City and County of San Francisco
DEPARTMENT OF PUBLIC HEALTH
ENVIRONMENTAL HEALTH

London N. Breed, Mayor
Barbara A. Garcia, MPA, Director of Health

Stephanie K. J. Cushing, MSPH, CHMM, REHS
Director of Environmental Health

Frequently Asked Questions and Answers – FDA's Menu Labeling Law

1. How do I know if my business is covered by the final rule?

To be covered by the final rule, an establishment must meet certain criteria. First, the establishment must be a restaurant or similar retail food establishment. Next, the establishment must: (1) be part of a chain of 20 or more locations, (2) doing business under the same name, and (3) offering for sale substantially the same menu items.

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), cafeterias, coffee shops, superstores, and grocery and convenience stores, are covered if they meet the criteria listed above.

School cafeterias serving foods through USDA school lunch and breakfast programs are not covered by the menu labeling final rule. Transportation vehicles, such as food trucks, planes and trains, are also not covered. Food facilities located in universities and colleges are covered if they meet the criteria listed above.

2. What exactly will be required by my food establishment?

Covered restaurants and similar retail food establishments are now required: (1) to disclose calorie information on menus and menu boards for standard menu items; (2) post a succinct statement (see below) concerning suggested daily caloric intake on menus and menu boards; and (3) post a statement that "additional nutrition information is available upon request" on menus and menu boards. The rule requires establishments to provide the following written nutrition information for standard menu items to consumers upon request: total calories, calories from fat, total fat, saturated fat, trans fat, cholesterol, sodium, total carbohydrates, fiber, sugars, and protein. In addition, calorie information must be declared on signs adjacent to foods on display and self-serve foods that are standard menu items. The written nutrition information can be provided on posters, tray liners, signs, counter cards, handouts, booklets, computers, or kiosks.

In addition to listing calories, covered establishments will be required to post a succinct statement that says, "2,000 calories a day is used for general nutrition advice, but calorie needs vary" on menus and menu boards. This statement is meant to enable consumers to understand the calorie information within the context of a total daily diet.

The rule allows for the use of the following separate succinct statement(s) to be used on children's menus as a substitute for or in addition to the general succinct statement:

- "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."
- "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 9 to 13 years, but calorie needs vary."

3. How is restaurant-type food defined?

"Restaurant-type food" is generally defined as food usually eaten on the premises, while walking away, or soon after arriving at another location and either served in the establishment or processed and prepared primarily in the establishment. Examples include: meals from sit-down restaurants; foods purchased at drive-through windows; take-out food; food ordered from a menu/menu board at a grocery store; foods from a self-service salad or hot food bar at a restaurant or grocery store; a muffin at a bakery or coffee shop; popcorn purchased at a movie theater; and ice cream products from an ice-cream store.

Foods that would generally not be covered include certain items purchased in a grocery store or other similar retail food establishment that are eaten over several occasions or stored for later use (e.g., a whole cake, a loaf of bread), foods that are typically intended for more than one person to eat or require additional preparation before consuming (e.g., pounds of deli meats and cheeses), and certain foods bought from bulk bin cases in grocery stores (e.g., nuts, dried fruits).

4. How are menus and menu boards defined?

“Menus” and “menu boards” are defined as the primary writing of the covered establishment from which a customer makes an order selection. These include, but are not limited to, breakfast, lunch, and dinner menus; dessert menus; beverage menus; children’s menus; other specialty menus; electronic menus; and online menus.

5. Will I have to determine and provide the nutrition content of the food I am serving? How will I do that?

Yes. A covered establishment must have a reasonable basis for its nutrient content declarations and take reasonable steps to ensure that the method of preparation and amount of a standard menu item adheres to the factors on which nutrient values were determined. Nutrient content declarations can be based on information obtained from nutrient databases, cookbooks, laboratory analyses, the Nutrition Facts Label on packaged foods, and other reasonable means.

