National Restaurant Association
Menu Labeling Webinar
July 28, 2016

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

• Section 4205 of the Patient Protection and Affordable Care Act of 2010
• Definitions
• Requirements of the Final Rule on Menu Labeling
• Final Guidance
• Next Steps
Section 4205 of the Patient Protection & Affordable Care Act

- Enacted March 23, 2010
- Amends certain nutrition labeling provisions of the Federal Food, Drug, and Cosmetic Act
  - Covers menu and vending machine labeling
- Issued proposed rules on April 6, 2011
  - Received ~900 comments for menu labeling
- Issued final rules on December 1, 2014
  - Menu labeling compliance date – December 1, 2015
- Issued 2nd final rule on July 10, 2015
  - Menu labeling compliance date – December 1, 2016
Who is covered by Section 4205?

• Applies to restaurants and similar retail food establishments (SRFEs)
  – that are part of a chain with 20 or more locations
  – doing business under the same name and
  – offering for sale substantially the same menu items

• Applies to restaurants and SRFEs that voluntarily register with FDA to be covered
What does Section 4205 require?

• Disclose calorie information on menus and menu boards for standard menu items
• Disclose calorie information on signs adjacent to foods on display and self-service foods that are standard menu items
• Post a succinct statement concerning suggested daily caloric intake on menus and menu boards
• Post on menus and menu boards a statement that written nutrition information is available upon request
• Provide written nutrition information upon consumer request
Menu Labeling
Final Rule
Key Components

• Definitions
  – Covered establishments
  – Restaurant-type food

• Alcohol

• Multi-Serving Foods
• Menus/menu boards and displaying calories
• Self-service food and food on display
• Succinct statement concerning the suggested daily caloric intake
• Written nutrition information
• Determination of nutrition content of food
• Effective Date

(Bolded bullets represent those areas where the final rule differs from the proposed rule.)
Definitions
Covered Establishments

– Restaurants or similar retail food establishments
  • Retail establishment that offers for sale “restaurant type food”

– Part of a chain with 20 or more locations
  • Fixed locations

– Doing business under the same name
  • Name presented to the public or the name of the parent entity if no name is presented to the public, (e.g., concession stand); this includes slight variations of the name, (e.g., due to location, region, or size)
Covered Establishments (Continued)

– Offering for sale substantially the same menu items
  • A significant proportion of menu items that use the same general recipe and are prepared in substantially the same way with substantially the same food components even if the name of item varies (e.g. “Bay View Crab Cake” and “Ocean View Crab Cake”)

– Other restaurants or similar retail food establishments that offer for sale “restaurant-type food” that voluntarily register with FDA to be covered
Examples of Covered Facilities

- Restaurants - quick service and sit-down
- Grocery and convenience stores
- Food take-out facilities and pizza delivery services
- Entertainment venues (e.g. movie theaters, amusement parks)
- Cafeterias
- Coffee shops
- Superstores
- Some managed food service operations
Restaurant-Type Foods

Restaurant-type foods are foods usually eaten on the premises, while walking away, or soon after arriving at another location; and

• Served in restaurants or other establishments in which food is served for immediate consumption or which is sold for sale or use in such establishment; or

• Processed and prepared primarily in a retail establishment and offered for sale to be consumed elsewhere and which is not offered for sale outside such establishment
Restaurant-Type Foods

Examples include:

• Meals served at sit-down restaurants
• Foods purchased at a drive-through
• Take out and delivery foods
• Hot buffet foods
• Foods ordered from menu/menu board at grocery store and intended for immediate consumption
• Foods that are self-serve and intended for immediate consumption
Foods Not Considered Restaurant-Type Foods

Examples:

– Foods eaten over several eating occasions
  • Loaves of bread
  • Bags/boxes of rolls, cookies, candy
  • Whole cakes
– Foods that are not self serve and not intended solely for an individual (deli salads, items sold by weight)
– Foods that are usually further prepared before consuming (deli meats and cheeses)
– Bulk foods (e.g. nuts, dried fruits)
Foods That Are Covered

