

## **FDA Proposed Rule on Menu Labeling of Standard Menu Items at Chain Restaurants**

On Friday, April 1<sup>st</sup>, the FDA published the much anticipated proposed rules for menu labeling in chain restaurants. This proposed rule will be published in the Federal Register and there will be a 60 day comment period. After considering comments, the FDA is expected to publish the final rule by the end of 2011 and enforcement could start as early as mid-year 2012.

### Highlights of the Proposed Rule:

- Establishments covered: Restaurants with 20+ locations. Exclusions are movie theaters, bowling alleys, other places where food might be sold that their primary business activity is not as a restaurant
- Calorie posting for standard menu items with succinct statement of suggested daily caloric intake, additional nutritional information in available on premises
- Calorie posting for self-service food and food on display needed
- Food not labeled will be considered misbranded
- Standard menu items include food that is routinely listed or offered as a self-service food or food on display. This would include specific types of pizzas listed on menus (deluxe, BBQ, etc)
- Definition of the terms Combination Meal, Variable Menu Item, Self-Service Food, Food on Display, Custom Order, Daily Special
- List of what items would be excluded: items not listed on menu board and other items placed on the table or counter for general use, daily specials, temporary menu items (<60 non-consecutive days on menu), and customary market tests (<90 days on menu), alcoholic beverages
- Proposed Caloric Declaration: at 5 calorie increments up to and including 50 calories and to the nearest 10-calorie increment above 50 calories.
- Various options were given for listing combination meals, variable menu items:
  - FDA is proposing calorie declaration be in a range for all variable menu items.
- Suggestions on statements on caloric intake for posting on menus
- Additional information to be available to consumers: calories, calories from fat, total fat, saturated fat, trans fat, cholesterol, sodium, total carbohydrates, dietary fiber, sugars, and protein
- Proposed nutrients on pizzas and similar items that can have multiple toppings/combinations: declaration for information for the basic preparation of the pizza (plain, deep-dish, 12" pizza) and separate declaration for all toppings
- Items with similar nutrient make-up can be listed as a group with nutrients listed only once
- Self-service (buffet) and Food on Display: calories per item or per serving must be posted on a sign containing the item name adjacent to the item
- Multi-serving items: discrete items such as rotisserie chicken would display total calories and could additionally display calories per serving. Individual portions of a multi-serving food (cake by the slice) should be listed as calories per serving

- Determination of Nutrient Content: can be completed by nutrient databases, laboratory analyses, or cookbooks, and use of labels on packaged foods. Must provide information on the reasonable basis used to calculate values to FDA
- Compliance to Values: protein and dietary fiber must be at least as high as declared value and calories, sugars, total fat, saturated fat, trans fat, cholesterol, and sodium must be no more than 20% in excess of the declared value and protein, carbohydrates, and dietary fiber must be no less than 80% of the declared value. In ranges, the lowest value would be used for compliance.
- Proposed Timeline: final rule would become effective 6 months from the date of its publication

For questions on this or any other restaurant/food service issues, please contact Dr. Gillian Dagan at 352-246-7739 or [gillian@abcr.com](mailto:gillian@abcr.com).