6. Will I have to substantiate the nutrient values I use for my menu labeling?

Upon request from the FDA, covered establishments must provide information substantiating the nutrient values, including the method and data used to derive such values. Depending on the basis used to determine nutrient values, a signed/dated statement is generally needed to certify that (1) the information contained in the nutrient analysis is accurate and complete and (2) the covered establishment has taken reasonable steps to ensure the method of preparation and the amount offered for sale adhere to the factors on which its nutrient values were determined.

7. How often does a covered establishment have to recalculate their nutrition information for standard menu items?

A covered establishment should not need to recalculate nutrition information for menu items that stay the same. In this instance, the establishment could rely on a one-time calculation, as long as that nutrition information remains accurate and consistent with the specific basis used to determine nutrient values. Recalculation of the nutrition information would only be necessary if there are changes to the recipe or preparation of a standard menu item that would result in a change in the calorie declaration or other nutrition information.

8. What is the general format for declaring calories and posting the succinct statement on menus and menu boards?

The number of calories contained in each standard menu item listed on the menu or menu board 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; and (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.

The succinct statement must be posted: (1) prominently and in a clear and conspicuous manner; (2) in a type size no smaller than that of any calorie declaration appearing on the same menu or menu board; (3) in the same color or in a color at least as conspicuous as that used for the calorie declarations; and (4) with the same contrasting background or a background at least as contrasting as that used for the calorie declarations.

9. What is the general format for declaring calories on a self-service buffet/station? (See Figures A, B, C, D)

While the menu labeling final rule requires calorie information for each buffet item that is a standard menu item, the menu labeling final rule is flexible, and allows the calories for self-service foods and foods on display to be declared in a variety of ways. You may place the calorie information on a sign adjacent to, and clearly associated with, the food for which the calories are provided, or on a sign attached to a sneeze guard (e.g., a gel cling or hanging placard attached to the glass), or on a single sign or placard listing the calorie declaration for multiple food items along with the names of the food items as long as the sign or placard is located where a consumer can view the name, calorie declaration, and serving or unit of a particular menu item while the consumer is selecting that item.

10. What is the general format for declaring calories for combination meals? (See Figures F & G)

Covered establishments must declare calories for combination meals, which come with more than one food item, that are standard menu items. In general, the calorie declaration includes the total calories for all food items that make up the combination meal, and, the way the calories must be displayed depends on how many choices are listed for menu items in the combination meal. When the menu or menu board lists three or more choices for menu items in a combination meal (e.g., a sandwich with chips, a side salad, or fruit), the calories must be declared as a range, such as 450-700 calories. When the menu or menu board lists two choices for menu items in a combination meal (e.g., a sandwich with chips or a side salad), the calories must be declared as a slash, such as 350/450 calories.

11. What is the general format for declaring calories for a pizza establishment that sells build-you-own pizzas with a variety of options for crusts, sauces, and toppings? (See Figures H, I, J)

The menu labeling final rule provides the flexibility to declare calories for the entire pizza or per slice, provided the number of slices per pie is included on the menu or menu board in a manner that clearly associates the calories per slice and the number of slices for each size of pie offered by the establishment.

When possible, establishments have the option of providing calorie information for a "basic preparation" of the pizza pie with a set amount of calories. Calories may be declared for each topping for each size of the pizza. However, they may also be declared using a slash between the two calorie declarations for each topping where only two sizes of the pizza are available (e.g., "adds 150/250 cal") or as a range for each topping where more than two sizes of the pizza are available (e.g., "adds 100-250 cal"). Toppings that have the same number of calories after rounding may also be grouped together.These options can provide greater flexibility for creating readable menus/menu boards. The calories for crust and sauce options may be declared in the same manner as the toppings as stated above. This approach accommodates flexibility, while still providing the required calorie information for consumers to make informed dietary choices.

12. Will I have to list calories for alcoholic beverages served at my establishment?

It depends. For alcoholic beverages that are listed on your menu or menu board and meet the definition of a standard menu items, you must declare the calories and other nutrition information for these standard menu items. This requirement also applies to beers that are on tap if they are also listed on your menu or menu board. Depending on how these beer selections are listed on your menu or menu board, declaring the calories in a range may be appropriate.