- **Standard menu items**
  - Restaurant type food that is routinely included on a menu or menu board or routinely offered as a self-service food or food on display

- **Combination meals**
  - Standard menu item that consists of more than one food item; may be represented on the menu or menu board in narrative form, numerically, or pictorially
  - May include a variable menu item or be a variable menu item

- **Variable menu items**
  - Standard menu item that comes in different flavors, varieties, or combinations and is listed as a single menu item
Foods That Are Covered

• Food on display
  – Restaurant-type food that is visible to the customer before the customer makes a selection, so long as there is not an ordinary expectation of further preparation by the consumer before consumption

• Self-service food
  – Restaurant type food that is available at a salad bar, buffet line, cafeteria line, or similar self-service facility and that is served by customers themselves; includes self-serve beverages
Alcohol Covered in Final Rule

• Not covered in the proposed rule
• Majority of comments supported covering alcohol
  – Public health rationale
  – FDA has jurisdiction to cover
• Now, covered establishments must disclose calories and other nutrition information for alcoholic beverages that are on menus and menu boards
• Exemption for alcohol that is on display behind the bar (and not on the menu, menu board, or not self service) at covered establishments.
Foods That Are Exempt

The following foods are exempt from the rule:

• **Custom Order**
  – A food order that is prepared in a specific manner based on an individual customer’s request, which requires a deviation from the usual preparation of a standard menu item

• **Daily Special**
  – Menu item that is prepared and offered for sale on a particular day, is not routinely listed on a menu or menu board, or offered for sale by the establishment and is promoted as a special menu item for that day

• **Foods that are part of a customary market test**
  – Food that appears on the menu or menu board for less than 90 consecutive days
Foods That Are Exempt

The following foods are exempt from the rule:

• **Temporary menu item**
  – Foods that appear on a menu or menu board for less than a total of 60 calendar days per year

• **General use condiments**
  – Condiments that are available for general use, e.g., flasks of pancake syrup on the table

• **Foods that are not on a menu/menu board and are not on display or self-serve.**
  – These foods are not considered “standard menu items”
Menus and Menu Boards

- Menus and menu boards are defined as the **primary writing** of the restaurant or similar retail food establishment from which a customer makes an order selection.
- Includes the name and price of the menu item and can be used to place an order by the customer.
- Includes specialty menus, e.g., drink menu, dessert menu (even when there is a separate general menu).
- Includes drive-through menu boards and electronic menus and menu boards.
- Includes online menus if consumer can order online/phone.
Requirements of the Final Rule
Displaying Calories on Menus and Menu Boards

• Calories for each standard menu item listed on a menu/menu board must be displayed adjacent to the name or price of the menu item in a type size no smaller than that of the name or price of the menu item whichever is smaller, with certain color and contrast requirements.

• For menu items that come in different flavors or varieties that are listed as a single item, calorie declarations where there are only two options available must be presented with a slash between the two calorie declarations (e.g., "150/250 calories") or as a range (e.g., “150-300 calories”) if there are three or more options.
Displaying Calories on Menus and Menu Boards

• The rule does not require a covered establishment to create a new menu or menu board or redesign an existing menu or menu board

• If a column format is used the term “Calories” or “Cal” must appear at the top of the column in a type size no smaller than the name or price of the menu item, whichever is smaller

• A string format is also acceptable –
  – Example: Grilled Burger - Bibb lettuce, vine-ripened tomatoes, shaved red onions, crisp pickle slices, on a toasted brioche bun  $xx.xx.  Cal: 650
Displaying Calories on Menus and Menu Boards

Examples:

Variable menu item:
- Chicken sandwich (grilled or fried) 350/550 Calories.......$7.99
- Chicken sandwich (grilled/baked/fried) 350-550 Cal.......$7.99

