CALIFORNIA CONFERENCE OF DIRECTORS OF ENVIRONMENTAL HEALTH

CALIFORNIA MENU LABELING GUIDELINES

SB 1420 (Padilla) was signed into law in 2008 and added Section 114094 to the California Health and Safety Code relating to food facilities and the disclosure of nutritional information (hereinafter "menu labeling law"). Please read the California menu labeling law in its entirety by viewing Section 114094 of the California Health and Safety Code (http://www.leginfo.ca.gov/calaw.html). Below is an overview of the law followed by frequently asked questions and answers.

OVERVIEW OF CALIFORNIA'S MENU LABELING LAW

Food facilities affected by the California menu labeling law

California's menu labeling law (California Health and Safety Code Section 114094) sets forth menu labeling requirements for food facilities. The law defines a food facility as a facility that operates under common ownership or control with at least 19 other food facilities with the same name in the state that offer for sale substantially the same menu items, or operates as a franchised outlet of a parent company with at least 19 other franchised outlets with the same name in the state that offer for sale substantially the same menu items (hereinafter referred to in this document as a "chain food facility"). In summary, the menu labeling law applies to food facilities with 20 or more locations within the state.

The new law does not apply to certified farmers' markets, commissaries, grocery stores - except for separately owned food facilities to which this law otherwise applies that are located in a grocery store - convenience stores, licensed health care facilities, mobile support units, public and private school cafeterias, restricted food service facilities, retail stores where the majority of sales are from a pharmacy, vending machines, self-service salad bars and self-service buffets.

Drive-through customers will be treated a little differently from other diners. They need to be informed only that nutrition information is available upon request as outlined below and the facility needs to provide, upon request, a brochure with nutritional information as outlined below.

Requirements of the California menu labeling law

Beginning July 1, 2009 to Dec. 31, 2010, chain food facilities have a choice between two levels of nutritional disclosure and chain food facilities with drive-throughs have a specific requirement for their drive-through areas:

I. Chain food facilities that do not provide sit-down service (sometimes referred to within industry as quick service food facilities), may either:

   a. Disclose (1) calories, (2) carbohydrates, (3) saturated fat and (4) sodium for each standard menu item in a brochure at the point of sale prior to or during the placement of an order;

   OR

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b. Disclose calories only for each standard menu item directly on an indoor menu board next to the item on the menu board; if the chain food facility provides a menu, on the menu next to the item on the menu; if the chain food facility uses a display tag as an alternative to a menu or menu board for standard menu items in a display case, on the display tag. If the standard menu item is a combination of at least two standard menu items, the disclosure of calorie content information on a menu or menu board shall, based upon all possible combinations for that standard menu item, include both the minimum amount of calories for the calorie count information and the maximum amount of calories. If there is only one possible total amount of calories, then this total shall be disclosed. Also, for a standard menu item that is not an appetizer or dessert, but is intended to serve more than one individual, the disclosure of calorie content information on a menu or menu board next to a standard menu item must include the number of individuals intended to be served and the calorie content per individual serving.

II. Chain food facilities that provide sit-down service (sometimes referred to within industry as table service food facilities), may either:

a. Disclose (1) calories, (2) carbohydrates, (3) saturated fat and (4) sodium for each standard menu item in either:

i. a brochure available on the table;
ii. a menu next to each standard menu item;
iii. a menu, under an index section that is separate from the listing of standard menu items;
iv. a menu insert; or
v. a table tent on the table.

OR

b. Disclose calories only for each standard menu item directly on the menu next to the item on the menu; if the chain food facility uses an indoor menu board, on the menu board next to the item on the menu board; if the chain food facility uses a display tag as an alternative to a menu or menu board for standard menu items in a display case, on the display tag. If the standard menu item is a combination of at least two standard menu items, the disclosure of calorie content information on a menu or menu board shall, based upon all possible combinations for that standard menu item, include both the minimum amount of calories for the calorie count information and the maximum amount of calories. If there is only one possible total amount of calories, then this total shall be disclosed. Also, for a standard menu item that is not an appetizer or dessert, but is intended to serve more than one individual, the disclosure of calorie content information on a menu or menu board next to a standard menu item must include the number of individuals intended to be served and the calorie content per individual serving.

