

Final Ruling for Menu Labeling Law Still Pending

The Food and Drug Administration ("FDA") issued proposed rules requiring nutrition labeling on menus and menu boards for chain restaurants and for foods sold in vending machines. The proposed rules would implement the nutrition labeling requirements mandated by Section 4205 of the Affordable Care Act ("Section 4205").

Restaurants and similar establishments would have to post the number of calories for most items listed on menus or menu boards and would also need to make available more detailed nutrition information upon request. A compliance standard stricter than FDA has applied to restaurants since 1993 is also proposed. Separately, vending machines would have to provide calorie disclosures for each item offered. The final requirements will be important not just for restaurants and other foodservice establishments, but also for food processors and others who supply these segments of the food industry.

FDA expected to issue a final rule by the end of 2011 on restaurant labeling, with an implementation date as early as 6 months after passing the final rule.



Proposed Requirements for Restaurants and Similar Retail Food Establishments

Establishments Covered

* Restaurants or similar retail food establishments with 20 or more locations, doing business under the same name and offering for sale substantially the same menu items.

* Movie theaters, airplanes, bowling alleys, and other establishments whose primary purpose is not to sell food would not be subject to these proposed regulations.

* A "restaurant or similar retail food establishment" would be an establishment that sells restaurant or restaurant-type food whose primary business activity is the sale of food to consumers. An establishment's primary business activity would be the sale of food to consumers if either:

1. the establishment presents itself as a restaurant, or
2. greater than 50 percent of the establishment's total floor area is used for the sale of food.

* Restaurants and similar retail food establishments not covered (for example, if they are part of a chain with fewer than 20 locations) can choose to "opt in" to the federal menu labeling requirements by registering with the FDA every other year.

* The proposed rule invites the public to comment on whether additional types of food establishments should or should not be covered by the new rules.

As of February 1, 2012, the publication date of this edition of Operator's Edge, no final ruling has been released.

For complete details on this important industry regulation, click [here](#).