americans to gain better access to fresh fruits and vegetables and limiting the access children have to foods that are higher in fat and added sugars. The Report’s recommendations and anticipated changes to the 2010 Dietary Guidelines are expected to have an impact on food labeling and advertising regulation, especially in light of the Obama Administration’s emphasis on combating obesity and encouraging healthier lifestyles. ^[2]

“Total Diet” Approach

The 2010 Advisory Report supports a “total diet” approach to achieving dietary goals, which include reducing adult and child obesity, reducing the prevalence of dietary related diseases and health conditions (e.g., cardiovascular disease (CVD) and type 2 diabetes), and improving Americans’ overall health across their lifetime. The Advisory Report defines “total diet” as “the combination of foods and beverages that provide energy and nutrients and constitute an individual’s complete dietary intake, on average, over time.” ^[3] One purpose of the Report is to demonstrate how the scientific evidence presented in each of the Report’s topic-specific chapters (i.e., Energy Balance and Weight Management; Nutrient Adequacy; Fatty Acids and Cholesterol; Protein; Carbohydrates; Sodium, Potassium, and Water; Alcohol) can be incorporated into an overall eating pattern that “optimizes healthy outcomes.” Overall the 2010 Advisory Report recommends a total diet and active lifestyle that is:

- Energy balanced, limited in total calories, and portion controlled;
- Nutrient-dense and plant based, which includes increased intake of vegetables, fruits, and high-fiber whole grains; fat-free or low-fat milk and milk products; and seafood, lean meat and poultry, eggs, soy products, nuts, seeds, and oils;
- Very low in solid fats and added sugars;
- Reduced in sodium; and
- Meets the 2008 Physical Activity Guidelines for Americans.

Energy Balance and Nutrient Adequacy

An overall challenge of the 2010 Dietary Guidelines Advisory Committee was to address dietary guidelines for the average American--the majority of which are overweight or obese but lacking several key nutrients in their diet. To combat obesity in children and adults, the 2010 Report recommends that Americans “lower overall energy intakes to match their energy needs.” Further, the Report recommends that “energy-dense forms of food, especially those high in [solid fat and added sugars], should be replaced with nutrient-dense forms” of food. Nutrient-dense foods were defined by the 2005 *Dietary Guidelines for Americans* as those foods “that provide substantial amounts of vitamins and minerals (micronutrients) and relatively few calories.” The 2010 Advisory Report accepts the 2005 definition, but clarifies the specific type of foods that are considered nutrient-dense. These include foods that are lean or low in solid fats, that do not contain added sugars, starches, or sodium, and that retain naturally-occurring components such as fiber (e.g., vegetables, fruits, whole grains, fish, eggs, and nuts prepared without added solid fats or sugars, as well as lean or low-fat forms of milk, meat, and poultry prepared without added solid fats or sugars).

Recommendations to Improve the Overall Food Environment

Specific portions of the 2010 Advisory Report focus on how the overall food environment must be improved to support the efforts of all Americans to meet the key recommendations of the Report. To ensure that all Americans have access to a nutrient-dense diet recommended by the Dietary Guidelines Advisory Committee the Report concludes that federal, state, and local governments should work to:

- Increase nutrition education programs in U.S. schools and the availability of nutrition education programs for adults, especially parents;
- Create greater financial incentives to purchase, prepare, and consume vegetables and fruit, whole grains, seafood, low-fat milk products, and lean meats, especially by low-income Americans;
- Improve access to affordable fresh produce and food;
- Develop safe, effective, and sustainable practices to expand aquaculture to increase the availability of seafood;
- Encourage restaurants and the food industry to offer health-promoting foods that are low in sodium, solid fat and added sugars, refined grains, and served in smaller portions;
- Target childhood obesity by offering foods that comply with the 2010 Advisory Report in schools, removing sugar-sweetened beverages and high-calorie snacks from schools and recreational facilities, and promoting zoning policies that limit the location of fast food restaurants near schools, playgrounds, and places where children play; and
- Promote sound government policies and responsible food industry practices to prevent foodborne illnesses.

