Background and summary
On December 1, 2014, the U.S. Food and Drug Administration (FDA) issued a final rule requiring nutrition labeling for menu items at chain restaurants, other retail food establishments, and vending machines. The rule was originally proposed as part of the Affordable Care Act of 2010. Because Americans consume approximately one-third of their total calories outside the home, it is important that foodservice establishments make nutrition information accessible to consumers to assist them in making informed choices on foods they purchase for themselves and their families.

When will food establishments become affected by the new rule?
On July 9, 2015, the FDA extended the effective date of the nutrition menu labeling rule to December 1, 2016, two years after the publication of the final rule. This was in response to requests from the foodservice and retail industry for additional time to fully implement the requirements. At this time there was no revision indicated for vending machines, and effective date is also December 1, 2016.

What types of food establishments are affected by the new rules?
The FDA menu labeling rule applies to restaurants and retail food establishments provided that they are part of a chain that has 20 or more locations doing business under the same name and selling “substantially the same menu items.” It also includes retail establishments that sell “restaurant-type food” that will be eaten on the premises, when leaving the location, or soon after arriving at another location. This includes quick service and sit-down restaurants, take-out, pizza delivery, and food facilities in movie theaters, bowling alleys or amusement parks, cafeterias, coffee shops, warehouse buyer clubs, grocery, convenience and superstores.

Foods sold in vending machines or bulk vending machines operated by a person owning or operating 20 or more machines must have the calorie information available prior to purchase even though it may be on the item label.

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What types of food establishments are affected by the new rules? (continued)

Some examples of the “restaurant-type foods” that are covered include:

• Meals from sit down restaurants
• Foods purchased at drive-through windows
• Take-out or delivery food, such as pizza
• Foods ordered from a menu or menu board at a grocery store or deli
• Self-serve foods from a salad or hot food bar
• Certain alcoholic beverages served by the drink
• Foods and beverages purchased at bakeries, coffee shops, movie theatres, amusement parks, ice cream stands
• Food and beverages prepared on site in a convenience store or warehouse buyer’s club
• Foods in a vending machine must have calorie labeling visible prior to purchase, with certain exceptions

Foods that are NOT covered in the new rule include:

• Foods purchased in a grocery store or other retail food establishments that are not intended as a single serving but are for more than one person to eat and that require additional preparation before consuming, such as pounds of deli meats, cheeses, large-sized deli salads, whole cakes or a loaf of bread
• Bulk foods in bins such as nuts or dried fruits in a grocery store
• Food served from food trucks or aboard airplanes or trains
• Condiments that are placed on table or behind counter for general use
• Food served by school cafeterias through the United States Department of Agriculture (USDA) programs, although vending machines may be subject to rule
• Food that is offered for sale for less than a total of 60 days per calendar year or fewer than 90 consecutive days in a market test

What is required by the new nutrition menu labeling rule for a retail establishment?

• Disclose calories for each menu item adjacent to that item on menus and/or menu boards (unless seasonal or special promotion items) with the serving unit (pizza pie, pizza slice, scoop, muffin, etc.).

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What is required by the new nutrition menu labeling rule for a retail establishment?

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• Include a succinct statement about daily caloric intake suggestions on each page of menus and on the bottom of the menu board: “2,000 calories a day is used for general nutrition advice but calorie needs vary.” A separate succinct statement may be used on children’s menu and menu boards: “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 9 to 13 years, but calorie needs vary.”

• The type/font of the calorie declaration and statement must be no smaller than the type size of the name or price of the standard menu item, whichever is smaller. There are no restrictions on color or contrast as long as it is equivalent to the contrast used for the menu item name.

• A second statement that additional nutritional information is available upon request (total calories, calories from fat, total fat, saturated fat, trans fat, cholesterol, sodium, total carbohydrates, fiber, sugars and protein) must be included on menu and menu board in font size and contrast no smaller than that used for menu item name and pricing.

• Buffets, food displays or self-serve foods must have calorie information declared on sign or signs adjacent to foods.

• Alcoholic beverages that are standard menu items must have calories listed. There is flexibility for beer and wine that allows for calorie ranges for offerings. Alcoholic beverages on display for decoration and not for self-service are excluded.

What if menu or menu board offers consumers choices for adding optional items or toppings to a menu item?

Calories must be listed separately for the optional items to the nearest 5 calorie increment up to 50 calories and then to the nearest 10 calorie increment if over 50 calories – “adds 50 calories,” etc. Ranges may be used if there are different sizes.

How are the nutrient values to be determined?

• Nutrient values may be determined using nutrient databases, cookbooks, laboratory analysis, from nutrition facts labels on packaged foods, or other reasonable means.

• Food establishments must retain information substantiating the method and data used to derive nutrient values to show that the information is accurate.

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What are the specifics for vending machines?

- The rule includes self-service machines that dispense servings of food in bulk or packages, or that are prepared by the machine upon the insertion of money, tokens, cards, keys, or other manual operation (soft drinks, packaged snacks, hot/cold beverages, sandwiches or handfuls of nuts or candies).
- Information must be posted on a sign or sticker close to the food or selection button. Electronic or digital displays of the calories are also permitted.

Can food establishments and vending machine operators with less than 20 locations choose to be covered?

Yes, they can voluntarily register to comply with requirements at http://www.fda.gov/food/ingredientspackaginglabeling/labelingnutrition/ucm217762.htm

Where can I find more information on the menu nutrition labeling rule?

- http://www.fda.gov/Food/NewsEvents/ConstituentUpdates/ucm453529.htm