III. Chain food facilities that have a drive-through area and use a menu board to display or list standard menu items at the point of sale shall, for purposes of the drive-through area only, disclose all the nutritional information ((1) calories, (2) carbohydrates, (3) saturated fat and (4) sodium) on a brochure that is available upon request, and shall have a notice at the point of sale that reads: “NUTRITION INFORMATION IS AVAILABLE UPON REQUEST” or other similar statement that indicates the disclosure of nutrition information is available upon request.

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The disclosure of nutritional information must be in a clear and conspicuous size and typeface.

"Point of sale" is defined in the menu labeling law as the location where a customer makes an order.

Beginning Jan. 1, 2011, all chain food facilities must:

I. For any chain food facility that provides a menu: disclose calories only for each standard menu item directly on the menu next to the item on the menu. If the standard menu item is a combination of at least two standard menu items, the disclosure of calorie content information on a menu or menu board shall, based upon all possible combinations for that standard menu item, include both the minimum amount of calories for the calorie count information and the maximum amount of calories. If there is only one possible total amount of calories, then this total shall be disclosed. Also, for a standard menu item that is not an appetizer or dessert, but is intended to serve more than one individual, the disclosure of calorie content information on a menu or menu board next to a standard menu item must include the number of individuals intended to be served and the calorie content per individual serving; and

II. For any chain food facility that uses an indoor menu board: disclose calories only for each standard menu item directly on an indoor menu board next to the item on the menu board. If the standard menu item is a combination of at least two standard menu items, the disclosure of calorie content information on a menu or menu board shall, based upon all possible combinations for that standard menu item, include both the minimum amount of calories for the calorie count information and the maximum amount of calories. If there is only one possible total amount of calories, then this total shall be disclosed. Also, for a standard menu item that is not an appetizer or dessert, but is intended to serve more than one individual, the disclosure of calorie content information on a menu or menu board next to a standard menu item must include the number of individuals intended to be served and the calorie content per individual serving; and

III. For any chain food facility that uses display tags as an alternative to a menu or menu board for standard menu items in a display case: disclose calories only for each standard menu item directly on the display tag; and

IV. For chain food facilities that have a drive-through area and use a menu board to display or list standard menu items at the point of sale shall, for purposes of the drive-through area only, disclose all the nutritional information ((1) calories, (2) carbohydrates, (3) saturated fat and (4) sodium) on a brochure that is available upon request, and shall have a notice at the point of sale that reads: "NUTRITION INFORMATION IS AVAILABLE UPON REQUEST" or other similar statement that indicates the disclosure of nutrition information is available upon request.

The disclosure of nutritional information must be in a clear and conspicuous size and typeface.

"Point of sale" is defined in the menu labeling law as the location where a customer makes an order.

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Every brochure provided must include the statement: “Recommended limits for a 2,000 calorie daily diet are 20 grams of saturated fat and 2,300 milligrams of sodium.”

All the above provisions only apply to a “standard menu item,” which requires that the menu item is offered for sale at least 180 days per calendar year. The following items are not standard menu items and are exempt from the menu labeling requirements: customized orders, alcoholic beverages, labeled packaged food items governed by the federal Nutrition Labeling and Education Act, items in a consumer self-service salad bar and items in a consumer self-service buffet.

Nutrition information is based on how the standard menu item is usually prepared and offered for sale.

Menus and menu boards may include a disclaimer that indicates that there may be variations in nutritional content across servings, based on variations in overall size and quantities of ingredients, and based upon special ordering.

