

**Updated Calorie Labeling Rule for Food Service Establishments:
What You Need to Know
Revised April 2018**

The New York City (NYC) Health Code's calorie labeling rule has been updated. In addition to posting calories, the rule now requires covered establishments to post two new nutrition statements on their menus and menu boards, and to have additional nutrition information on-site for customers upon request. The updated rule also changes some of the requirements for displaying calorie information. These changes were made to match the [federal menu labeling requirements](#).

This rule covers any establishment that serves restaurant-type food and is part of a chain with 15 or more locations in the United States doing business under the same name and selling substantially the same menu items. This document highlights changes to the calorie labeling rule for restaurants that were subject to the original rule and are now subject to the updated rule. A separate guidance document exists for food retail establishments that are newly covered by the updated rule.

Since May 22, 2017, the New York City Health Department has educated chain food retailers about the new calorie labeling requirements but is not currently issuing Notices of Violation. The Health Department plans to begin issuing Notices of Violation subject to fines on May 7, 2018, following an agreement reached in the lawsuit *National Association of Convenience Stores v. New York City Department of Health and Mental Hygiene*.

What do establishments that were subject to the original calorie labeling rule need to know about the updated rule?

Each covered food service establishment must now:

- Include two new nutrition statements on its menus and menu boards.
- Have comprehensive nutrition information on-site and provide the information to anyone who requests to see it.
- Change calorie labeling for restaurant-type food, including: multiple-serving standard menu items, combination meals with choices, self-service food, food on display, menu items with a choice of toppings and temporary menu items.

What are the two new required nutrition statements?*

The new nutrition statements are:

1. "2,000 calories a day is used for general nutrition advice, but calorie needs vary."
2. "Additional nutritional information available upon request."

These statements must be clearly visible and prominent on menus and menu boards. For menus, the calorie statement (statement 1 above) must appear on each page of the menu. For menu boards, the

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two required nutrition statements must be visible to customers viewing the menu board when ordering. They can appear on every panel of the board, but this is not required. If the statements are not on every panel, they must be visible to a customer viewing any item listed on the board. For self-service foods and foods on display, these statements may be listed on an individual sign next to the food itself; on a separate, larger sign near the food that the customer can easily read when ordering; or on a large menu board that the consumer can easily read when ordering.

Is there a different nutrition statement for children’s menus?

For children’s menus, the following statements can replace or be added to statement 1 above:

- “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 ages 9 to 13 years, but calorie needs vary.”

What additional nutrition information must be available to customers who request to see it?

Establishments must have additional nutrition information about the menu items on-site for customers who request it. The information must be listed in this order and use these measurements: total calories (cal), calories from fat (fat cal), total fat (g), saturated fat (g), trans fat (g), cholesterol (mg), sodium (mg), total carbohydrates (g), dietary fiber (g), sugar (g) and protein (g).

This information can appear on a counter card, sign, poster, handout or electronic device (e.g., at a kiosk or other device on the premises), or in a booklet, loose-leaf binder, menu or other similar means.

Are advertisements that contain food items and prices considered a menu?*

The rule requires establishments to display calorie information on primary menus and menu boards that can be used to place an order. The requirement generally does not apply to promotional materials. However, calorie information must be displayed on materials that can be used to place an order.

For example, a customer may choose to order an item after seeing a poster listing the item and its price at a deli counter; this poster must display the calorie information if the information is not otherwise posted at the counter (e.g., on a menu board or food package). However, a similar poster, that can be seen outside of the establishment but is not used to place an order, would not need to list calorie information.

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How should establishments post calories for multiple-serving menu and menu board items?

For multiple-serving menu and menu board items (e.g., a large pizza or a bucket of chicken wings), establishments can either post calories for the entire item or for a discrete serving unit. If posting calories for a serving unit, the unit must be identified on the menu or menu board.

Calories should be declared based on how the item is usually prepared and offered for sale; each establishment must determine this. Below is an example:

Item	Cal	Price
Medium Cheese Pizza	1680	\$12.99

OR

Item	Cal	Price
Medium Cheese Pizza	210 cal/slice, 8 slices	\$12.99

How should establishments list calorie information for combination meals with choices?

Under NYC's original rule, calories for combination meals were listed as a range, reflecting the minimum and maximum amount of calories for all possible combinations. The updated rule has separate requirements for meals with only two possible combinations and for meals with three or more possible combinations.