Combination meal:
- Cheeseburger with choice of side salad, or chips.............$4.79
  450/550 Calories
- Cheeseburger with choice of side salad, fruit, or chips......$4.79
  450 – 550 Calories
## Displaying Calories on Menus and Menu Boards

<table>
<thead>
<tr>
<th>Sandwich</th>
<th>Cal.</th>
<th>Price</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Chicken sandwich (grilled/fried)</td>
<td>350/550</td>
<td>$7.99</td>
</tr>
<tr>
<td>2. Chicken sandwich (grilled/baked/fried)</td>
<td>350-550</td>
<td>$7.99</td>
</tr>
<tr>
<td>3. Soft Drinks</td>
<td>0-130</td>
<td>$2.79</td>
</tr>
<tr>
<td>4. Beverages</td>
<td></td>
<td>$2.79</td>
</tr>
<tr>
<td>– Diet Cola, Diet Lemon-Lime</td>
<td>0</td>
<td></td>
</tr>
<tr>
<td>– Cola</td>
<td>120</td>
<td></td>
</tr>
<tr>
<td>– Fruit Punch</td>
<td>130</td>
<td></td>
</tr>
<tr>
<td>– Lemon-Lime</td>
<td>110</td>
<td></td>
</tr>
</tbody>
</table>
Displaying Calories for Toppings and Multi-Serving Foods

• Calorie disclosures for toppings will depend on how the toppings are listed on the menu. “Toppings” without listing individual toppings can be declared using a range. Individually listed toppings must have specific calorie disclosure, but can be grouped if declaration would be the same.

• Calories for multi-serving foods can either:
  – Be listed for the entire standard menu item or
  – Be listed per individual unit (e.g. slice of pizza) provided the total number of units is included and the menu item is normally prepared and served in discrete units (e.g. whole pizza cut into slices)
Displaying Calories for Toppings

**ICE CREAM SCOOP: 300 CAL**

<table>
<thead>
<tr>
<th>Toppings</th>
<th>Added cal</th>
</tr>
</thead>
<tbody>
<tr>
<td>Almonds</td>
<td>25</td>
</tr>
<tr>
<td>Fudge</td>
<td>50</td>
</tr>
</tbody>
</table>

**PLAIN PIZZA PIE:**
- SMALL (12”) 500 CAL
- MEDIUM (14”) 750 CAL
- LARGE (16”) 1000 CAL

<table>
<thead>
<tr>
<th>Toppings</th>
<th>Small</th>
<th>Med</th>
<th>Large</th>
</tr>
</thead>
<tbody>
<tr>
<td>Pepperoni</td>
<td>200</td>
<td>300</td>
<td>400</td>
</tr>
<tr>
<td>Sausage</td>
<td>250</td>
<td>350</td>
<td>450</td>
</tr>
<tr>
<td>Green Peppers</td>
<td>15</td>
<td>20</td>
<td>25</td>
</tr>
</tbody>
</table>
Self-Serve Foods and Foods on Display

- Must have a sign(s) near the food with the number of calories per serving or per item
  - “300 calories per muffin”
  - “200 calories per scoop of potato salad”
  - “140 calories per 12 fluid ounces (small)”
Succinct Statement

To enable consumers to understand, in the context of a total daily diet, the significance of the calorie information provided on menus and menu boards

“2,000 calories a day is used for general nutrition advice, but calorie needs vary”

- Optional statements are permitted on children’s menus and menu boards

Must appear on the bottom of each page of a multi-page menu and the bottom of a menu board, above, below or beside the Statement of Availability.
Written Nutrition Information

• The statement “Additional nutrition information available upon request" is required on menus and menu boards
• For menus it is required on the first page of the menu with menu items listed either above, below or beside the Succinct Statement
• For menu boards it must appear on the bottom of the menu board either above, below, or beside the Succinct Statement
• Written nutrition information must include the nutrients that are currently required in the Nutrition Facts label on packaged foods (except vitamins and minerals)
Written Nutrition Information

Can be in the form of:

• Posters
• Tray liners
• Counter cards
• Signs
• Handouts
• Booklets
• Computer/kiosk
Written Nutrition Information

• For a variable menu item or combination meal, the nutrition information must be listed separately for each component in the variable menu item.