Penalties for non-compliance

The enforcement mechanism of the section is the local enforcement agency (i.e., health inspector). A food facility may be guilty of an infraction, punishable by a fine of not less than Fifty Dollars ($50.00) and no more than Five Hundred Dollars ($500.00), when cited by local health inspectors. A food facility may not be fined more than once during any inspection visit.

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FREQUENTLY ASKED QUESTIONS AND ANSWERS

A. SCOPE

A1. Question: Are third-party delivery companies required to comply with the menu labeling law?

Answer: Each individual chain food facility that falls under the California menu labeling law and that works with a third-party delivery company is required to provide compliant materials to the third-party delivery company for use. For example, depending on the choice of method of disclosure by a chain food facility that provides sit-down service (chain table service food facility) it may or may not have to provide nutritional information on the materials it provides to a third-party delivery company, depending.

- If the chain table service food facility chooses under the law that from July 1, 2009 to Dec. 31, 2010 to provide a “brochure available on the table” at the restaurant, then menus provided

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to third-party delivery companies would not have to have nutritional information included on the menu.

- If the chain table service food facility opts to post nutritional information directly on their menus, then all menus provided, including those to third-party delivery companies, must include the nutritional information.

- If a non sit-down chain food facility (chain quickservice food facility) chooses under the law that from July 1, 2009 to Dec. 31, 2010 to disclose nutritional information "on a brochure that is made available at the point of sale prior to or during the placement of an order" then they would have to provide compliant brochures to third-party delivery companies that they work with.

Beginning Jan. 1, 2011, all menus provided by chain food facilities must include the requisite calorie content disclosure.

Food facilities that don't have to comply with the menu labeling law don't have to provide menus with nutritional information.

A2. Q: Do chain food facilities have to post nutritional information on the facilities' Web sites?

A. No, there is no separate requirement that nutritional information be provided on chain food facilities' Web sites.

A3. Do Braille menus have to include nutritional information?

A: If a food facility is subject to the menu labeling law, then all menus provided have to be compliant with the law, whether in Braille or not.

A4. Q: What is the definition of "sit-down service" as used in the menu labeling law?

A: Sit down-service describes food facilities where customers order food while sitting at a table. Sit-down service doesn't include a facility where food is ordered at a counter and the customer has the option to take the food to go or eat at a table.

A5. Q: How do you determine if a grocery store is exempt?

A: Areas in a grocery store (including a convenience store) where food is prepared and served (i.e., grocery service deli, bakery, meat and seafood counters, hot food counters) that are under the same ownership as the grocery store are exempt, even if they have separate permits. However, if the areas are separately owned, including partnerships that the grocery store may

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have an interest in, then it falls under the menu labeling law if it fits the definition of a chain food facility.

A6. Q: Do bakeries fall under the California menu labeling law?

A: Yes, a bakery is a food facility that could fall under the menu labeling law if it meets the definition of a chain food facility (except for bakeries that are part of a grocery store that are exempt from the menu labeling law).

A7. Q: Do movie theaters fall under the California menu labeling law?

A: Yes, a movie theater is a food facility that could fall under the menu labeling law if it met the definition of a chain food facility.

A8. Q: Hotel/motel menus: Do hotels and motels fall under the California menu labeling law if they offer continental breakfast menus (offered by hotel/motel, not by a separate restaurant in the hotel/motel)?

A: Yes, hotels and motels are food facilities that could fall under the menu labeling law if they met the definition of a chain food facility. If a hotel or motel itself offered a continental breakfast room service menu, and the hotel/motel met the definition of a chain food facility, then the menus would have to have requisite nutritional information. However, the menu labeling law does not apply to food service that is self-service like self-serve continental breakfast buffets. If the room service menu is offered by a restaurant in the hotel/motels and that restaurant meets the definition of a chain food facility, then it would have to provide requisite nutritional information.

A9. Q: If a food facility does not have a menu, do they have to produce a menu?

A: Food facilities are not required to produce a menu if they do not offer menus.

