

FDA Delays Menu Compliance Date Again

PUBLISHED ON

May 2, 2017

NOTE: This is an update to a previous alert, "[Menu Compliance Counts Starting May 5th.](#)"

The effort to delay the compliance date for calorie labeling in restaurants and other retail food establishments has succeeded, with the Food and Drug Administration pushing back the compliance deadline to May 2018, [according to reports](#).

In April, the National Grocers Association and the National Association of Convenience Stores petitioned to delay the compliance deadline previously scheduled for May 5, 2017. The federal Nutrition Labeling of Standard Menu Items in Restaurants and Similar Retail Food Establishments final rule requires food establishments with 20 or more locations to post calorie counts and other similar nutrition information for each food item available on menus.

This is the third delay of the rule's enforcement date, which was originally meant to take effect in December 2015. The rule has been hotly contested as being overly burdensome for the industry. Those opposed to the rule also have cited constitutional issues. A 60-day comment period on the rule begins May 4.

The April 5 petition did not request a specific time for the delay, though the FDA settled on the one-year delay. Instead, the scope of the rule is the primary outstanding issue. Along with this most recent delay, the FDA has invited further comments from interested parties.

The rule is not exclusive to restaurants. Self-serve and prepared foods at places like a grocery store deli or prepared food offerings are also subject to the labeling requirements. Restaurants and retail food establishments not required to provide nutrition information may elect to do so by registering with the FDA every other year. Nutrition information must be available on in-store marketing materials as well as vending machines.

If you have concerns about how this delay could affect your operation, please contact [Barley Snyder's Food and Agribusiness Group](#).

This legal update was co-authored by EmmaRose Boyle. EmmaRose is a law student currently attending Vermont Law School and working in an externship program at Barley Snyder.

:



Timothy G. Dietrich

Partner

Tel: (610) 898-7154

Email: tdietrich@barley.com