However, beers that are served on tap and not listed on your menu or menu board are considered foods on display. Alcoholic beverages that are foods on display and are not self-serve are exempt from the menu labeling requirements

13. Will I have to list calories for menu items that routinely change on a daily basis?

No, so long as the item is not routinely offered. The menu labeling rule has built-in flexibility to accommodate these specific situations by exempting items that are daily specials, temporary/seasonal food (served less than 60 days per year), and food that is part of a customary market test, such that these items are not required to have calorie labeling.

14. Do I have to provide calorie declarations on menus or menu boards within the establishment if we declare calories on our online menu?

Yes. Even though you declare calories on your online menu, you must provide calorie declarations for standard menu items listed on your menu or menu board at the establishment. The opposite is also true in that online menus must also include calorie declarations if consumers can order online. We also note that establishments that do not have menu boards are not required to create menu boards. You may use other alternatives such as electronic devices for customers to place their order or hand-held paper menus on the counter for ordering. Furthermore, marketing boards or marketing materials can be used and would not require calorie declarations.

15. What information am I required to submit in order to voluntarily register with the FDA?

An operator (or its authorized official) must provide the FDA with the following information using ***Form FDA 3757 – Menu/Vending Labeling Registration Form***:

- Contact information (including name, address, phone number, and email address) for the authorized official;
- Contact information (including name, address, phone number, and email address) of each restaurant or retail food establishment being registered;
- All trade names the restaurant or similar retail food establishment uses;
- Preferred mailing address (if different from location address for each establishment) for purposes of receiving correspondence; and
- Certification that the information submitted is true and accurate; that the person or firm submitting the information is authorized to do so, and that each registered vending machine will be subject to the requirements of section 403(q)(5)(H) of the FD&C Act.

Completed forms should be emailed to menulawregistration@fda.hhs.gov. If email is not available, you can either complete the fillable form and print it, or print a blank form and fill in the information by hand or typewriter; then:

- Fax the completed Form FDA 3757 to 301-436-2804 or
- Mail it to: FDA
  CFSAN Menu and Vending Machine Registration
  White Oak Building 22, Room 0209
  10903 New Hampshire Avenue
  Silver Spring, MD 20993

16. Will I have to implement the new nutrition labeling soon?

Restaurants and similar retail food establishments will have until **May 7, 2018** to comply with the requirements. Establishments covered by the rule that are already posting nutrition information will have to be sure their labeling complies with the new requirements.

Examples of Acceptable Forms of Calorie Declarations

Figure A. Single sign attached to the sneeze guard of a self-service salad bar

Figure B. Individual signs that are interchangeable and attached to the sneeze guard by permanent placard holders

FOOD SAFETY PROGRAM
1390 Market Street, Suite 210, San Francisco, CA 94102
Phone 415-252-3804 | Fax 415-252-3842

Figure C. Individual signs using gel clings on the sneeze guard that can be moved or removed as standard menu items change in the buffet

Figure D. Single placard to declare calories for multiple self-service items on a single sign

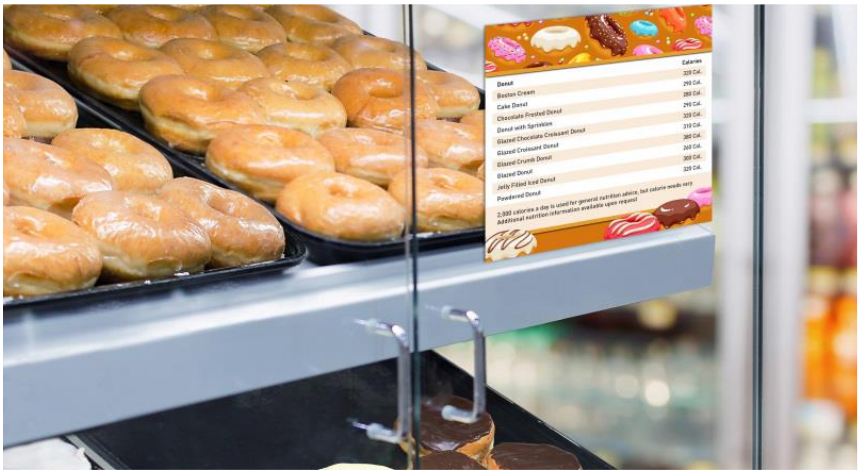


Figure E. Single sign to declare calories at a self-service beverage station

Figures F & G. Menu / Menu Board that describes an opportunity for the consumer to combine standard menu items for a combination meal (and the calories for each standard menu item that may be combined are declared elsewhere on the menu or menu board)

