

## Introduction

Nutrition information has been provided to consumers via the labels of most packaged foods for many years. However, before the enactment of the menu labeling laws, nutrition labeling was not generally made available to consumers for foods in restaurants and similar retail food establishments. The Federal Food, Drug, and Cosmetic Act (FD&C Act) and the Food and Drug Administration's (FDA or we) food labeling regulations now require that calorie and other nutrition information be provided in "covered establishments"<sup>1</sup> (chain restaurants or similar retail food establishments) that serve restaurant-type food<sup>2</sup> (21 U.S.C. 343(q)(5)(H); 21 CFR 101.11).

The goal of the menu labeling requirements is to provide consumers with consistent nutrition information for standard menu items<sup>3</sup> (including food on display and self-service foods) in chain restaurants or similar retail food establishments. Americans eat and drink about one-third of their calories away from home. Making calorie information available will help consumers make informed choices for themselves and their families when eating foods away from home.

The purpose of this document is to inform stakeholders (such as chain restaurants or similar retail food establishments, trade associations, state/local regulatory authorities, and consumers) of the FDA's continued efforts in implementing menu labeling requirements.

## Background

In 2010, the FD&C Act was amended to require, in part, that chain restaurants or similar retail food establishments:

- Post calorie information on menus and menu boards for all standard menu items;
- Disclose calorie information on signs adjacent to foods on display and self-service foods that are standard menu items;
- Include a succinct statement<sup>4</sup> concerning suggested daily caloric intake and a statement of availability for written nutrition information on menus and menu boards<sup>5</sup>; and
- Have required written nutrition information available on the premises of the chain restaurant or similar retail food establishment upon request.

To implement the menu labeling provisions of the FD&C Act, on December 1, 2014, FDA published in the Federal Register (79 FR 71156) a final rule on nutrition labeling of standard menu items in chain restaurants and similar retail food establishments. This rule is codified at 21 CFR 101.11. FDA has also issued extensive guidance documents for industry on menu labeling in 2015, 2016, and 2018 (see below). The compliance date for menu labeling was May 7, 2018.

<sup>1</sup> Covered establishments are restaurants or similar retail food establishments that are part of a chain with 20 or more locations doing business under the same name (regardless of the type of ownership, such as individual franchises) and offering for sale substantially the same menu items. This term also includes restaurants or similar retail food establishments that have voluntarily registered with FDA to be subject to the requirements of 21 CFR 101.11 (Nutrition labeling of standard menu items in covered establishments) and would otherwise not be covered by the requirements. (21 CFR 101.11(a)) We refer to covered establishments in this Fact Sheet as "chain restaurants or similar retail food establishments".

<sup>2</sup> Restaurant-type food is, in part, either (1) served or sold in restaurants or other establishments in which food is served for immediate consumption or (2) processed and prepared primarily in a retail establishment and that is usually eaten on the premises, while walking away, or soon after arriving at another location. (21 CFR 101.11(a))

<sup>3</sup> Standard menu items are a restaurant-type food that is routinely included on a menu or menu board or routinely offered as a self-service food or food on display. (21 CFR 101.11(a))

<sup>4</sup> The implementing regulations state that the statement must read: "2,000 calories a day is used for general nutrition advice, but calorie needs vary." (21 CFR 101.11(b)(2)(i)(B))

<sup>5</sup> The implementing regulations state that menus and menu boards must provide the following statement regarding the availability of additional written nutrition information: "Additional nutrition information available upon request" (statement of availability). (21 CFR 101.11(b)(2)(i)(C))



## Implementation in Year One

For the first year, FDA focused on education and outreach to help chain restaurants or similar retail food establishments understand the new menu labeling regulations and help them learn what they need to know to meet their compliance responsibilities. Through webinars and presentations, FDA provided education on the regulations to a range of stakeholders, including federal/state/local authorities, trade associations, industry organizations, and individual chain restaurants and other similar retail food establishments. In addition to those efforts, FDA developed and posted on the FDA website the following resources and educational tools:

