

FDA Delaying Enforcement (Again) for Menu Labeling Final Rule

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The **FDA** issued a statement on March 9 indicating that, as a result of language in the [Omnibus Appropriations Bill](#) enacted December 18, 2015,¹ it is delaying enforcement of the Nutrition Labeling of Standard Menu Items in Restaurants and Similar Retail Food Establishments [Final Rule](#) (Menu Labeling Final Rule).² Importantly, the compliance date was originally set to be December 1, 2015. However, in July 2015, [FDA extended the compliance date](#) for covered entities to December 1, 2016.³

Now, FDA has extended the compliance date even further to an undetermined date that is “one year after it issues a Final Level-1 guidance on menu labeling.”

The [Menu Labeling Draft Level 1 Guidance](#) was only issued on Sept. 11, 2015.⁴ FDA stated that it has received extensive input from stakeholders to aid in further developing the guidance and that it will issue the final guidance “as soon as possible.”

As the Menu Labeling Final Rule currently stands, once a compliance date is set, the categories of covered establishments potentially include not only restaurants and similar retail food establishments, but also movie theaters, amusement parks, bowling alleys and other entertainment venues, convenience stores, coffee shops, bakeries, delis, grocery stores, supercenters, and fitness clubs. However, recently introduced legislation, the [Common Sense Nutrition Disclosure Act](#), would narrow the scope of covered establishments by redefining “restaurant or similar retail food establishment” to include only those that “derive more than 50 percent of their total revenue from the sale” of restaurant-type food.⁵

¹<https://www.congress.gov/bill/114th-congress/house-bill/2029/text>.

²<https://www.gpo.gov/fdsys/pkg/FR-2014-12-01/pdf/2014-27833.pdf>.

³<https://www.gpo.gov/fdsys/pkg/FR-2015-07-10/pdf/2015-16865.pdf>.

⁴<http://www.fda.gov/downloads/Food/GuidanceRegulation/GuidanceDocumentsRegulatoryInformation/UCM461963.pdf>.

5<https://www.govtrack.us/congress/bills/114/hr2017/text/eh>.

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