Sandwiches or Wrap

¼ lb Patty with Cheese	$3.49	560 Cal.
½ lb Patty with Cheese	$4.29	820 Cal.
¾ lb Patty with Cheese	$5.59	1070 Cal.
½ lb Patty with Bacon	$5.39	930 Cal.
Mini-Bacon Cheeseburger	$1.39	370 Cal.
Chicken Wrap	$1.69	260 Cal.

Salads

Hummus & Chicken Salad	Full Size $5.89	470 Cal.
	½ Size $3.89	240 Cal.
Bacon & Chicken Salad	Full Size $5.89	580 Cal.
	½ Size $3.89	300 Cal.
Chicken Caesar	Full Size $5.89	710 Cal.
	½ Size $3.89	400 Cal.

Chocolate Milkshakes

Small	$0.99	350 Cal.
Medium	$2.19	470 Cal.
Large	$2.49	590 Cal.

Fries

Small	$1.59	310 Cal.
Medium	$1.99	410 Cal.
Large	$2.39	520 Cal.

Chili

Small	$0.99	160 Cal.
Large	$1.99	260 Cal.

Sides

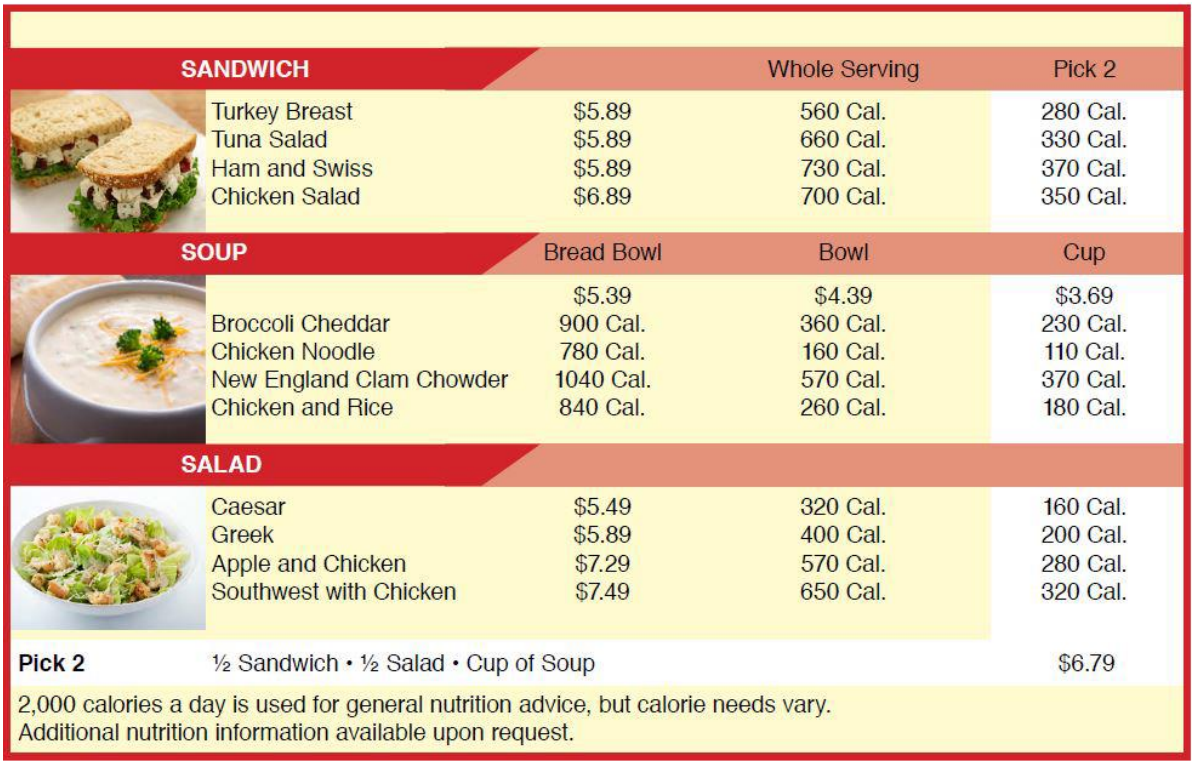
Sour Cream & Chive Baked Potato	$0.99	300 Cal.
Bacon & Cheddar Baked Potato	$2.49	470 Cal.

