

Advocacy Suggests that the Food and Drug Administration's Cost Estimates are Underestimated in the Chain Restaurant and Vending Machine Nutritional Labeling Proposed Rules and that Alternatives Exist that will Minimize the Impact of the Rules

On June 28, 2011, the Office of Advocacy (Advocacy) filed comments with the Food and Drug Administration (FDA) providing the agency with its Regulatory Flexibility Act suggestions and industry concerns about the potential economic impacts associated with the Nutritional Labeling proposed rules for chain restaurants and vending machines. A copy of Advocacy's comment letter may be accessed at, <http://www.sba.gov/advocacy/816>.

On April 6, 2011, the FDA published two proposed food and calorie labeling rules in the *Federal Register*, one for chain restaurants (chain restaurant rule), the other for vending machines (vending machine rule). The FDA was required to issue these rules pursuant to the Patient Protection and Affordable Care Act of 2010 (ACA). The proposed rules require chain restaurants and similar retail food establishments with 20 or more locations doing business under the same name and offering for sale substantially the same menu items, as well as operators of 20 or more vending machines, to disclose certain nutrition information for certain food items offered for sale so that consumers can make more informed choices about the food they purchase.

- The FDA estimated that the chain restaurant rule would result in a \$1,100 per establishment cost, and the vending machine rule would cost \$2,400 per vending machine operator.
- Several chain restaurant and vending machine representatives approached Advocacy and voiced concerns that the proposed rules underestimated the economic impacts on their industries and that alternatives existed that would serve to lessen those impacts if FDA adopted them in the final rule.
- Advocacy asked the FDA to reassess its cost estimates based upon the cost data provided by the affected industries. Advocacy also provided the FDA with alternatives to the rules' provisions suggested by the affected industries that would reduce the cost of compliance with the rules.

For more information, visit Advocacy's web page at <http://www.sba.gov/advocacy/816>, or contact Linwood Rayford at (202) 205-6533.