A10. Q: What if a restaurant has an express type restaurant associated with it but they have different names, are different restaurants but may have some similar menu items - are they separate food facilities? (i.e., Bob & Paul's Fine Restaurant and Bob & Paul's Express)

A: Yes, they are separate food facilities because they have different names. If the food facilities operate under different names, they are considered separate restaurants and each restaurant would have to meet the definition of a chain food facility individually for it to fall under the California menu labeling law.

A11. Q. Does the menu labeling law apply in circumstances, such as at sporting events, where pre-made food items from chain food facilities are offered for sale to the attendees through a person carrying around the pre-made food items (e.g., a person walking around the grandstands of a baseball or

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basketball game with a large carrying container with pre-made pizzas for sale to the attendees)?

A. No, the menu labeling law does not apply here, so the person selling the pre-made food items to the attendees would not be required to provide nutritional information to the attendees even though the pre-made food items are from a chain food facility that would otherwise fall under the menu labeling law.

A12. Q. Does the menu labeling law apply to non-permanent food facilities (e.g., temporary food facilities) that are part of a chain?

A. Yes, a non-permanent food facility that is part of a chain (operates under common ownership or control and has the same name and offers for sale substantially the same menu items as the other facilities in the qualifying chain) would be subject to the menu labeling law.

A13. Q. Does the menu labeling law apply to chain food facility kiosks at events?

A. Yes, the menu labeling law applies to chain food facility kiosks at events and the same requirements for nutritional disclosure would apply.

B. MENU

B1. Q. Is the statement, “Recommended limits for a 2,000 calorie daily diet are 20 grams of saturated fat and 2,300 milligrams of sodium,” required in the menus?

A. No. The above statement is only required on brochures provided under this law.

B2. Q: How do you disclose calories for individual and family combination meals (a standard menu item that is a combination of at least two standard menu items)?

A: Individual combination meals: The range of calories must be posted for combination meals that serve one person. The range should include both the minimum and maximum amount of calories based on all possible combinations for that standard menu item. If there is only one possible total amount of calories, then the total must be disclosed.

Family combination meals: The range of calories, per serving, must be posted for combination meals that serve more than one individual and the number of individuals the combination meal serves must be provided. The range should include both the minimum and maximum amount of calories based on all possible combinations for that standard menu item. If there is only one possible total amount of calories, then the total should be disclosed.

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B3. Q: How do you provide nutritional disclosure for beverages? Can nutritional information be provided in a range for beverages?

A: Alcoholic beverages are exempt from the menu labeling law. Self-service drink stations (i.e., fountain drink stations) are also exempt from the menu labeling law. All other drinks that are non-alcoholic and are not self-service, are treated just like food items and the same nutritional disclosure requirements apply. The law does not expressly allow the use of ranges for beverages unless it is part of a combination menu item.

B4. Q: Must nutritional information be provided for beverages ordered through a drive-through window?

A: Because drinks served from the drive-through are not self-service, requisite nutritional disclosure for beverages need to be included in the brochure. This applies even to restaurants that have a self-service drink station inside for walk-in customers. Drive-though ordered drinks are still not self-service drinks.

B5. Q: Do you have to provide nutritional information for complimentary items such as bread or chips and salsa that are sometimes offered for free in some restaurants?

A: Complimentary items such as bread or chips and salsa that are served irrespective of what a customer orders are exempt. However, if a chain food facility separately charges for such items as a standard menu item then nutritional information must be disclosed.

B6. Q: Do you have to provide nutritional information for condiments?

A: You do not have to provide nutritional information for condiments (e.g., ketchup, mayonnaise, mustard, etc) that are free and/or self-serve items. However if a condiment is part of a standard menu item (i.e., burger that is always prepared with mayonnaise on it unless otherwise customized by the customer or a fish and chips dish that is always prepared with tarter sauce unless otherwise customized by the customer), then the nutritional information must be provided as part of the standard menu item.

B7. Q: Do you have to provide nutritional information for soup or salad?