Or Pair Two

Choose any ½ Size salad and ADD 1 of these options $5.59

Chicken Wrap	Small Milkshake
Mini-Bacon cheese burger	Small Chili
Small Fries	Sour Cream & Chive Baked Potato

2,000 calories a day is used for general nutrition advice, but calorie needs vary.
Additional nutrition information available upon request.



SANDWICH		Whole Serving	Pick 2
Turkey Breast	$5.89	560 Cal.	280 Cal.
Tuna Salad	$5.89	660 Cal.	330 Cal.
Ham and Swiss	$5.89	730 Cal.	370 Cal.
Chicken Salad	$6.89	700 Cal.	350 Cal.

SOUP	Bread Bowl	Bowl	Cup
	$5.39	$4.39	$3.69
Broccoli Cheddar	900 Cal.	360 Cal.	230 Cal.
Chicken Noodle	780 Cal.	160 Cal.	110 Cal.
New England Clam Chowder	1040 Cal.	570 Cal.	370 Cal.
Chicken and Rice	840 Cal.	260 Cal.	180 Cal.

SALAD			
Caesar	$5.49	320 Cal.	160 Cal.
Greek	$5.89	400 Cal.	200 Cal.
Apple and Chicken	$7.29	570 Cal.	280 Cal.
Southwest with Chicken	$7.49	650 Cal.	320 Cal.

Pick 2 ½ Sandwich • ½ Salad • Cup of Soup $6.79

2,000 calories a day is used for general nutrition advice, but calorie needs vary.
Additional nutrition information available upon request.

Figure H. Declaring calories per slice for a build-your-own-pizza (column format)

7/7/17-A

CREATE YOUR OWN PIZZA CALORIES ARE LISTED PER SLICE

CHOOSE YOUR SIZE & CRUST

6 SLICES S $9.99 | 8 SLICES M $11.99 | 10 SLICES L $13.99 | 12 SLICES XL $15.99

CHEESE PIZZA	
ORIGINAL	200-240 Cal.
THIN & CRISPY	150-190 Cal.
PAN	260-300 Cal.
GLUTEN FREE - SMALL ONLY	140 Cal.

CHOOSE YOUR SAUCE*

TOMATO SAUCE	10 Cal.	WHITE GARLIC SAUCE	30-50 Cal.
SPICY MARINARA	10 Cal.	BBQ	10-20 Cal.

CHOOSE YOUR TOPPINGS*

S $1.00 | M $1.50 | L $2.00 | XL $2.25

2,000 CALORIES A DAY IS USED FOR GENERAL NUTRITION ADVICE, BUT CALORIE NEEDS VARY

ADDITIONAL NUTRITION INFORMATION AVAILABLE UPON REQUEST

MEATS	
BACON	45-60 Cal.
BEEF	40-45 Cal.
CHICKEN	15-20 Cal.
HAM	10-15 Cal.
PEPPERONI	25-35 Cal.
SALAMI	25-30 Cal.
SAUSAGE, ITALIAN	40-50 Cal.

VEGGIES	
BANANA PEPPERS	0-5 Cal.
GREEN PEPPERS	0 Cal.
JALAPENOS	0-5 Cal.
FRESH MUSHROOMS	5 Cal.
OLIVES, BLACK	10-15 Cal.
FRESH ONIONS	0-5 Cal.
PINEAPPLE	10 Cal.
RED PEPPERS, ROASTED	0 Cal.
FRESH BABY SPINACH	0 Cal.
TOMATOES	5 Cal.