• Where the number of variations is large, e.g., pizza, the nutrition information must be declared for the basic preparation and separately for each topping or other variable component.
Written Nutrition Information

When the nutrition information for different flavors, varieties, or components of combinations are the same, the nutrition information for these food items would only need to be listed once, with the food items grouped together.

Raspberry or Peach Flavored Iced tea (14 ounces)

- Total calories: 5 calories
- Total fat: 0 g
- Sodium: 15 mg
- Total Carbohydrate: 1 g
- Protein: 0 g
- Not a significant source of calories from fat, saturated fat, trans fat, cholesterol, dietary fiber, and sugars
Determining Nutrition Content

- Covered establishment must have reasonable basis for its nutrient content declarations
- Nutrient values can be determined by:
  - Nutrient databases
  - Laboratory analysis
  - Nutrition Facts label
  - Cookbooks
  - Other reasonable means, (e.g. a combination of various basis)
Determining Nutrition Content

• Upon request from FDA covered establishments must provide information substantiating their nutrient values.

• A signed/dated statement is needed to certify that the information contained in the nutrient analysis is accurate and complete.

• A signed/dated statement is also needed to certify that the covered establishment has taken reasonable steps to ensure the method of preparation and amount of the standard menu items adhere to the factors on which its nutrient values were determined.
Final Guidance for Restaurant Menu Labeling
What is a guidance?

- Guidance documents are not rules – they do not establish legally enforceable responsibilities
- Guidance documents are documents that describe the Agency’s interpretation of our policy on a regulatory issue
- They describe the Agency’s current thinking on a topic
- They provide additional information or explanations regarding a rule or regulatory issue
- They should be viewed as recommendations, unless specific regulatory or statutory requirements are cited
Guidance for Industry: A Labeling Guide for Restaurants and Retail Establishments Selling Away-From-Home Foods - Part II (Menu Labeling Requirements in Accordance with 21 CFR 101.11)

- Issued April 29, 2016
- Published in the Federal Register on May 5, 2016
- Enforcement will begin on May 5, 2017
Sections of the Final Guidance

1. Introduction
2. Background
3. Definitions
4. Covered Establishments- General Requirements
5. Nutrition Labeling for Covered Establishments
6. How to Determine the Nutrient Values for Restaurant-type Foods
7. Alcoholic Beverages
8. Voluntary Registration
Changes to the Final Guidance

• In response to comments on the draft guidance we added:
  – Additional examples and explanations throughout
  – New questions (5.5, 5.7, 5.11, 5.17, 5.35, 7.5, 7.11, and 7.12)

• Revised several sections
1. Introduction

• Intended to help restaurants and similar retail food establishments understand menu labeling requirements

• Reference made to “A Labeling Guide for Restaurants and other Retail Establishments Selling Away-From-Home Foods- Part 1”

• FDA will continue to update guidance
2. Background

- Patient Protection and Affordable Care Act of 2010, section 4205
- 21 U.S.C. 343(q)(5)(H)
- December 1, 2014: Final Rule published (21 CFR 101.11)
3. Definitions

- Claims
- Establishments
- Food types and menu items
- Labeling and nutrition information
4. Covered Establishments – General Requirement

Changes:

• Relocation of draft sections 5.1. and 5.2 to sections 4.1 and 4.2 in the final guidance

• Changes to Table I
  – Addition of concession stands within entertainment venues
  – Relocation of sidewalk carts within table
New Q&A 5.3

Are items sold from a bulk bin in a supermarket that are meant to be eaten over several eating occasions, such as loaves of bread and bags or boxes of dinner rolls considered restaurant-type food and are they required to have calorie declarations?