- Guidance for Industry: A Labeling Guide for Restaurants and Retail Establishments Selling Away-From-Home Foods - Part II (Menu Labeling Requirements in Accordance with 21 CFR 101.11) <https://www.fda.gov/regulatory-information/search-fda-guidance-documents/guidance-industry-labeling-guide-restaurants-and-retail-establishments-selling-away-home-foods-part-0>
- Guidance for Industry: Menu Labeling Supplemental Guidance <https://www.fda.gov/regulatory-information/search-fda-guidance-documents/guidance-industry-menu-labeling-supplemental-guidance>
- Small Entity Compliance Guide: Nutrition Labeling of Standard Menu Items in Restaurants and Similar Retail Food Establishments <https://www.fda.gov/regulatory-information/search-fda-guidance-documents/small-entity-compliance-guide-nutrition-labeling-standard-menu-items-restaurants-and-similar-retail>
- Fact Sheets - Quick reference sheets focusing on general requirements and calorie declaration requirements
  - Menu Labeling Rule Key Facts for Industry (General Information) <https://www.fda.gov/media/116000/download>
  - Menu Labeling Rule Key Facts for Industry (Declaring Calories) <https://www.fda.gov/media/116010/download>
- Menu Labeling Regulation Module - Educational video about the menu labeling requirements applicable for all stakeholders <https://collaboration.fda.gov/mlm2/>
- Mailbox for general menu labeling questions at [calorielabeling@fda.hhs.gov](mailto:calorielabeling@fda.hhs.gov)

## Implementation Moving Forward

As we stated in Guidance for Industry: Menu Labeling Supplemental Guidance, FDA is committed to working flexibly with establishments to help them achieve compliance. We will continue to build on these efforts and our commitment to help inform and educate industry as we move forward in the implementation of menu labeling.

To meet this goal in a flexible way, FDA will carry out a number of activities:

- **Provide continued support for industry stakeholders.** FDA will continue to work with industry stakeholders to support their implementation activities by responding to training requests and email inquiries ([calorielabeling@fda.hhs.gov](mailto:calorielabeling@fda.hhs.gov)). Stakeholder questions and input have helped us tailor our resources for industry, specifically the development of our fact sheets and Menu Labeling Training Module that we announced in 2018. These tools are aimed at attaining compliance with menu labeling requirements. We plan to work cooperatively with chain restaurants or similar retail food establishments and continue to offer training and additional resources on our general menu labeling requirements to industry stakeholders, including trade associations, as needed.
- **Assess implementation progress to inform further education and outreach.** FDA is also planning to assess generally industry implementation of the primary components of the menu labeling requirements:
  - Posting calorie information on menus and menu boards for all standard menu items;
  - Disclosing calorie information on signs adjacent to foods on display and self-service foods that are standard menu items;
  - Including the succinct statement concerning suggested daily caloric intake and statement of availability for written nutrition information on menus and menu boards; and
  - Having required written nutrition information available on the premises of the chain restaurant or similar retail food establishment upon request.

Some trade associations and consumer groups have expressed a desire to partner with FDA in both assessment and outreach efforts. We will explore these possibilities in the next several months. In addition, consumer complaints to

our menu labeling complaints mailbox at [menuandvendingcomplaints@fda.hhs.gov](mailto:menuandvendingcomplaints@fda.hhs.gov)<sup>6</sup> will support and further enable FDA's efforts to determine trends and identify issues that can guide our ongoing outreach efforts relative to education and achieving compliance.

- **Engage with state, local, tribal, and territorial (SLTT) regulatory partners to ensure consistent implementation.**

FDA will continue to be a resource on menu labeling for states and localities that are interested in working with us. For example, we know that some states and localities have already adopted menu labeling regulations identical to FDA's. We plan to engage with retail stakeholder groups, such as the Conference for Food Protection, to explore a potential forum for discussing menu labeling implementation, sharing information, and developing common approaches to key implementation issues. This forum would benefit those SLTT regulatory partners who are interested in including menu labeling within their retail food protection programs. We are also working to develop a document presenting FDA's menu labeling regulations in model ordinance form for states and localities that may find such a tool useful in adopting menu labeling requirements identical to FDA's.

FDA is committed to providing consumers with consistent nutrition information for standard menu items and to working flexibly with chain restaurants or similar retail food establishments to help them achieve compliance in a flexible way. As we move forward in further implementation of menu labeling, we will continue to build on these efforts and our commitment to inform and educate industry and other stakeholders.

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<sup>6</sup> FDA suggests consumer complaint emails include the following information: 1) your name and email address; 2) name of the establishment; 3) location of the establishment (street address, city, and state); and 4) detailed reason for your complaint (please attach any relevant photos that will support your submission).