

Looking for calorie labels on menus? Not until 2017

March 28 2016, by Mary Clare Jalonick

Wondering how many calories are in that hamburger? Chain restaurants still don't have to tell you, despite a 6-year-old law requiring calorie labels on menus.

Passed as part of the health care overhaul in 2010, the rules will eventually require restaurants and other establishments that sell prepared foods and have 20 or more locations to post the calorie content of food "clearly and conspicuously" on their menus, menu boards and displays.

This month, the Food and Drug Administration said it will delay the rules—again—until 2017.

The years of delays have come as supermarkets, [convenience stores](#) and other retailers that are covered by the rules but never wanted to be part of the law have fiercely lobbied against them. The move will leave the final step to a new president, despite the Obama administration's staunch support of menu labeling and other food policy to help Americans eat more healthfully. And it will give opponents more time to gather support for legislation that would roll back some of the requirements.

Restaurants and other retailers originally had until the end of 2015 to comply. Last summer, the FDA pushed that deadline back to the end of 2016. This month, they pushed the deadline back again.

Grocery stores and convenience stores have said the rules would be more burdensome for them than they would be for restaurants, which typically

have more limited offerings. Pizza chains like Domino's have also opposed the rules, saying they don't make sense for companies that take most of their orders online.

Margo Wootan is a lobbyist at the Center for Science and the Public Interest who was part of the original coalition and has pushed for the supermarkets to be included. She says she is frustrated that consumers are still waiting for the calorie information.

"Not only is it simple and straightforward but so many states and localities have already done this," she said.

Menu labeling is already required in a handful of places, including Vermont, New York City and Montgomery County, Maryland. But several other states put off their laws in anticipation of the federal rules.

California, for example, passed a law in 2008 but put that on hold after the federal standards became law in 2010. Today, [menu labeling](#) still isn't enforced there.

"We are very frustrated," says Harold Goldstein of the California Center for Public Health Advocacy. "We call on the federal government to issue its regulations immediately and allow both state and federal law to go into effect."

The latest delay came after Congress included language in a year-end spending bill in December that allowed FDA to put off the December 2016 date until a year after it publishes the final guidance for retailers who have to put the rules in place. This month, the agency said it is still working on those guidelines.

"The FDA cannot speculate on the timing on when final guidance will be issued," said spokeswoman Lauren Kotwicki.

Retailers have said compliance takes time. Robert Rosado of the Food Marketing Institute, an association that represents [grocery stores](#), said the delays only seem fair as some of the rules are complicated. In grocery stores, for example, the labeling rules apply to prepared foods, but exclude those that are typically intended for more than one person. That could mean cut fruit or other foods would be labeled in a salad bar, but not in a larger container for sale.

"The anxiety is that they're going to get it wrong," Rosado said. "Maybe the font size isn't right for their label or they rounded the calorie count the wrong way."

The Food Marketing Institute is backing legislation that passed the House earlier this year that would make it easier for some businesses to comply with the rules. It would narrow labeling requirements for supermarkets by allowing stores to use a menu or menu board in a prepared foods area instead of putting labels on individual items. It would also allow restaurants like pizza chains that receive most of their orders remotely to post calories online instead of at the retail location. The bill also seeks to ensure that establishments aren't punished for mislabeling due to inadvertent human error.

The House bill passed in February with some Democratic support, but the Senate has yet to move on the issue. The Food Marketing Institute, pizza companies and other groups which have pushed back on the rules are working to gather more support.

Meanwhile, as Washington delays, some companies have already put the labeling in place. Consumers can find the labels by individual items on [menu boards](#) at McDonalds, Panera, Starbucks and Au Bon Pain. Others are waiting for the deadline.

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