

FDA PROVIDES GUIDANCE FOR NEW NUTRITION AND SUPPLEMENT FACTS LABELS

Nov 09, 2018

On November 5, the FDA released non-binding guidance intended to answer questions related to Nutrition Facts and Supplement Facts Label and Serving Size final rules. As we previously reported, the rules were finalized in May 2016 and initially set a general compliance date of July 2018. The FDA has extended that deadline to January 1, 2020 for manufacturers with \$10 million or more in annual food sales. Manufacturers with less than \$10 million in annual food sales have an extra year to comply, until January 1, 2021.

The May 2016 rules require a revamped Nutrition Facts label that, among other things,

- Increases the type size of certain nutrition information.
- Requires declaring actual amount, in addition to percent Daily Value, of vitamin D, calcium, iron and potassium.
- Requires declaring “Added sugars,” in grams and as percent Daily Value.
- Updates the list of nutrients that are required or permitted.
- Removes “Calories from Fat” because research shows the type of fat is more important than the amount, but continues to include “Total Fat,” “Saturated Fat” and “Trans Fat.”
- Updates Daily Values for nutrients like sodium, dietary fiber and vitamin D based on newer scientific evidence.
- Updates serving sizes to reflect the amounts that people are actually eating. For packages that are between one and two servings, the calories and other nutrients will be required to be labeled as one serving because people typically consume it in one sitting.

In connection with the May 2016 rules, the FDA provided the following example illustrating what’s different about the new Nutrition Facts label:

NEW LABEL / WHAT'S DIFFERENT

Servings:
larger,
bolder type

Nutrition Facts	
8 servings per container	
Serving size	2/3 cup (55g)
Amount per serving	
Calories	230
% Daily Value*	
Total Fat 8g	10%
Saturated Fat 1g	5%
Trans Fat 0g	
Cholesterol 0mg	0%
Sodium 160mg	7%
Total Carbohydrate 37g	13%
Dietary Fiber 4g	14%
Total Sugars 12g	
Includes 10g Added Sugars	20%
Protein 3g	
Vitamin D 2mcg	10%
Calcium 260mg	20%
Iron 8mg	45%
Potassium 235mg	6%
* The % Daily Value (DV) tells you how much a nutrient in a serving of food contributes to a daily diet. 2,000 calories a day is used for general nutrition advice.	

Serving sizes
updated

Calories:
larger type

Updated
daily
values

New:
added sugars

Change
in nutrients
required

Actual
amounts
declared

New
footnote

Although non-binding, the guidance, titled “Nutrition and Supplement Facts Labels: Questions and Answers Related to the Compliance Date, Added Sugars, and Declaration of Quantitative Amounts for Vitamins and Minerals: Guidance for the Industry”, will be helpful to food and dietary supplement manufacturers who have questions on how to implement the final rules, including when to include “added sugars” on the label or when to include a specific amount of a vitamin or mineral.

The guidance has four substantive sections.

- The first addresses questions on general compliance with the May 2016 rules.

- The second section includes detailed questions and answers on issues related to “added sugars” on nutrition labels. For example, the guidance addresses when certain fruits and vegetable components will count as “added sugars” for purposes of labeling.
- The third (very brief) section includes one question and answer addressing formatting questions for nutrition labels.
- Finally, the fourth section includes detailed questions and answers discussing when nutrition labels must include the specific amount of a vitamin or mineral. Generally, when a vitamin or mineral needs to be listed on the label depends on the RDI for that specific vitamin or mineral.

RELATED PRACTICE AREAS

- Food & Agribusiness

MEET THE TEAM



Merrit M. Jones

San Francisco

merrit.jones@bclplaw.com

[+1 415 675 3435](tel:+14156753435)

This material is not comprehensive, is for informational purposes only, and is not legal advice. Your use or receipt of this material does not create an attorney-client relationship between us. If you require legal advice, you should consult an attorney regarding your particular circumstances. The choice of a lawyer is an important decision and should not be based solely upon advertisements. This material may be “Attorney Advertising” under the ethics and professional rules of certain jurisdictions. For advertising purposes, St. Louis, Missouri, is designated BCLP’s principal office and Kathrine Dixon (kathrine.dixon@bclplaw.com) as the responsible attorney.