*ADDED CALORIES FOR 1 TOPPING PIZZA

Figure I. Declaring calories per slice for a build-your-own-pizza (string format)

7/7/17-B

CREATE YOUR OWN PIZZA CALORIES ARE LISTED PER SLICE

CHOOSE YOUR SIZE & CRUST

6 SLICES S $9.99 | 8 SLICES M $11.99 | 10 SLICES L $13.99 | 12 SLICES XL $15.99

CHEESE PIZZA
ORIGINAL (200-240 Cal.), THIN & CRISPY (150-190 Cal.), PAN (260-300 Cal.), GLUTEN FREE† (140 Cal.)

†ONLY AVAILABLE IN SMALL

CHOOSE YOUR SAUCE*

TOMATO SAUCE (10 Cal.), SPICY MARINARA (10 Cal.), WHITE GARLIC SAUCE (30-50 CAL.), BBQ (10-20 Cal.)

CHOOSE YOUR TOPPINGS*

S $1.00 | M $1.50 | L $2.00 | XL $2.25

MEATS
BACON (45-60 Cal.), BEEF (40-45 Cal.), CHICKEN (15-20 Cal.), HAM (10-15 Cal.), PEPPERONI (25-35 Cal.), SALAMI (25-30 Cal.), ITALIAN SAUSAGE (40-50 Cal.)

VEGGIES
BANANA PEPPERS (0-5 Cal.), GREEN PEPPERS (0 Cal.), JALAPENOS (0-5 Cal.), FRESH MUSHROOMS (5 Cal.), BLACK OLIVES (10-15 Cal.), FRESH ONIONS (0-5 Cal.), PINEAPPLE (10 Cal.), ROASTED RED PEPPERS (0 Cal.), FRESH BABY SPINACH (0 Cal.), TOMATOES (5 Cal.)

2,000 CALORIES A DAY IS USED FOR GENERAL NUTRITION ADVICE, BUT CALORIE NEEDS VARY
ADDITIONAL NUTRITION INFORMATION AVAILABLE UPON REQUEST

*ADDED CALORIES FOR 1 TOPPING PIZZA

Figure J. Declaring calories per slice for a build-your-own-pizza (alternative format)

CREATE YOUR OWN PIZZA

7/7/17-C

CALORIES ARE LISTED PER SLICE

CHOOSE YOUR SIZE & CRUST

6 SLICES S $9.99 | 8 SLICES M $11.99 | 10 SLICES L $13.99 | 12 SLICES XL $15.99

CHEESE PIZZA
ORIGINAL (200-240 Cal.),
THIN & CRISPY (150-190 Cal.),
PAN (260-300 Cal.),
GLUTEN FREE† (140 Cal.)

†ONLY AVAILABLE IN SMALL

CHOOSE YOUR SAUCE*

TOMATO SAUCE (10 Cal.), SPICY MARINARA (10 Cal.),
WHITE GARLIC SAUCE (30-50 CAL.), BBQ (10-20 Cal.)

CHOOSE YOUR TOPPINGS*

S $1.00 | M $1.50 | L $2.00 | XL $2.25

MEATS
BACON (45-60 Cal.), BEEF (40-45 Cal.),
CHICKEN (15-20 Cal.), HAM (10-15 Cal.),
PEPPERONI (25-35 Cal.), SALAMI (25-30 Cal.),
ITALIAN SAUSAGE (40-50 Cal.)

VEGGIES
BANANA PEPPERS (0-5 Cal.), GREEN PEPPERS (0 Cal.),
JALAPENOS (0-5 Cal.), FRESH MUSHROOMS (5 Cal.),
BLACK OLIVES (10-15 Cal.), FRESH ONIONS (0-5 Cal.),
PINEAPPLE (10 Cal.), ROASTED RED PEPPERS (0 Cal.),
FRESH BABY SPINACH (0 Cal.), TOMATOES (5 Cal.)

2,000 CALORIES A DAY IS USED FOR GENERAL NUTRITION ADVICE, BUT CALORIE NEEDS VARY
ADDITIONAL NUTRITION INFORMATION AVAILABLE UPON REQUEST

*ADDED CALORIES FOR 1 TOPPING PIZZA