Answer: Generally, foods bought from bulk bins or cases in grocery stores that are meant to be eaten over several eating occasions or stored for later use would not be considered restaurant-type food and therefore would not require calorie declarations.
New Q&A 5.5

I am a covered establishment that offers off-site catering for private events. Menu items for these events are typically purchased by one or two persons from my catering menu for a large group to consume at an event at no cost. Does the catered event have to provide calorie declarations to its guests?

Answer:

• The catered event is likely not a covered establishment (Customers purchasing items from a catering menu for their catered event would not be required to provide calorie information to the guests at the event)
• The covered establishment must provide calorie declarations for standard menu items on their catering menu
New Q&A 5.9

Within stadiums and arenas, are the mobile vendors that are walking through the stands and selling food and beverages from a tray or bag required to declare calories?

**Answer:** The menu labeling final rule defines a covered establishment, in part, as a restaurant or similar retail food establishment that is part of a chain with 20 or more locations, with the term location referring to a fixed position or site (21 CFR 101.11(a)). Since mobile vendors walking through the stands generally do not have a fixed location or site, they would not be considered a covered establishment and would not have to meet the requirements of the menu labeling final rule.
Revised Q&A 5.13

What is a menu or menu board?

Statement added to the answer: “The primary writing of a covered establishment can include more than one form of written material; the critical factor is whether the written material is or is part of the primary writing of a covered establishment from which a customer makes an order selection.”
New Q&A 5.15

I am a covered establishment that also has a catering menu. On my catering menu I offer some menu items that are offered through my regular establishments and some items that are only offered on my catering menu. Do I have to declare calories for all of the menu items on this catering menu?

Answer: As discussed in section 5.13, the primary writing of a covered establishment can include more than one form of written material, including the catering menu of a covered establishment. To the extent a catering menu meets the definition of a “menu” in the menu labeling final rule, such catering menu must meet the requirements of the menu labeling final rule. All items listed in the catering menu that meet the definition of a standard menu item would require calorie declarations.
Revised Q&A 5.17

Is marketing material required to bear calorie information? For example, if a pizza coupon that includes a phone number or web address where the customer can place an order states “1 large pepperoni and sausage pizza $9.99,” does the menu item on this coupon require calorie information?

Answer:

• In the example of a pizza coupon that includes a phone number or web address where the customer can place an order and that states “1 large pepperoni and sausage pizza $9.99,” the “coupon” can be used by a consumer to make an order selection at the time a consumer is viewing the coupon (i.e., the coupon includes the name of the standard menu item, price of the standard menu item and a phone number or web address where an order can be placed). Therefore, in this situation, the coupon would be considered a menu (and not simply a coupon) and would be required to include a calorie declaration for the listed standard menu item.

• If the coupon did not include a web address for placing orders and there is no phone number provided for placing orders, then the coupon would not be considered a menu and a calorie declaration would not be required on the coupon.
Revised Q&A 5.20

How do I list calorie information for a multi-serving standard menu item that includes several types of foods (such as, wings, cheese sticks and potato skins on one appetizer plate) or that may be served with sauce?

Statement added to the answer: ...If the menu item is usually prepared and offered for sale with sauce(s), then calories for the sauce(s) must also be included in the calorie declaration for the multi-serving standard menu item. If the options for the sauces are individually listed on the menu or menu board as part of the multi-serving standard menu item, then the calorie declarations for each sauce would also need to be included in accordance with 21 CFR 101.11(b)(2). However, such calorie declarations for each individually listed sauce would not be necessary if the sauce options and their calorie declarations are already individually declared elsewhere on the menu or menu board.
Revised Q&A 5.23

Where should the calorie information be located on a menu or menu board? Are there additional requirements for calorie declarations on electronic menus or menus on the Internet?

**Answer:** The number of calories must be listed adjacent to the name or price of the associated standard menu item. (21 CFR 101.11(b)(2)(i)(A)(1))

In general, the calorie declaration requirements for electronic menus and menus on the Internet are the same as the requirements for printed menus. If electronic menus or menus on the Internet meet the definition of a menu in the menu labeling final rule (see definition section, #3.23), then they must meet the requirements of the menu labeling final rule including listing the number of calories adjacent to the name or price of the associated standard menu item. Calories may not be listed on a webpage or screen that is separate from the associated menu item listed on the electronic or Internet menu.
New Q&A 5.33

Can a food item that is listed on the menu in different sizes be considered a variable menu item?

