

FDA Seeks Public Comment on Nutritional Disclosures in Retail Food Outlets

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Last week, the Food and Drug Administration (FDA) took the first steps needed to implement the new restaurant food labeling requirements of the Federal Food, Drug & Cosmetic Act (FDCA), requesting public comment on a number of regulatory issues that will affect compliance burdens and liability risks for companies subject to the new requirements. Submissions responding to the FDA notice can be made until September 7, 2010.

The new labeling requirements were established under FDCA amendments adopted as part of the recently enacted health care reform legislation (i.e., section 4205 of the Patient Protection and Affordable Care Act of 2010). The amendments expanded the scope of mandatory nutrition labeling requirements under FDCA section 403(q)(5), and require restaurants and other retail food establishments with at least 20 or more locations to provide “clear and conspicuous” calorie information to consumers. The FDA is specifically seeking information relating to the following issues:

- Chain Retail Food Establishments
- Determination of Calorie Content of Foods Offered by Chain Retail Food Establishments
- Vending Machine Operations
- Implementation and Enforcement

For further information about the new nutrition labeling requirements, or assistance in responding to the FDA notice, please contact one of the Kelley Drye attorneys listed above.