For a meal with only two combinations (e.g., an item offered with a choice of two sides), list the number of calories for each option, with a slash separating the two different calorie counts:

Item	Cal	Price
BLT sandwich with apple or chips	590/660	\$8.99

For a meal with three or more possible combinations, list the number of calories as a range showing the minimum and maximum calories for all combinations:

Item	Cal	Price
BLT sandwich with apple, side salad or chips	590 - 660	\$8.99

How should establishments list calorie information for menu items with a choice of toppings?

Under the original rule, a menu item with a choice of toppings (e.g., a scoop of ice cream) was treated as a combination meal; the calories for the menu item and the various topping options were posted in a range. The updated rule requires establishments to list the calories for the menu item without the toppings and post separate calorie information for each topping option:

Item	Cal	Price
Chocolate ice cream, per scoop	250	\$4.50
Toppings		
Peanuts, 1 oz.	150	
Sprinkles, 1 tbsp.	20	
Hot fudge, 1 oz.	65	

How should establishments list calorie information for self-service food and food on display?*

For self-service food (e.g., a buffet) and food on display (e.g., “grab-and-go” food) that is offered in a discrete unit, establishments must post the total number of calories in the item as it is usually prepared and offered for sale. For self-service food and food on display not offered for sale in a discrete unit, the calories should be posted for a standard scoop or cup size. The discrete serving unit must be included in the calorie posting.

Establishments can display the calorie information in a variety of ways, as long as the consumer can view the item name, number of calories and serving or unit size when choosing that item. Calorie information may appear on a sign near and clearly associated with the food item or it may be attached to a sneeze guard directly above the item. If a sign or a placard on a sneeze guard lists calorie information for more than one food item, it must be located where the customer reading it can see all of the food items for which calories are listed. Examples of how to post calorie information for self-service food and food on display can be found in the [federal menu labeling guidance](#). For self-service beverages, calorie postings must include the total number of fluid ounces in the cup indicated by the term “fluid ounces” and, if applicable, a description of cup size (e.g., small, medium, etc.).

What if a grab-and-go item includes a Nutrition Fact label or front-of-package calorie information?*

A Nutrition Fact label or front-of-package calorie information satisfies the calorie labeling requirements. If a grab-and-go item includes a Nutrition Fact label or front-of-package calorie information that a consumer can view before purchasing, the establishment is not required to post additional calorie information.

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Do establishments need to list calorie information for temporary menu items?

Like the original rule, the updated rule does not require calories to be listed for temporary menu items. However, the definition of a temporary menu item has changed. The updated rule defines temporary menu items as those offered for fewer than 60 days per calendar year (the original rule specified fewer than 30 days). Establishments do not need to list calories for foods that are offered for fewer than 90 consecutive days as part of consumer acceptance testing.

What are the penalties for not complying with the rule?

Establishments that do not comply with the rule may receive a notice of violation. This will not affect an establishment's sanitary grade, but can result in a \$200 fine per violation. Violations will be issued to establishments that:

- Fail to post calorie information in accordance with the Health Code's requirements;
- Do not have supplemental nutrition information on-site and available for customers to review; and/or
- Do not post the required nutrition statements on their menus and menu boards.

Are establishments with 15 to 19 locations nationwide required to comply with the NYC calorie labeling requirements?

Yes. The NYC rule covers any establishment that is part of a chain of 15 or more locations doing business under the same name nationwide. These establishments are required to comply with the NYC calorie labeling requirements even if they are not subject to federal requirements.

How does the Health Department interpret the phrase "substantially the same menu items"?

The phrase "substantially the same menu items" means that all chain locations use standardized ingredients, recipes and preparation methods for their menu items. The Health Department may conduct a case-by-case review to determine whether covered establishments serve substantially the same menu items.

When will the Health Department start issuing fines?

The Health Department will start issuing violations subject to fines on May 7, 2018.

Will the Health Department review a menu mock-up of how I plan to comply with the calorie labeling rule?

Yes, the Health Department will review mock-ups of menus, menu boards or other images and will confirm whether they meet the new requirements. Submitting mock-ups for Health Department review is optional. If you would like the Health Department to review your mock-ups, email them to infobfscs@health.nyc.gov and type "Calorie Labeling Mock-Up" in the subject line.

