

Duff on Hospitality Law

FDA's Final Guidance on Menu-Labeling Regulations and What It Means to Hotel Owners and Operators

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Regular readers of this blog will know that we have been following the development and implementation of the FDA's new menu-labeling regulations with some interest. After multiple rounds of drafts and public comment periods, the agency now has issued its [final guidance](#) for compliance with the new rules. According to the FDA's press release, the guidance is intended to respond to the most frequently-asked questions from business potentially subject to the new rules, and "differs from the draft guidance by providing additional examples and new or revised questions and answers on topics such as covered establishments, alcoholic beverages, catered events, mobile vendors, grab-and-go items, and record keeping requirements."

Nevertheless, the final guidance does not appear to substantively change the prior drafts insofar as the hospitality industry is concerned. Perhaps most noteworthy to hotel owners and operators is that the FDA has maintained the position, described in the earlier draft guidance, that a hotel's complimentary breakfast would not be considered food offered for sale and thus would not be subject to the menu-labeling requirements.

As before, that guidance comes with the caveat that it merely reflects the "current thinking" of the FDA and does not establish binding rights or duties. Thus, while the guidance may be *called* "final," the agency's "current thinking" could always shift as the regulations – which are set to take effect in May 2017 – begin to be enforced. Which might lead one to wonder, what's in a label, anyway? Only time will tell.

Tags: alcoholic beverages, catered events, covered establishments, FDA's menu labeling regulations, grab-and-go items, hospitality industry, hotel operators, hotel owners, hotel's complimentary breakfast, menu-labeling requirements, mobile vendors, record keeping requirements