

**Conference for Food Protection  
2016 Issue Form**

**Issue: 2016 I-025**

<b>Council Recommendation:</b>	Accepted as Submitted _____	Accepted as Amended _____	No Action _____
<b>Delegate Action:</b>	Accepted _____	Rejected _____	

*All information above the line is for conference use only.*

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**Issue History:**

This is a brand new Issue.

**Title:**

Amend Food Code – Nutrition Labeling of Standard Menu Items in Restaurants

**Issue you would like the Conference to consider:**

The 2013 FDA Food Code should be amended to be consistent with 2010 federal nutrition labeling requirements for foods served or offered for sale in restaurants and similar retail food establishments. The Food, Drug, and Cosmetic Act now requires chain retail food establishments with 20 or more locations to provide calorie and other information for standard menu items (21 U.S. Code § 343(q)(5)(H)(i) to (iii)). Updating the Food Code will encourage state and local food regulatory agencies to implement the law.

**Public Health Significance:**

Nearly two thirds of adults and one third of children are overweight or obese.<sup>1</sup> Americans consume, on average, one-third of their calories from eating out.<sup>2</sup> Studies link eating out with obesity, higher caloric intake, higher intake of calories, saturated fat and fewer nutrients.<sup>3</sup> Children typically eat almost twice as many calories when they eat out compared to at home.

Studies show that providing nutrition information at restaurants can help Americans make lower calorie choices and spur the reformulation of existing food items and the introduction of nutritionally improved items. A recent Harvard study found restaurant menu calorie labeling could prevent up to 41,000 cases of childhood obesity and could save over \$4.6 billion in healthcare costs over ten years.<sup>4</sup>

Americans need nutrition information to manage their weight and reduce the risk of or manage heart disease, diabetes, or high blood pressure, which are leading causes of death, disability, and high health-care costs.

Trade groups, restaurant chains, other food establishments, and over 100 nutrition and health organizations and professionals support menu labeling.

Covered food establishments will be required in 2016 to provide calorie labeling on the menu and menu board for standard menu items, along with a succinct statement on general nutrition advice, and provide additional written nutrition information.

Incorporating this provision in the Food Code will assist regulatory authorities in adding to their restaurant inspections a quick check to determine if the required information is available and presented in a manner that is easy for consumers to see and read (i.e., that it is provided in the required format).

### References

<sup>1</sup> CDC/NCHS, National Health and Nutrition Examination Survey, 2012. <http://www.cdc.gov/nchs/nhanes.htm>

<sup>2</sup> Todd J, et al. The Impact of Food Away from Home on Adult Diet Quality USDA, 2010. [http://www.ers.usda.gov/media/136609/err90\\_1\\_.pdf](http://www.ers.usda.gov/media/136609/err90_1_.pdf)

<sup>3</sup> Center for Science in the Public Interest. Research Review: Effects of Eating Out on Nutrition and Body Weight, updated October 2008. [https://cspinet.org/new/pdf/lit\\_rev\\_eating\\_out\\_and\\_obesity.pdf](https://cspinet.org/new/pdf/lit_rev_eating_out_and_obesity.pdf)

<sup>4</sup> Gortmaker SL, et al. Three Interventions That Reduce Childhood Obesity Are Projected to Save More Than They Cost to Implement. November 2015, *Health Affairs*, 34, no. 11 (2015):1304-1311. <http://content.healthaffairs.org/content/34/11/1932.full?ijkey=InFXpx4AIM506&keytype=ref&siteid=healthaff>

### Recommended Solution: The Conference recommends...:

that a letter be sent to the FDA requesting the 2013 Food Code be amended as follows (new language is underlined; language to be deleted is in strikethrough format):

Section 3-602.11 Food Labels

(E) FOODS served or offered for sale in restaurants or similar retail FOOD ESTABLISHMENTS not otherwise exempted in the Federal Food, Drug, and Cosmetic Act § 403(q)(5)(H) be labeled according to 21 CFR 101.11.

Annex 3 - Public Health Reasons/Administrative Guidelines

Nutrition Labeling

I. The following foods need not comply with nutrition labeling in the CFR referenced in subparagraph 3-602.11(B)(6) if they do not bear a nutrient claim, health claim, or other nutrition information:

~~(C) Foods served in food establishments with facilities for immediate consumption such as restaurants, cafeterias, and mobile food establishments; and foods sold only in those establishments;~~

~~(D) Foods similar to those specified in the preceding bullet but that are sold by food establishments without facilities for immediate consumption such as bakeries and grocery stores if the food is:~~

~~(1) Ready-to-eat but not necessarily for immediate consumption;~~

~~(2) Prepared primarily in the food establishment from which it is sold, and~~

~~(3) Not offered for sale outside the food establishment;~~

~~(E) Foods of no nutritional significance such as coffee;~~

~~(D)(F)~~ Bulk food for further manufacturing or repacking; and

~~(E)(G)~~ Raw fruits, vegetables, and fish.

Annex 7 - Model Forms, Guides, and Other Aids

Form 3-A, Food Establishment Inspection Report

37. Food properly labeled; original container; nutrition labeling

Guide 3-B, Instructions for Marking the Food Establishment Inspection....

Food Identification

37. Food properly labeled; original container; nutrition labeling

Packaged foods and foods served or offered for sale in restaurants or similar retail food establishments are required to conform to specific labeling laws unless otherwise exempted.

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**Supporting Attachments:**

- "CSPI Menu Labeling Fact Sheet (Redacted)"
- "Nutrition Labeling on Menus Final Rule 21 CFR Part 101.11"
- "Sample Menu Board 1"
- "Sample Menu Board 2 (Redacted)"

*It is the policy of the Conference for Food Protection to not accept Issues that would endorse a brand name or a commercial proprietary process.*