A: If a soup and/or salad are standard menu items then they are treated like other standard menu items and requisite nutritional information must be provided. If the soup or salad is part of a combination meal, the requisite minimum and maximum range of calories must be posted for all possible combinations of the combination meal.

B8. Q. Do you have to provide nutritional information for salad dressing?

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A. It depends on whether the salad comes with a particular salad dressing that is part of the salad or whether the salad does not come with a particular salad dressing and the customer is given a choice of salad dressing to pick from and whether those dressings are on the menu or not.

For situations where a particular salad dressing comes as part of the salad, then the nutritional information must be included when calculating the nutritional information of the salad. (e.g., Asian chicken salad with ginger citrus dressing).

For situations where the salad doesn't come with a standard salad dressing automatically and the customer is instead given a choice of dressings that are not listed on the menu, then the salad dressings are exempt. (e.g., Garden salad with choice of dressing and the dressings are not listed on the menu = exempt). However, if the salad dressings are listed on the menu as standard menu items, then requisite nutritional information must be provided for the salad dressings.

For combination meals, if nutritional information is required for the salad or salad dressings as above, ranges may be used. However, the range will not include the salad dressing if the salad dressing is otherwise exempt as above (e.g., choice of dressing and dressings are not listed on the menu).

B9. Q: What is a serving size under the menu labeling law?

A: The food facility determines the standard serving size. This is relevant for calorie disclosure relating to combination meals. For combination meals that serve more than one individual, food facilities must post the range of calories, per serving, for all possible combinations and must also include the number of individuals intended to be served by the combination meal.

B10. Q: Do you have to disclose nutritional information for the "soup of the day?"

A: No. The soup of the day is not a standard menu item because the soup changes and is not on the menu for at least 180 days.

B11. Q: If a food facility's suppliers change, will they have to change their menus or menu boards to reflect potential variances in nutritional information?

A: No. A food facility will not have to change their menus or menu boards to reflect non-material variances in nutritional information if their suppliers change, provided the preparation is the same. However, if a substantial/material change occurred, such as a substantial/material change in the recipe or portion size, the restaurant has to change its nutritional disclosures to reflect this.

B12. Q: How does the law apply to customized orders?

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A: A chain food facility that accepts customized ordering must provide requisite nutritional information for all standard menu items. If a customer chooses to customize the order, subsequent nutritional disclosure based on the customer's specific customized items, is not required. For instance, if a standard menu item is a turkey sandwich then the requisite nutritional information must be provided for the turkey sandwich as typically prepared. However, if a customer orders the turkey sandwich, but asks to hold the cheese and onions but add bacon, the food facility is not required to provide specific nutritional information based on this customization.

B13. Q: Is nutritional information required to be disclosed for the pizza toppings when the customer custom picks the toppings of the pizza?

A: No. If the customer is given the option to pick their own toppings on a pizza then disclosure of nutritional information for the toppings is not required because it is a customized pizza. (e.g., if the menu gives the option of a small, medium or large pizza with choice of toppings and the topping choices are listed on the menu for the customer to pick from then nutritional information is not required for the toppings).

However, disclosure of requisite nutritional information is required for pizzas that are standard menu items even if additional toppings are subsequently added (e.g., Hawaiian pizza).

B14. Q. For chain food facilities with a drive-through area, what information must be included in the brochure made available upon request to drive-through customers.

A. All brochures provided pursuant to the menu labeling law, whether provided at the drive-through or inside the chain food facility, must contain nutritional information that is defined in the law as including (1) the total number of calories, (2) total number of grams of carbohydrates, (3) total number of grams of saturated fat and (4) total number of milligrams of sodium.

B15. Q. What is an example of a display tag?

A. An example of a display tag is one that is used in a display case in a deli. In the menu labeling law, display tag is not defined specifically but described in more detail in subsection (c)(3) which sets forth requirements for food facilities that use a "display tag as an alternative to a menu or menu board to describe a standard menu item that is displayed in a display case within the food facility. . ."