Recommendations to Prevent Childhood Obesity

- Balancing energy intake with expenditure, such as by promoting smaller portions of foods and beverages;
- Reducing the intake of sugar-sweetened beverages, including reducing the amount of fruit juice children consume—especially for overweight children;
- Increasing the intake of fruits and vegetables;
- Reducing the consumption of meals from fast food restaurants;
- Promoting the consumption of breakfast; and
- Limiting media time (e.g., television, computer, video games), while increasing active play.

Recommendations Concerning Specific Nutrients and Food Components

Solid Fat and Added Sugars: The 2010 Report specifically recommends that Americans reduce their intake of foods high in solid fat and added sugars (SoFAS) by recommending that most Americans consume no more than 5 to 15 percent of their total calories from SoFAS. According to the

Report:

- Solid fats are defined as “fats that are solid at room temperature.” Foods high in solid fats according to the Report include many cheeses, creams, ice cream, well-marbled cuts of meats, bacon, poultry skin, and many baked goods (e.g., cookies, crackers, donuts, pastries, and croissants).
- Added sugars are defined as “sugars and syrups that are added to foods or beverages during processing or preparation.” Examples of added sugars from the Report include brown sugar, corn sweeteners, corn syrup, dextrose, fructose, fruit juice concentrates, glucose, high-fructose corn syrup, honey, invert sugar, maltose, and sucrose.

Fatty Acids and Cholesterol: The recommendations regarding fatty acid and cholesterol intake have not changed significantly since 1990, but the 2010 Report clarifies the levels of fatty acid and cholesterol intake that optimize health. These recommendations include (1) limiting saturated fatty acid intake to less than seven percent of daily calories; (2) limiting dietary cholesterol to less than 300 milligrams per day; (3) avoiding *trans* fatty acids from industrial sources, while only consuming small amounts of *trans* fatty acids from natural sources; (4) redefining cholesterol-raising fats as saturated fats and *trans* fatty acids, of which daily intake should be less than five percent of energy; and (5) consuming two servings of seafood per week to provide an average of 250 milligrams per day of *n*-3 fatty acids from marine sources. ^[4] Reduction of fatty acids and cholesterol, according to the Report, can lead to a decreased risk of CVD and type 2 diabetes.

Sodium: The 2010 Advisory Report also recommends that consumers reduce the intake of sodium to levels lower than those previously recommended.. The 2005 Dietary Guidelines Advisory Committee recommended that the general adult population limit sodium intake to levels less than 2,300 milligrams per day, but recommended that African Americans, older adults, and persons with hypertension limit sodium intake to 1,500 milligrams or less per day. The 2010 Dietary Guidelines Advisory Committee recognized that these more vulnerable groups now comprise 70 percent of the U.S. adult population, and concluded that it was appropriate to extend the recommended 1,500 milligram daily sodium limit to the general population. ^[5]

The Advisory Report highlighted a number of food types that contribute significant amounts of sodium to the overall diet. These include chicken and chicken mixed dishes, pizza, pasta, cold cuts, condiments, sausage, bacon, grain-based desserts, soups, and yeast breads.. The report emphasized the significant amounts of sodium that are being consumed through meat, poultry, and fish products that have been injected or bathed in marinades or other solutions containing salt and other sodium sources.

Potassium, Fiber, Vitamin D, and Calcium: The Report recommends that Americans increase their intake of potassium to the recommended level of 4,700 milligrams per day because increased potassium intake helps combat the effects of sodium on blood pressure. In addition to potassium, the 2010 Report expressed concern that Americans are not consuming enough fiber, vitamin D, and calcium. Potassium, fiber, vitamin D, and calcium are of particular concern to the Advisory Committee because these nutrients are “linked to indicators of nutrient inadequacy or disease prevalence and require special consideration in developing dietary guidance to meet recommended food intakes.”

Refined Grains and Whole Grains: The Report recommends that Americans significantly lower their intake of refined grains, especially refined grains that are coupled with added sugar, solid fat,

and sodium. Refined grains are defined by the Report as “a grain product that is missing the bran, germ, and/or endosperm.”

