

FDA

**U.S. FOOD & DRUG
ADMINISTRATION**

Menu Labeling

**Office of Nutrition and Food Labeling
Center for Food Safety and Applied Nutrition
U.S. Food and Drug Administration**

Agenda

- Menu Labeling 101
- Compliance Date
- Comments to the Final Rule
- Enforcement Strategy and Next Steps

Menu Labeling 101

Restaurants and similar retail food establishments are covered if:

- Part of a chain with 20 or more fixed locations;
- Doing business under the same name; and
- Offering for sale substantially the same menu items.

Menu Labeling 101

The menu labeling rule requires covered establishments to:

- Disclose calories for standard menu items listed on menus and menu boards;
- Disclose calories for foods on display and self-service foods that are standard menu items;
- Include a succinct statement and statement of availability on menus and menu boards; and
- Have the required additional written nutrition information available upon consumer request on the premises of the covered establishment.

Compliance Date

- Issued ML final rule - December 1, 2014
 - ML compliance date – December 1, 2015
- Issued 2nd final rule on July 10, 2015
 - ML compliance date – December 1, 2016
- Omnibus Appropriations Bill extended the date to one year after the Level 1 Guidance issues
 - ML compliance date - May 5, 2017

Compliance Date

- Extends compliance date from 5/5/17 to 5/7/18
- To allow further consideration of the following:
 - opportunities to reduce costs
 - enhance flexibility of the final rule
- 60-day comment period

60-Day Comment Period

- Comment period from 5/4/17 to 7/3/17
- Comments should focus on approaches to reduce regulatory burden or increase flexibility related to
 - Calorie disclosure signage for self-service foods
 - Methods for providing calorie disclosure information other than on the menu itself (including buffets and grab-and-go foods)
 - Criteria for distinguishing between menus and other information presented to customer

60-Day Comment Period

- Electronic comments

<http://www.regulations.gov>

- Written comments to

Division of Dockets Management (HFA-305)

Food and Drug Administration

5630 Fishers Lane, rm 1061

Rockville, MD 20852

60-Day Comment Period

- Docket No. FDA-2011-F-0172
- Food labeling; Nutrition Labeling of Standard Menu Items in Restaurants and Similar Retail Food Establishments; Extension of Compliance Date and Request for Comments

Education, Outreach, and Enforcement Strategy

**Office of Nutrition and Food Labeling
CFSAN, FDA**

Decorative wavy lines in shades of blue and grey at the bottom of the slide.

Extension of Compliance Date for Menu Labeling

FDA

Compliance date is *May 7, 2018*

Education and Outreach Efforts

- Menu Labeling Mailbox (CalorieLabeling@fda.hhs.gov)
- Face-to-face meetings and teleconferences
- Presentations and webinars
- Site visits
- Educational module (*on hold*)
- Handouts (*on hold*)

Enforcement Considerations

- FDA investigators
- Partnerships with States and Locals
- States and Locals may adopt identical requirements and choose to enforce them
- Contracts
- Training and education
- Consumer complaints

Compliance Actions

- Misbranded foods for menu labeling would be subject to the same penalties that misbranded packaged foods are subject to under the Federal Food, Drug, and Cosmetic Act.
- There are NO new enforcement authorities.

Compliance Actions

- Consider the level of significance of the violation
- Typical options for enforcement of labeling violations:
 - Regulatory meeting
 - Warning letters
 - Injunctions (rarely based entirely on labeling violations)

Compliance Actions

- Establishments are covered by the menu labeling requirements, not individual employees
- If we have concerns with the establishment, we discuss with the most responsible person that may be the owner of a franchise, or the store manager

Resources

- The final guidance is available online at FDA.gov at: www.fda.gov/menuandvending
- Additional questions and presentation or meeting requests may be submitted to our menu labeling inbox at: CalorieLabeling@fda.hhs.gov

What will happen to menu labeling if the ACA is repealed?

Will States be able to enforce the menu labeling requirements?

Questions?

CalorieLabeling@fda.hhs.gov

Session 21: Federal Menu Labeling Requirements and Claims

Food Safety Summit



Maggie S. Gentile, MS, RD
Food Directions LLC.

