



NYC's Calorie Labeling Rule for Chain Retail Food Establishments: What You Need to Know Revised April 2018

For nearly 10 years, chain restaurants in New York City have been required to post calorie information for the standard menu items they serve. Updates to the New York City Health Code now require chain retail food establishments that sell restaurant-type food to post calorie counts, post two nutrition statements and provide additional nutrition information on-site for customers upon request. These changes were made to match the [federal menu labeling requirements](#).

This rule covers any retail food establishment that serves restaurant-type foods 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 summarizes the New York City calorie labeling rule for retail food service establishments. A separate guidance document exists for food service establishments affected by the updated rule.

Since May 22, 2017, the New York City Department of Consumer Affairs (DCA) has been educating chain food retailers about the new calorie labeling requirements but is not currently issuing Notices of Violation. DCA 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 establishments does this rule apply to?

The calorie labeling rule covers retail food establishments that:

- Are part of a chain with 15 or more locations in the United States, all doing business under the same name
- Offer restaurant-type food (see definition below)
- Offer mostly the same menu items at each location

Examples of covered establishments include chain convenience stores, superstores and grocery stores.

What does the calorie labeling rule require?

The calorie labeling rule requires covered chain retail food establishments to:

- List the number of calories for restaurant-type food and beverage menu items, including food on display and self-service food. Calorie counts must be listed wherever menu item names and prices are listed. This includes all menus, menu boards, drive-through windows and websites.
- Include two nutritional statements where calories are required.
- Have comprehensive nutrition information on-site for standard menu items and provide the information to anyone who requests to see it.

What is restaurant-type food?

Restaurant-type food is food that is processed and prepared primarily in a food retail establishment, and is offered for sale to eat immediately or later in or outside the establishment. This includes prepared food that customers can buy "to go" or "to stay" in a dining area in the establishment. Restaurant-type food listed on menus and menu boards, as well as self-service food and food on display, are covered by the calorie labeling rule.



Exception: Cold prepared foods that are sold from behind a deli counter, do not appear on a menu or menu board, and require further preparation by consumers before eating are **not considered restaurant-type food and are not covered by the calorie labeling rule.**

What is self-service food?

Self-service food is restaurant-type food that is available in a salad bar, buffet line, cafeteria or similar self-service facility that customers serve to themselves. This includes beverages that are self-service.

What is food on display?

Food on display is restaurant-type food that customers see before making their selection.

Exception: Food that requires additional preparation by customers before eating is *not* covered by the calorie labeling rule.

What is a standard menu item?*

A standard menu item is any individual food item, or combination of food items, that is routinely listed or displayed on a menu or menu board of a covered establishment.

What are the two required nutrition statements?

The two 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 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 the first nutrition statement 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."

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What additional nutrition information must be available to customers upon request?

Establishments must have additional nutrition information on-site for standard menu items. This information must be provided to customers upon request. 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.

Where should establishments post calorie information?

Establishments must post calories on the primary writing that customers use to order. A primary writing:

- Lists a menu item name or an image of a menu item;
- Lists the price of a menu item, and;
- Can be used by customers to order at the time they are viewing it.

There can be more than one primary writing per location. Examples include menus, menu boards and drive-through windows.

- Menus may come in various forms, including booklets, pamphlets, single sheets of paper or electronic screens.
- Menus can include breakfast, lunch and dinner menus; dessert menus; beverage menus; children's menus; other specialty menus; menus on an electronic device (e.g., at a kiosk or other device on the premises); online menus.

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.

How should establishments post calorie information?

- List the number of calories next to the name or price of the menu item.
- Place the word "Calories" or "Cal" either next to the number of calories for each individual menu item or above a column that lists the number of calories for each menu item.
- Use the same type (point) size for calorie information and the menu item or price.

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- Use the same color for calorie information and the menu item or price. You may use a different color for calorie information if it is as prominent as the color used for the menu item or price.

How should establishments calculate the calorie content of menu items?*

Calorie values must be based on a reliable method of analysis, including laboratory testing, values listed in cookbooks or nutrient databases, such as the United States Department of Agriculture (USDA) National Nutrient Database for Standard Reference. You can round calorie values to the nearest 10 calories for values above 50 calories, and to the nearest five (5) calories for values 50 calories and under. You may declare zero (0) calories for any item containing fewer than five (5) calories.

How should establishments list calorie information for multiple-serving menu 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. This unit should reflect a portion of the food item that an individual would be expected to consume.

The calorie information listed must be based on how the item is usually prepared and offered for sale; each establishment is responsible for determining 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?

There are 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

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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?

For a menu item with a choice of toppings (e.g., a scoop of ice cream), list the calories for the item without 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 beverages and food on display?*

For self-service food and food on display 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

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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.).

Do establishments need to post calorie information for grab-and-go items with Nutrition Fact labels 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 has 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.

Are separately owned and operated businesses located within other establishments required to comply with the rule?

Separately owned and operated businesses must comply with the calorie labeling requirements if they require a Health Department permit, and are part of a chain with 15 or more locations nationwide doing business under the same name and selling substantially the same menu items.

Are food co-ops operating under the same name but not carrying substantially the same menu items required to comply with the rule?

No, co-ops operating under the same name, but not carrying substantially the same menu items, are not covered by the calorie labeling requirements.

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

Calories do not need to be posted for temporary menu items. Temporary menu items are defined as items offered for fewer than 60 days per calendar year. Establishments do not need to list calories for foods that are offered for fewer than 90 consecutive days as part of consumer acceptance testing.

Are establishments with 15 to 19 locations nationwide required to comply with the rule?

Yes. The NYC calorie labeling requirements cover 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 rule 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.

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Department of Health
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Department of
Consumer Affairs

Who will enforce the rule?

The New York City Department of Consumer Affairs (DCA) will enforce the calorie labeling rule. A retail food establishment that does not follow the rule may get a Notice of Violation, which could result in a \$200 fine per violation.

When will DCA start issuing fines?

DCA will start issuing violations subject to fines on May 7, 2018.

Can retail food establishments submit mock-ups of their menus and menu boards for review?

Yes, the New York City Department of Health and Mental Hygiene 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.



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