**Answer:** No. A standard menu item offered in various sizes is not considered a variable menu item unless it comes in different flavors, varieties, or combinations and is listed as a single menu item. When a standard menu item, including a beverage, is listed on a menu or menu board by name with different sizes, or each size has its own price, each size would constitute a standard menu item rather than a different flavor, variety, or combination, and each standard menu item must include a calorie declaration.
How do I declare the calories in a combination meal listed on the menu or menu board if the meal comes in multiple sizes with multiple choices of sides?

Example 1:
Cheeseburger Meal (550/600 calories).................................................................$5.99
(comes with medium sized fries or medium sized onion rings)
Large (adds 60/110 calories).................................................................$6.99
In this example, the combination meal only allows the option to upsize either the fries or the onion rings. There are only two options and therefore the calorie declaration for the additional calories would be separated with a slash.

Example 2:
Cheeseburger Meal (550-720 calories).................................................................$7.99
(comes with medium sized fries or medium sized onion rings and medium drink)
Small (subtracts 50-100 calories)
This example assumes that there are several options for the type of drink that can be ordered as part of the standard menu item including a 0 calorie drink. Thus, in this example, the standard menu item is a combination meal that includes a variable menu item, i.e. medium drink. Consequently, the calorie declarations would be listed as a range for both the standard menu item as usually prepared and offered for sale as well as the declarations for changing the size of the sides and the drink.
Revised Q&A 5.49

Some establishments, such as movie theater concession stands, use digital menu boards with a rotating display that may have multiple panels, some of which list standard menu items and some of which do not. How should such digital menu boards incorporate the succinct statement and statement of availability of additional written nutrition information?

Edited Answer: Clarifies that if the covered establishment has multiple digital menu boards with rotating displays, then the statements should appear on each rotating display of each digital menu board that lists standard menu items to help ensure that the statements are clear and conspicuous to the consumer and posted prominently.
Revised Q&A 5.93

For “grab and go” items sold in grocery stores...would the calorie declaration be based on the entire contents of the package or on the reference amount customarily consumed (RACC)... 

Edited Answer: If calories are declared directly on the package of a “grab and go” food, calories should be declared for the entire package as the rule requires that calories be declared for standard menu items as they are usually prepared and offered for sale. Similarly, the additional written nutrition information must be for the entire standard menu item as usually prepared and offered for sale (not based on RACCs)”
6. How to Determine the Nutrient Values for Restaurant-type Foods
Revised Q&A 6.4

Edited to clarify record-keeping requirements. Changes include:

• FDA recommends that any such records should be maintained either at the covered establishment or the corporate headquarters for the duration of the time that the standard menu items are offered for sale at the covered establishment.

• FDA also recognizes that it is not necessary to maintain information on nutrient values for foods that are no longer standard menu items and are no longer offered for sale at a covered establishment as this information is no longer beneficial for consumers if they cannot purchase those items.
Revised Q&A 6.14
Edited to add clarifying examples, including:

• Responsible individual employed by a covered establishment (such as, the manager of the establishment or someone designated by the establishment manager or owner that is also employed at the specific covered establishment.
• An example statement was added and reads “I, (name of the responsible individual), certify that (name of the covered establishment) has taken reasonable steps to ensure that the recipe for (name(s) of standard menu item) that was used to determine the calorie declaration and other nutrient values was followed to prepare (name(s) of standard menu item). The ingredients were properly measured, the specified cook times and temperatures were followed, and the specified portion sizes were served to the customer.”
  – Also, note that any other statement or format that includes the required information in 21 CFR 101.11(c)(3)(i)(G) would also be acceptable.
7. Alcoholic Beverages
Revised Q&A 7.4

Edited to clarify that:

- As with other variable menu items, if multiple beers have the same calorie amounts, then a single calorie declaration could be used, provided that the declaration specifies that the calorie amount listed represents the calorie amounts for each individual beer variety.
  - Light beers (60 calories)
    - Pete’s light.....$x.xx
    - Frank’s light.....$x.xx
New Q&A 7.5

Do the labeling requirements of the menu labeling final rule in § 101.11(b)(2)(iii) that apply to standard menu items that are self-service food and food on display apply to beers on tap?