B16. Q.Is there a specific font size or typeface requirement for nutritional disclosure?

A. The menu labeling law requires that nutritional disclosure be in a "clear and conspicuous" size and typeface. While there is no other specific font size or

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type listed in the menu labeling law, the closer the size and typeface matches the size and typeface of menu items, the greater the likelihood a facility will be in compliance.

B17. Q. What is the definition of “point of sale”?

A. Subsection (a)(6) of the menu labeling law defines point of sale as the location where a customer makes an order.

B18. Q. If a food facility has a glass case or other display case near their front door or entrance with the menu in it for people to see, does nutritional information need to be on the menu that is featured in the display?

A. From July 1, 2009 to Dec. 31, 2010, chain food facilities that provide sit-down service that opt to disclose nutritional information in a brochure or table tent “on the table” are not required to have nutritional information in the menu in the display case. Chain food facilities that do not provide sit-down service and opt to provide a brochure that is made available at the point of sale (which is defined as the location where the customer makes an order), are not required to have nutritional information in the menu in the display case. However, any chain food facility that opts to post requisite nutritional information directly on their menus from July 1, 2009 to Dec. 31, 2010 must provide compliant menus with the requisite information in their display cases.

On and after Jan. 1, 2011, every chain food facility that provides a menu shall disclose calorie content for standard menu items directly on the menu next to the item and therefore all menus, including those in a display case near the front entrance, will need to have the requisite calorie disclosures.

C. ENFORCEMENT

C1. Q: Will local enforcement agencies check for accuracy of the nutritional information?

A: Under the menu labeling law, local enforcement agencies will verify that the requisite information is provided per the menu labeling law. They will not be required to test for accuracy of the information. (i.e., they will check if a chain has the calories on the menu, but will not verify that the calories on the menu are accurate)

C2. Q. What if a local enforcement agency receives a complaint regarding the accuracy of the nutritional disclosure? (e.g., Customer complains that a menu says the item has 1000 calories and after the customer had the item tested, it was discovered that the item has 1500 calories)

A. No enforcement mechanism is provided under the menu labeling law for local enforcement agencies to check for accuracy. However, the local enforcement agency may refer the case to other appropriate government

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entities that have jurisdiction over the complaint under another body of law (e.g., depending, it may be referred to the local district attorney for violations under other theories of law) or if the local agency has jurisdiction under another law, they may act. Furthermore, local enforcement agencies may verify that a restaurant used a “reasonable basis” per the menu labeling law to determine the nutritional information.

C3. Q. What do local enforcement agencies do if they do see a violation (i.e., find that a chain food facility that should provide nutritional information under the menu labeling law has not provided any nutritional information at all)?

A. Local enforcement agencies may record it as a minor violation on the Official Inspection Report. Under the menu labeling law, a violation is considered an infraction. Local enforcement agencies may choose to be flexible for the first six months to allow for restaurants to come into compliance.

C4. Q: Will local enforcement agencies regulate food facilities that do not fall under the menu labeling law but that voluntarily provide nutritional information?

A: No. If a food facility does not meet the definition of a chain food facility under the menu labeling law then they will not be regulated by the local enforcement agencies. However, federal and state agencies like the FDA and the CDPH may have jurisdiction over nutrient claims under other bodies of law.

C5. Q: How do you know if an item has been on a menu for 180 days?

A: The food facility is responsible for determining what menu items have been on the menu for at least 180 days.

C6. Q: Will food facilities with drive-through windows be required to have a brochure, available upon request, at the drive-through, with full nutritional information (calories, carbohydrates, saturated fat and sodium) for standard menu items beginning July 1, 2009 and continuing after Jan. 1, 2011 irrespective of when they post calories on menus and indoor menu boards inside the food facility?

