

Menu Nutritional Labeling

A Practical Guide to Laboratory Selection and Project Completion

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New Menu Nutritional Labeling Requirements

On March 23, 2010 the Patient Protection and Affordable Care Act was signed into law. Part of this new law is Section 4205 that requires restaurants and similar retail food establishments that have 20+ locations to list calorie content information on menus and menu boards. In addition, restaurants must also have additional nutritional information available upon request, covering total calories, fat, saturated fat, cholesterol, sodium, total carbohydrates, sugars, dietary fiber, and total protein. This law is currently in effect and full compliance will most likely be expected sometime in 2012. Currently there is a proposed rule that outlines details of the enforcement that the FDA has released for comments from the industry. Details including how to list combo items and the like and specifics on compliance are scheduled to be released by the end of 2011.

Highlights of the Proposed Rule:

- Establishments covered: Restaurants with 20+ locations. Exclusions are movie theaters, bowling alleys, other places where food might be sold that their primary business activity is not as a restaurant.
- Calorie posting for standard menu items with succinct statement of suggested daily caloric intake, additional nutritional information in available on premises.
- Calorie posting for self-service food and food on display needed.
- Food not labeled will be considered misbranded.
- Standard menu items include food that is routinely listed or offered as a self-service food or food on display. This would include specific types of pizzas listed on menus (deluxe, BBQ, etc).
- Definition of the terms Combination Meal, Variable Menu Item, Self-Service Food, Food on Display, Custom Order, Daily Special.
- List of what items would be excluded: Items not listed on menu board and other items placed on the table or counter for general use, daily specials, temporary menu items (<60 non-consecutive days on menu), and customary market tests (<90 days on menu), alcoholic beverages.
- Proposed Caloric Declaration: At 5 calorie increments up to and including 50 calories and to the nearest 10-calorie increment above 50 calories.
- Various options were given for listing combination meals, variable menu items.
- FDA is proposing calorie declaration be in a range for all variable menu items.
- Suggestions on statements on caloric intake for posting on menus.
- Additional information to be available to consumers: Calories, calories from fat, total fat, saturated fat, trans fat, cholesterol, sodium, total carbohydrates, dietary fiber, sugars, and protein.
- Proposed nutrients on pizzas and similar items that can have multiple toppings/combinations: declaration for information for the basic preparation of the pizza (plain, deep-dish, 12" pizza) and separate declaration for all toppings.
- Items with similar nutrient make-up can be listed as a group with nutrients listed only once.
- Self-service (buffet) and Food on Display: Calories per item or per serving must be posted on a sign containing the item name adjacent to the item.
- Multi-serving items: Discrete items such as rotisserie chicken would display total calories and could additionally display calories per serving. Individual portions of a multi-serving food (cake by the slice) should be listed as calories per serving.

- Determination of Nutrient Content: Can be completed by nutrient databases, laboratory analyses, or cookbooks, and use of labels on packaged foods. Must provide information on the reasonable basis used to calculate values to FDA.
- Compliance to Values: Protein and dietary fiber must be at least as high as declared value and calories, sugars, total fat, saturated fat, trans fat, cholesterol, and sodium must be no more than 20% in excess of the declared value and protein, carbohydrates, and dietary fiber must be no less than 80% of the declared value. In ranges, the lowest value would be used for compliance.
- Proposed Timeline: Final rule would become effective 6 months from the date of its publication

The main thing to keep in mind is that the Affordable Care Act states that restaurants with 20+ locations will post calorie info and have additional info on hand is already law. How the information will be posted and the period for compliance will be detailed in the Final Rule.

Start compiling your nutritional data now. This will give you time to tailor menu items and make sure you have all necessary information organized prior to the compliance date.

Frequently Asked Questions on Menu Nutritional Labeling:

1. **If we are waiting on the final rule from the FDA why should I start my testing now?** The final rule from the FDA will outline details of how to display calories in dishes, however the law stating that calories and additional data must be posted/available is already in effect. Conducting the analysis of the menu items now will insure you have time to make any adjustments to menu items, strategize about how to present dishes and their calorie counts to customers, and have plenty of time to be in compliance with new menu boards, drive-thru menus, and printed materials. Acting early will also give you time to evaluate all options for your testing needs and insure that your data is accurate and not compiled in a mad rush.
2. **What are my options for getting nutritional data?** There are 2 types of analysis for menu items. Nutritional data can be generated by a full laboratory analysis of a food item or it can be estimated using a software database system. A combination of the 2 technologies can also be used to build a menu item.
3. **How do I know what options are right for my menu items?**
 - a. Full Lab Analysis: This is the full laboratory analysis of a food item using official validated methods that can be done by an ISO 17025 accredited lab. This analysis should be used for menu items that undergo changes during preparation or cooking such as fried, baked, sautéed, or grilled food items. In this method food samples are received by a lab and physically tested (i.e. fat is extracted, protein is quantified, etc)
 - b. Database: A database label for a product uses the products recipe to create the nutritional values in a computer program. This is appropriate for menu items that will see little to no changes during preparation/cooking such as salads and dressings and sauces that undergo little to no cooking. Database labels can also use manufacturers' 100 gram nutritional information to create nutritional information in your specific serving size. In this method, no food samples are necessary, however 100 gram, unrounded nutritional values may need to be solicited from your suppliers.
 - c. Combination of Full Lab and Database Technologies: Some items can be built using a combination of a full lab analysis and a database label. The best example of this is salad with chicken tenders on it. This salad would be built in the computer software using its

