

COMPLIANCE ASSISTANCE BULLETIN

News You Can Use

FDA MENU LABELING: FINAL RULE

Purpose

The purpose of this bulletin is to provide compliance assistance information to food facilities regarding FDA's final rule (FEDERAL REGISTER Vol. 79) on menu labeling. This rule applies to all restaurants, grocery stores, and similar retail food establishments if they are (1) part of a chain with 20 or more locations nationwide (regardless of the type of ownership), (2) doing business under the same name, (3) offering for sale substantially the same menu items.

Issue

- Over the past three decades there has been a significant increase in the number of meals eaten outside the home. It is estimated that one-third of all calories are consumed from eating restaurant-type food.
- Increased caloric intake is a key factor contributing to the alarming increase in obesity in the United States. According to the Centers for Disease Control and Prevention, two-thirds of adults and about a third of children are overweight or obese.
- Three-quarters of consumers report using nutritional labels on packaged foods.
- Studies show that consumers who are provided the calorie content eat 92 fewer calories per meal.

What This Means To You

Beginning December 1, 2016, establishments that are covered by the rule are required to do the following:

- Display calories clearly and prominently on menus, menu boards, and drive-thru displays for standard menu items. Calorie information must be displayed on signs near menu items in the case of self-service, buffet and cafeteria lines. (Note: Food facility must use the term "Calories" or "Cal" as a column heading or adjacent to the number of calories for each standard menu item.)
- Make other nutrition information available in writing on request. Additional information includes data on total calories, calories from fat, total fat, saturated fat, trans fat, cholesterol, sodium, total carbohydrate, fiber, sugars, and protein.
- Post a statement advising consumers that further written nutritional information is available on request for standard menu items.
- Include a succinct statement on the menu advising guests how calories fit into a recommended daily diet.

Continued on reverse

**Question
and
Answer**

Who is covered by the new requirements?

Establishments such as restaurants that are quick service and/or sit-down, food take-out facilities, pizza delivery establishments, food facilities in entertainment venues (e.g., movie theaters, bowling alleys), buffets, cafeterias, coffee shops, superstores, grocery and convenience stores, and food facilities located in universities and colleges if they meet the criteria.

What is considered a standard menu item?

Standard menu item means a food or beverage offered for sale by a food facility on all menus, self-service bars, and on display for at least 60 days per calendar year. Note: standard menu item does not include consumer requested special orders, food that is part of a customer market test for less than 90 consecutive days, condiments, daily specials that are not routinely listed on the menu, and foods purchased in grocery stores or other similar retail food establishments that are typically intended for more than one person to eat and require additional preparation before consuming.

What is the format for declaring calories on menus and menu boards?

The number of calories contained in each standard menu item listed must be listed (1) next to the name or the price of the associated standard menu item; (2) in a type size no smaller than that of the name or the price of the associated standard menu item, whichever is smaller; (3) in the same color, or a color at least as conspicuous as that used for the name of the associated standard menu item; (4) with the same contrasting background or a background at least as contrasting as that used for the name of the associated standard menu item.

What is meant by succinct statement of daily caloric intake?

A succinct statement regarding daily calorie intake refers to: “2,000 calories a day is used for general nutritional advice, but calorie needs vary.” For menus and menu boards targeted to children the following options may be used as a substitute: “1,200 to 1,400 calories a day is used for general nutrition advice for children ages 4 to 8 years, but calorie needs vary;” or “1,200 to 1,400 calories a day is used for general nutrition advice for children ages 4 to 8 years and 1,400 to 2,000 calories a day for children ages 9 to 13 years, but calorie needs vary.”

Is alcohol covered by the federal menu labeling regulations?

Yes. The menu labeling requirements apply to alcoholic beverages served as standard menu items when listed on the menu and menu boards. Note: Alcohol on display or behind the bar used to prepare mixed drinks is exempt.

Are there any food facilities that are exempt from requirements?

The following food facilities are not required to comply: school cafeterias, food trucks, planes, trains, hotels with complimentary breakfast, and in-patient only food service.

**Additional
Information**

For additional information and assistance, contact the Environmental Health Division at (916) 875-8440, email emdinfo@saccounty.net, or visit the FDA website: <http://www.fda.gov/Food/GuidanceRegulation/GuidanceDocumentsRegulatoryInformation/LabelingNutrition/ucm515020.htm>