2:45-4:00 p.m. May 11, 2017 | Rosemont, IL



Presentation Overview



INDUSTRY 101

Overview of the restaurant industry and changes in consumer demands around nutrition



MENU LABELING

How we are working to address menu labeling and support restaurant education on this topic



Definition:

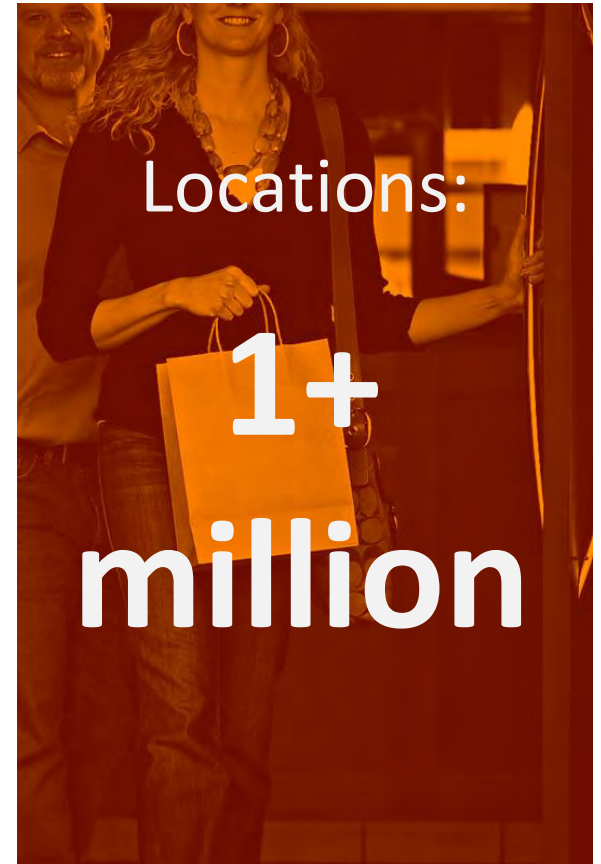
“Restaurant Industry”
“Food Away from Home”



All meals/snacks prepared away from home,
including all takeout meals and beverages.



Restaurant 1.0





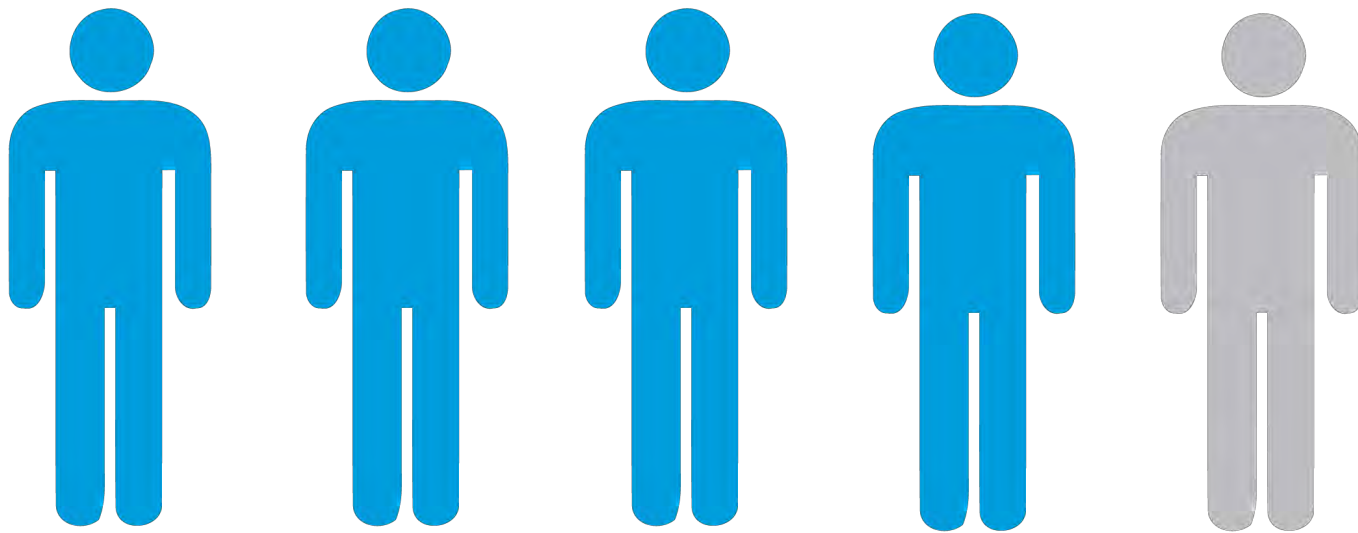
Options Consumers Say Make Them Choose One Restaurant Over Another

Healthy menu items	70%
Locally sourced food	66%
Environmentally friendly food	60%
Diet-specific food	40%