recipe, with the data from the fried chicken tenders coming from a full lab analysis. (This same data on tenders can be used for kids' meals, entrees, or an appetizer menu as long as you use the same tenders everywhere on your menu.)

4. **What should each analysis include?** Regardless of the method chosen, the nutritional information you should receive should be calories, calories from fat, total fat, saturated fat, trans fat, cholesterol, sodium, total carbohydrates, dietary fiber, sugars, and protein. This can be given in 100 gram basis or based on your serving sizes.
5. **I always have guests asking questions about allergens and ingredients in dishes. Is that part of nutritional labeling?** Allergen declaration and Ingredient statements are not part of the Menu Nutritional Labeling rules. However, this information can be generated at the same time as nutritional analysis and can very useful for inquiries by guests with special dietary considerations. Allergens of concern include but are not limited to milk, eggs, fish, crustacean shellfish, tree nuts, peanuts, wheat gluten, and soy.

Laboratory Selection—Choosing the Right Partner for Nutritional Labeling

In choosing any business partner, you must feel comfortable and trust your collaborator. Since nutritional labeling is new to so many people, discussing methodology, customer service, and consulting and support with prospective partners is imperative. Ask perspective labs to run through the menu labeling process and how they have worked with restaurants similar to yours. In addition, using the questions below you can get a good idea of how a particular lab insures accurate results, if they can fulfill your testing needs and timetable, and if their customer service will be attentive and well-versed. Asking for references in the restaurant industry is another best practice in laboratory selection.

1. **How long will this process take?** Keep in mind there will be a lot of samples to gather and information from your suppliers that will have to be compiled. Make sure to find a lab that will give you a clear understanding of how long the project will take from the initiation of the project until the last label is created. Also note that a good lab will organize what items you would cook and ship for laboratory analysis *and* will also gather all needed information from your vendors on ready to eat items. For the items that need a full nutritional analysis your laboratory partner should outline how many servings will be needed for analysis and how to package and ship those items. Some labs may also provide shipping materials and billable stamps to cover shipping costs and maximize efficiency.
2. **I'm worried about accuracy—How do I know the values are correct?** When comparing labs make sure you ask if labs are ISO 17025 accredited. This means the lab undergoes audits of their quality control system and that you are getting reliable data backed by proper training records and QA data. Specifically, you should also make sure that all of the analyses used to determine your nutritional values are included in the lab's ISO scope. The laboratory should be able to provide you a full listing of their scope of covered tests, highlighting the tests specifically needed for a nutritional analysis. Also, ask how many scientists will be reviewing your data and what their backgrounds include. A good laboratory partner should have multiple layers of checks and balances by people well-versed in food science, culinary arts, and food chemistry.
3. **What if someone questions my nutritional values? What type of support can I receive after the analysis is completed?** Your relationship with your laboratory partner should not end when the last label is created. Continuing advice and consultation should be available after the analyses

are completed. Furthermore, it is a best practice to review the types and amounts of liability insurance your laboratory partner carries.

4. **What will my results look like? Will they be in a form that can easily be posted to my website and used to make pamphlets?** Nutritional information can be given in a number of forms including, but not limited to a Nutritional Facts Panel, excel document, or PDF forms. Results should be available in paper and electronic format. A good partner lab will also provide you with all of your raw data in the form of Certificates of Analysis for your records. In addition, make sure and ask how long your lab will retain information and if there are charges for reprints or accessing that information at a later date.
5. **Will my results include allergens and ingredient statements?** This information can be generated at the same time as your nutritional data. A good partner lab can advise you on any additional costs as well as what additional information they may need to complete this portion of the project.
6. **What do I need to do to get this process started?** Once you have found a partner lab you are comfortable with, the start of the nutritional analysis project should be as easy as handing over a copy of your most recent menu and the lab should advise on testing options and timetables.