The Report recommends that deliberate efforts should be made to replace refined grains in the diet with whole grains, especially those rich in dietary fiber. According to the Report, “a moderate body of evidence suggests that dietary fiber from whole foods protects against cardiovascular disease, obesity, and type 2 diabetes and is essential for optimal digestive health.” Further, the Report concludes that “a moderate body of evidence from large prospective cohort studies shows that whole grain intake, which includes cereal fiber, protects against cardiovascular disease” and “limited evidence shows that consumption of whole grains is associated with a reduced incidence of type 2 diabetes.” The Advisory Committee also expressed concern over the “lack of standards for whole grain foods and measuring whole grain content in foods”—making the Report’s recommendations regarding whole grains hard to implement.

Carbohydrates: Consist with the Report’s recommendations to decrease intake of energy-dense foods, the Report recommends that most Americans “should decrease consumption of energy-dense carbohydrates, especially refined, sugar-dense sources, to balance energy needs.” Instead, the Report recommends that Americans should choose fiber-rich carbohydrates, such as whole grains, vegetables, fruits, and cooked dry beans and peas. The Report also notes that evidence shows there is little or no association between body weight, cancer, or type 2 diabetes and the glycemic index or glycemic load. The glycemic index is a classification system designed to quantify the relative blood glucose response to the consumption of carbohydrate-containing foods. The glycemic load is an indicator of the blood glucose response induced by total carbohydrate intake.

Translating the Scientific Evidence into Action and Achieving Genuine Results

The 2010 Dietary Guidelines Advisory Committee Report highlights the huge challenges involved in translating what is known about diet and health into behaviors and practices that, in fact, promote health and prevent disease.

“The challenges go beyond cost, economic interests, technological and societal changes, and agricultural limitations, but together stakeholders and the public can make a difference. We must value preparing and enjoying healthy food and the practices of good nutrition, physical activity, and a healthy lifestyle. [The Committee] encourages all stakeholders to take actions *to make every choice available to Americans a healthy choice*. To move toward this vision, all segments of society – from parents to policymakers and everyone in between – must now take responsibility and play a leadership role in creating gradual and steady change to help current and future generations live healthy and productive lives. A measure of success will be evidence that meaningful change has occurred when the 2015 [Dietary Guidelines Advisory Committee] convenes.”

A full copy of the Advisory Report is available at www.dietaryguidelines.gov. Written comments regarding the Advisory Report can be submitted to USDA and HHS at www.dietaryguidelines.gov. Comments must be received on or before 5 P.M. on July 15, 2010.

Kelley Drye & Warren LLP

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regulatory counseling and assist in developing products, labels, and promotional materials that achieve our clients' goals without running afoul of regulatory requirements. With close knowledge of FDA's enforcement priorities and deep experience with the FTC's regulation of advertising, our team can provide comprehensive legal advice with an eye towards giving clients a competitive edge.

^[1] The Advisory Committee used the NEL to search scientific literature to identify appropriate studies for each recommendation, extract key information, and evaluate the methodological strength of each included study. To increase transparency, the Committee is making all of the questions, literature, evidence summaries, and graded conclusion statements that form the Committee's recommendations publicly accessible.

^[2] For more information about the Obama Administration's initiatives to combat obesity and promote healthier lifestyles please see our May 13, 2010 Client Advisory, "White House Childhood Obesity Task Force's 'Action Plan' for 'Solving the Problem of Childhood Obesity Within a Generation': Key Areas of Focus for the Conventional Food and Beverage Industry," *available at* http://www.kelleydrye.com/publications/client_advisories/0563.

^[3] According to the Advisory Report "[u]ntil recently, data were insufficient to document the impact of whole diets and eating patterns on health outcomes." However, "[t]he state of the evidence and the methodological rigor regarding such questions have improved tremendously and the data can now be incorporated into this report."

^[4] Studies, discussed in the Report, evaluating the effect of n-3 fatty acids were conducted using *n*-3 fatty acids derived from fish and fish products, including fish oil.

^[5] The Advisory Committee acknowledged that, due to product standards and consumer taste preferences for sodium, that an immediate change to a lower sodium intake level for the general population would be difficult. Therefore, the Committee refers to a recent Institute of Medicine report to provide "a roadmap to achieve gradual reductions in sodium intake."