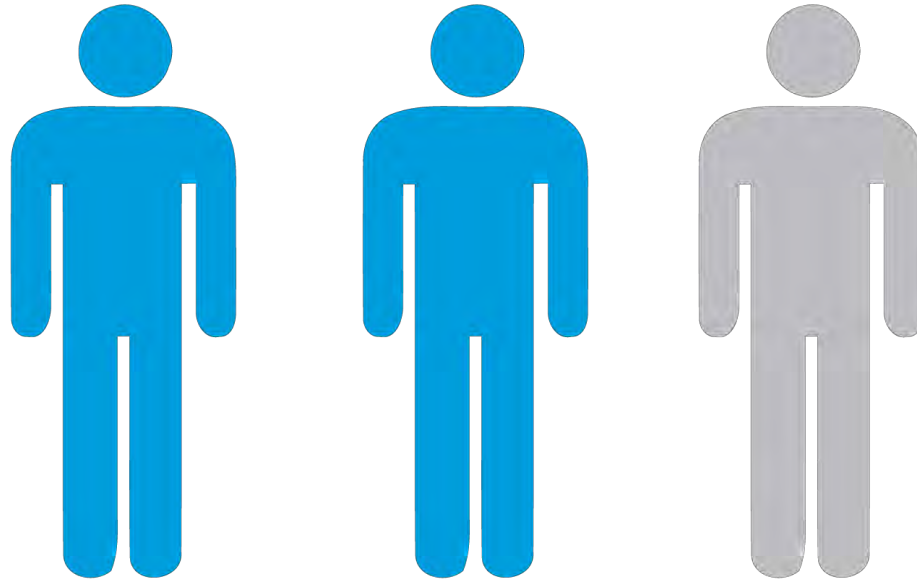
Noticing Healthful Options



Consumers who say there are more healthful options on restaurant menus now than two years ago.



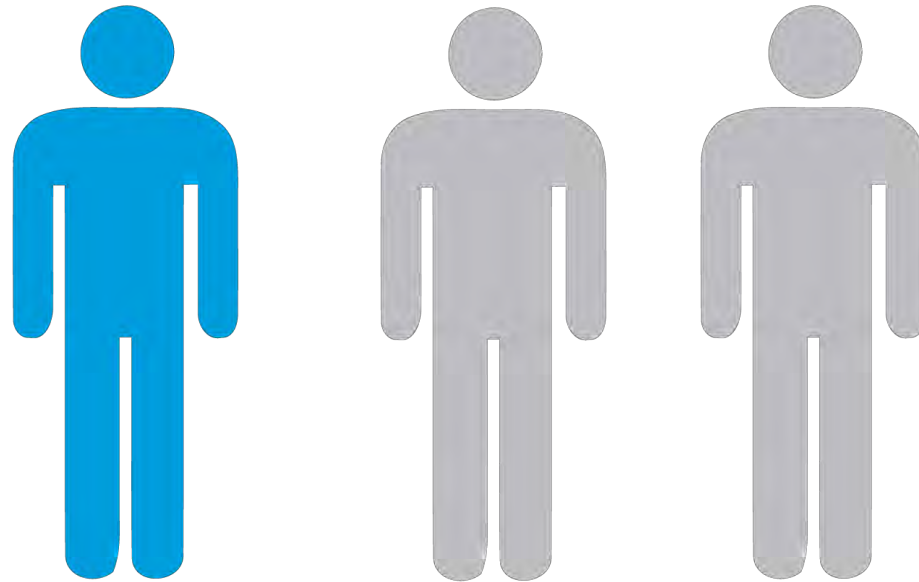
Healthy Options = Important Factor



Consumers who say they are ordering more healthful options in restaurants now than two years ago.



DIY Health



Consumers who say they typically adhere to a specific diet, like vegetarian or gluten-free, when dining out.

Menu Labeling Promotion



Advocacy

Supporting menu labeling at Federal level since inception



Education

Hosting member Webinars

- 2 in the last year on this topic with FDA



Dissemination

Participating in FDA educational sessions and disseminating information to members



Best Practice Sharing

Hosting opportunities to share

- Member roundtable at annual nutrition conference
- Listserve for Q+As



Questions

Serving as liaison on questions to FDA

Starting to see it in Restaurants...

COFFEE



HOT		ICED	
Sm	5 CAL 1.29	Sm	70 CAL 1.89
Md	10 CAL 1.59	Md	100 CAL 2.29
Lg	10 CAL 1.79	Lg	130 CAL 2.59
X-Lg	15 CAL 1.99		

all available in regular or decaf

TURBO HOT® or TURBO ICE®

Add a Turbo Shot of Espresso to any Beverage 0-10 CAL 0.99

	Cal	Sm	Cal	Med	Cal	Lg
LATTE	120	2.29	170	2.89	230	3.59
ICED	120	2.99	170	3.99	230	4.59
LATTE LITE	80	2.29	120	2.89	160	3.59
ICED	80	2.99	120	3.99	160	4.59
BOX O' JOE®					100 CAL	13.99
	Cal	Sm	Cal	Med	Cal	Lg
						Cal
						X-Lg

