

The IFMA logo consists of the letters 'IFMA' in a white, bold, sans-serif font, set against a red rectangular background with a slight shadow effect.

IFMA

COEX2010

CHAIN OPERATORS EXCHANGE



MENU, VALUE & INNOVATION:

CONSUMERS RULE!

Federal and State Food Labeling Law Break-Out Session

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Federal Labeling Law

- **Required Information**
 - Focus on FDA requirements, but USDA regulates as well
 - Statement of identity and the net quantity statement
 - Name and address of manufacturer, packer or distributor, ingredient list, and nutrition labeling

Federal Labeling Law

- **Labeling of Known Allergens**
 - **Food Allergen Labeling and Consumer Protection Act of 2004**
 - **Allergens defined by law**
 - **Milk**
 - **Eggs**
 - **Fish & Crustacean Shellfish**
 - **Tree Nuts & Peanuts**
 - **Wheat**
 - **Soybeans**
 - **Cross Contamination**

Federal Labeling Law

- **Nutritional Data**

- Rules, rules, rules...
- Required, unless exempted
- Information that can be included limited
- Nutritional panel data vs. other label nutritional data
- Nutritional panel being evaluated
- Current hot button: serving size

Federal Labeling Law

- **Front of Package (FOP) Labeling**
 - **Manufacturers, retailers and third-party vendors**
 - **Health Claims**
 - **Qualified**
 - **Significant Scientific Agreement**
 - **Nutrient Content**
 - **Function/Structure**

Federal Labeling Law

- **Point of Purchase Labels/Advertising**
 - Includes FOP labeling
 - Nutritional scoring systems
 - FDA developing nutritional criteria for broad shelf & FOP claims
 - Concerns over how consumers use/rely in conjunction with required nutritional labeling

Federal Labeling Law

- **Organic/Natural Labels**
 - **USDA: regulates animal production claims**
 - **USDA: National Organic Program**
 - **FDA: Organic must meet USDA standards**
 - **Natural: policies in place, but regulations not yet established**

State Labeling Law

- **FDA's Food Code**
- **Misbranding statutes**
- **State labeling requirements**
- **Voluntary locally produced labeling**

FDA Food Code

- **Published by FDA for benefit of states**
- **Five editions, starting in 1993. Most recent in 2009**
- **Adopted by 48 of 56 states and territories**
- **Largely harmonizes state food-related laws**

Misbranding Statutes

- **Most states have similar misbranding statutes.**
- **Food is generally considered misbranded when the label is false or misleading in some way**
- **Misbranded food cannot be delivered or sold**

Misbranding Statutes

- **For instance, misbranded in MN if:**
 - Labeling false or misleading
 - Imitation of another food (without being so labeled)
 - Misleading form or fill of packaging
 - Fails to have label with manufacturer's contact info and weight or measure
 - Labeled as particular grade, but not actually of that grade
 - Etc.

Misbranding Statutes

- **Standard of Identity laws define what constitutes a particular food item**
- **Vary from state to state**
- **Food items sold using such a label are misbranded if they don't conform**
- **Examples:**
 - Honey in Florida
 - Wild rice in Minnesota
 - Maple syrup in New Hampshire

Voluntary Local Labeling

- **Recent trend**
- **State Departments of Agriculture or related organizations acquire trademark and license it to farmers and manufacturers for use on labels**
- **At least 39 states have some form of program**
- **Food may have to meet certain grading requirements**

Voluntary Local Labeling

- **Standards for use vary widely from state to state**
 - **CO: Colorado Proud allows label use on “value added/ manufactured foods” so long as manufactured in state**
 - **OH: Ohio Proud only allows label on processed foods where at least 50% of ingredients originate in state**

Upcoming Legislation/Guidelines

- **FDA revising nutritional labeling guidelines**
- **FDA recently announced it would consider revising serving size guidelines**
- **McCain bill would further regulate nutritional supplements**
- **Increased state level scrutiny/enforcement actions**
- **Use of the courts as an enforcement tool**

Independent FOP Scoring Systems

- **ANDI, Guiding Stars, NuVal, etc..**
- **Some other programs heavily criticized and some enforcement action by State Attorney Generals**
- **Food manufacturers have been sued over content of labels**
- **Is using a label worth the risk of being sued?**

Chain Restaurant Menu Labeling

- **Trend began in NYC with calories**
- **Similar laws now passed in CA, ME, MA, and OR, as well as Seattle and Philadelphia**
- **Added to draft Senate health care bill over summer. National legislation still pending**

Chain Restaurant Menu Labeling

- **National legislation likely inevitable**
- **Will CSPI stop at calorie labeling?**
- **With recent focus on sodium and trans fats, will they be next?**
- **Can you be sued if actual calories (or other nutrients) don't match what is on your menu?**

Local Food Movement

- **The local food movement (“locavores”) continues to gain steam**
- **Local food labeling regimes exist in most states, some with very lax rules.**
- **Illinois law requires preference for local foods (incl. 10% premium)**
- **How can you participate without putting yourself at risk for litigation?**

Country of Origin Labeling (COOL)

- **Labeling law requiring data as to source of certain food items**
- **Covered commodities**
 - **Muscle cut and ground meats: beef, veal, pork, lamb, goat, and chicken**
 - **Wild and farm-raised fish and shellfish**
 - **Fresh and frozen fruits and vegetables**
 - **Peanuts, pecans, and macadamia nuts; ginseng**

Country of Origin Labeling (COOL)

- **Enforced by AMS (USDA)**
- **What's Next?**
 - **Currently does not include dairy**
 - **Retailers currently required to label, foodservice in the future?**

Voluntary Nutrition Labels

- **Increase in popularity = increase in scrutiny**
 - Federal government
 - State government
 - Consumers
- **Both front of package and point of purchase**

Voluntary Nutrition Labels?

- **Examples**
 - Symbols
 - Statements
- **Challenges**
 - FDA requirements
 - Third-party standards
 - Government/private enforcement

Questions?