A: Yes. Beginning July 1, 2009 food facilities with drive-through windows must have a brochure available upon request with complete nutritional information (calories, carbohydrates, saturated fat and sodium). Signage must be posted at the point of sale that indicates that disclosure of nutrition information is available upon request. Even if the chain elects to post calories directly on the indoor menu board and menus, the brochure with full nutritional information is required to be available at the drive-through window. The requirement continues after Jan. 1, 2011, the date that all chains must begin to post calories directly on menus and indoor menu boards.

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D. START-UP

D1. Q: What are the time frames for facilities to comply with the menu labeling law?

A: The law establishes two separate compliance requirements. One pertains to requirements from July 1, 2009 through Dec. 31, 2010, and one pertains to requirements beginning Jan. 1, 2011. Depending on the operation, different disclosures (both type and method) are required. Read the California menu labeling law in its entirety by viewing Section 114094 of the California Health and Safety Code (http://www.leginfo.ca.gov/calaw.html). The law is enforced by local enforcement agencies and each local jurisdiction will be responsible for implementation within the dates mandated by law.

D2. Q: How will affected facilities be notified?

A: No formal statewide notice will be sent out to affected food facilities. Trade associations and local enforcement agencies may do voluntary outreach to their members or food facilities within their jurisdictions.

D3. Q: As a food facility, how can I obtain a list of resources or service providers that can help me comply with the menu labeling law?

A: The California Restaurant Association offers an information center with a listing of resources and service providers available. You can access this information on the California Restaurant Association's Web site under Emerging Matters in the Resources section of www.calrest.org.

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CALIFORNIA MENU LABELING GUIDELINES: Addendum to July 2009 Guidelines

December 2010

The 2009 federal health care initiative (Patient Protection and Affordable Care Act) included provisions for nationwide menu labeling requirements. Language in the initiative preempts local and state menu labeling laws, including SB 1420, unless local provisions are identical to federal provisions. In an opinion from the California Department of Public Health, the California constitution prohibits administrative agencies from declaring a statute unenforceable on the basis of federal preemption; an appellate court must make that determination. Similarly, local jurisdictions cannot declare that a federal law preempts their authority to enforce an existing State or local law. A draft version of the Federal menu labeling regulations is due on March 23, 2011.

On January 1, 2011, Phase II of SB1420 is scheduled to take effect. Without an appellate court determination, a six month educational period by local enforcement jurisdictions is recommended, effective January 1, 2011. Affected facilities will be inspected for SB 1420 compliance, and educated regarding Phase II compliance and the federal healthcare initiative. Facilities that provide easily accessible nutritional information to consumers will not be in violation for not posting calories on menus/menu boards (Phase II of 1420). At the conclusion of the educational period, further guidance will be provided for long-term compliance with menu labeling provisions.

E. 2009 Patient Protection and Affordable Care Act

E1. Q. What is included in the new federal provisions for menu labeling?

A. For detailed information regarding the federal healthcare initiative Section 4205 please visit:

http://www.fda.gov/Food/GuidanceComplianceRegulatoryInformation/GuidanceDocuments/FoodLabelingNutrition/ucm223266.htm

http://www.fda.gov/Food/GuidanceComplianceRegulatoryInformation/GuidanceDocuments/FoodLabelingNutrition/ucm223408.htm

Highlights of the initiative include the following:

- Chain restaurants with 20 or more facilities in the nation will be affected
- Calories must be posted on menus and menu boards, in addition to brochures listing nutritional information for standard menu items
- Calories are required for self service food and food on display
- Vending machines and alcoholic beverages are subject to menu labeling requirements

Please see the attached comparison table for a more comprehensive list of provisions.

E2. Q. How should local jurisdictions document inspections during the six month educational period?

A. CCDEH recommends that only facilities who do not disclose *any* nutritional information for their standard menu items be cited for minor violations of SB 1420. Otherwise, facilities would be educated regarding state and federal provisions. Notes and observations may be documented on the official inspection report regarding the menu labeling inspection.