**Answer:** In general, the menu labeling final rule covers alcoholic beverages that are standard menu items that are listed on a menu or menu board. The menu labeling final rule specifies requirements for standard menu items that are self-service food and food on display in § 101.11(b)(2)(iii). We consider beers on tap to be alcoholic beverages that are foods on display, however. As specified in § 101.11(b)(1)(ii)(B), the labeling requirements of § 101.11(b)(2)(iii) do not apply to alcoholic beverages that are foods on display and are not self-service foods. Therefore, to the extent that beers on tap are not self-serve, they are exempt from the labeling requirements specified in § 101.11(b)(2)(iii) for standard menu items that are food on display. Specifically, as discussed in the menu labeling final rule, at many covered establishments that serve alcoholic beverages, alcoholic beverages that are not on menus or menu boards, including beers on tap, are ordered by customers sitting at tables from which the bar could be completely out of sight.
Revised Q&A 7.10

Edited to clarify that:

• TTB’s Statement of Average Analysis may also be used as a reasonable basis (in addition to TTB’s voluntary Serving Facts statement) for calorie declarations and additional written nutrition information

• Additionally, for standard menu items including alcoholic beverages that contain insignificant amounts of six or more of the required nutrients, the declaration of nutrition information required by 101.11(b)(2)(ii)(A) may be presented in a simplified format as described in 21 CFR 101.11(b)(2)(ii)(B).
New Q&A 7.11

We are a covered establishment that does not offer for sale alcohol beverages as standard menu items, but we include suggested alcohol pairings with our menu items (such as, “goes great with red wine”). Do we need to include calorie information for the suggested alcohol pairings?

**Answer:** If the alcoholic beverage is not offered for sale as a standard menu item, as defined in the menu labeling final rule, then a calorie declaration is not required.
New Q&A 7.12

Are establishments that only sell beer, such as concession stands within a stadium, covered by the menu labeling requirements?

**Answer:** If an establishment meets all of the criteria of a covered establishment (see definition section 3.5) and only sells beer, and that beer is a standard menu item then the covered establishment must provide calorie and other nutrition information for such beer in accordance with the menu labeling requirements. Establishments are not excluded from coverage under the menu labeling final rule because they offer for sale only one type of standard menu item.
8. Voluntary Registration
Education, Outreach, and Enforcement Strategy
Extension of Compliance Date for Menu Labeling

- July 10, 2015:
  - FDA extended the compliance date for menu labeling to December 1, 2016
- December 18, 2015:
  - Omnibus Appropriations Bill, delayed compliance date until 1 year after final, Level 1 Guidance is issued
- May 5, 2016:
  - Final Guidance issued, making the new compliance date May 5, 2017.
Education and Outreach Efforts

- Menu Labeling Mailbox ([CalorieLabeling@fda.hhs.gov](mailto:CalorieLabeling@fda.hhs.gov))
- Face-to-face meetings and teleconferences
- Presentations and webinars
- Site visits
- Educational module (*in development*)
- Handouts (*in development*)
- 2016: Roadshows
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
Resources

• The final guidance is available online at FDA.gov at: http://www.fda.gov/food/guidanceregulation/guidancedocumentsregulatoryinformation/ucm461934.htm

• Additional questions and presentation or meeting requests may be submitted to our menu labeling inbox at: CalorieLabeling@fda.hhs.gov
Questions?

CalorieLabeling@fda.hhs.gov