30* } CHICKEN
STEAK
CARNIT
BARBA
VEGET

Menu Readers at Restaurants



- USDA research shows consumers likely to read menu boards if:
 - They dine out less
 - Have other healthy behaviors
 - Rate their diet as good
 - Are women
- 100+ calories per meal reduction with 15-20% of customers who reported using labels



Looming Questions



- Short term:
 - Will there be enforcement at state level?
 - Will there be any changes to the rule?
- Long term:
 - What will enforcement look like?
 - Will there be fees for non-compliance?
 - Will restaurants be given chance to make changes without penalties?
 - Will grade ratings be impacted by this?
 - What will training for enforcers look like?



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[@FoodDirections](https://twitter.com/FoodDirections)



[Food Directions](https://www.facebook.com/FoodDirections)



FOOD DIRECTIONS LLC.

References

1. Consumer Research on Labeling, Nutrition, Diet, and Health. 2016 Dec. 8. US FDA. Retrieved from www.fda.gov/Food/FoodScienceResearch/ConsumerBehaviorResearch/ucm275987.htm)
2. Nestle, Marion. Use of menu labeling: baseline data from USDA. 2014 July 7. Food Politics. (Reference: Retrieved from www.foodpolitics.com/2014/07/use-of-menu-labeling-baseline-data-from-usda/)
3. Impact of Menu Labeling on Consumer Behavior: A 2008-2012 Update. 2013 June. Healthy Eating Research. Retrieved from healthyeatingresearch.org/wp-content/uploads/2013/12/HER-RR-Menu-Labeling-FINAL-6-2013.pdf
4. [Annika Stenssen Presentation NESG Meeting Atlanta, GA.](#)



LEAD



GROW

**FEDERAL MENU LABELING REQUIREMENTS
& CLAIMS
FOOD SAFETY SUMMIT**

ATA (AL) BAROUDI, PH.D

**VICE PRESIDENT - QA & FOOD SAFETY
THE CHEESECAKE FACTORY INCORPORATED**

ROSEMONT, IL - MAY 11, 2017

a
**GREAT
PLACE**
to



HAVE FUN



The Cheesecake Factory



- 2 Bakeries (Calabasas, CA and Rocky Mt, NC)
- Multiple Distribution Centers (Broadliner)
- 194 CCF Restaurants & more!
- 13 Grand Lux Cafe
- 1 RockSugar
- 100% company owned; signed license agreements: Middle East, Asia, Mexico
- 16 International
- NYSE: "cake"



The Cheesecake Factory



➤ All items are prepared daily in our restaurants using high quality & fresh ingredients from approved sources

➤ **≥ 200 menu items**

➤ **Federal Menu Labeling???**

small plates & snacks

STUFFED MUSHROOMS 640 cal 6.95
Fontina and Parmesan Cheese, Garlic and Herbs in a Wine Sauce

GREEK SALAD 380 cal 6.95
Feta Cheese, Tomato, Cucumber, Kalamata Olives, Red Onion, Arugula and Vinaigrette

LOADED BAKED POTATO TOTS
1280 cal 6.50

Crispy Potato Tots Filled with Cheese, Bacon and Green Onion. Served with Sour Cream and Sriracha Mayo

LITTLE HOUSE SALAD
250 cal 4.95

Tossed in Our Vinaigrette

BEETS WITH GOAT CHEESE
300 cal 6.95 **GF** Upon Request
Fresh Beets, Apples, Baby Arugula, Pecans and Vinaigrette

ENDIVE SALAD
430 cal 6.95 **GF** Upon Request
Belgian Endive, Radicchio, Glazed Pecans, Blue Cheese and Vinaigrette

KOREAN FRIED CAULIFLOWER 1070 cal 5.95
Crispy Cauliflower Tossed with Sweet and Spicy Sauce, Toasted Sesame Seeds and Green Onion



Breaking
April 27, 2017



National Restaurant Association
FRONT BURNER:

Menu Labeling!!!!



Breaking News



» **5 / 1 / 2017**



Breaking News: 5/2/17

Menu Labeling Compliance Date Moved



HHS.gov

U.S. Department of Health & Human Services



Health and Human Services Secretary Tom Price, M.D., issued the following statement on the Food and Drug Administration's actions to delay the implementation of its proposed Menu Labeling Rule until May 7, 2018:



Strategic Questions & Clarity Still Needed



- States and localities who attempted to pass legislation previously (or presently have laws on the books) may try to enforce their regulations ahead of the **new** compliance date.
- We anticipate the state of California will be the first state to attempt to do so, and NRA will be working closely with the California Restaurant Association in this regard.



Questions

