



Bulletin 14-5 February 28, 2014

CIAA Bulletin

An Exclusive CIAA Member
Update

FDA Proposes Major Changes to the "Nutrition Facts" Label - Price Tag \$2 Billion

CIAA members are already seeing several news reports regarding FDA's proposal to make the most significant changes to the Nutrition Facts label in twenty years. The proposed rule will be published in the Monday, March 3, 2014, Federal Register, and offer a 90-day public comment period. Cheeses will certainly be impacted by this rule. We will provide more information to members shortly thereafter. In the meantime, FDA has posted the advance copy of the rule, questions and answers about the proposal, and other pertinent information at <http://www.fda.gov/Food/GuidanceRegulation/GuidanceDocumentsRegulatoryInformation/LabelingNutrition/ucm385663.htm>.

[Bruce Silverglade](#), a principal at OFW Law who specializes in the management of enforcement actions involving food labeling and advertising, safety, economic adulteration, and nutrition policy, has posted the following very informative blog. To subscribe to this blog, go to <http://agfdablog.com/> and enter your email address.

Two billion dollars - That is what FDA estimates the food industry will spend to comply with proposed changes to the iconic "Nutrition Facts" label. That's about all we know for sure. The agency says the new information will provide \$20-\$30 billion in benefits to consumers by the year 2035, primarily by lowering risk of diet-related diseases and associated health care costs. Similar predictions were made when FDA finalized its original regulations for nutrition labeling in 1994, but they didn't materialize.

FDA surveys showed many consumers did not understand the new information. Some thought they should strive to consume 100% of the Daily Value of each of the nutrients listed on the label. The 1994 launch of the Nutrition Facts label triggered an onslaught of new "low fat" foods. While these products met FDA's new requirement for "low fat" claims, many of the products were not lower in

calories. Some consumers thought they could eat the whole box! Obesity increased.

To be effective, consumers have to actually read the Nutrition Facts label, comprehend the information, change their purchasing decisions based on the information, develop new eating patterns, engage in physical activity, and avoid other lifestyle choices that would negate the improvements they make to their diets. No study has shown that the Nutrition Facts labels do that.

Hopefully, as the saying goes, the second time is the charm.

FDA's proposed rule to update the Nutrition Facts label, along with other proposed rules on changes to serving sizes, were released today and will publish in the Federal Register on March 3rd.

So how exactly is FDA proposing to change the Nutrition Facts label? A picture tells a thousand words. Here are some before and after versions provided by the agency. The two versions may look similar, but there are actually some major differences:

Nutrition Facts		Nutrition Facts	
Serving Size 2/3 cup (55g) Servings Per Container About 8		8 servings per container Serving size 2/3 cup (55g)	
Amount Per Serving		Amount per 2/3 cup	
Calories 230	Calories from Fat 40	Calories	230
% Daily Value*		% DV*	
Total Fat 8g	12%	12%	Total Fat 8g
Saturated Fat 1g	5%	5%	Saturated Fat 1g
<i>Trans</i> Fat 0g			<i>Trans</i> Fat 0g
Cholesterol 0mg	0%	0%	Cholesterol 0mg
Sodium 160mg	7%	7%	Sodium 160mg
Total Carbohydrate 37g	12%	12%	Total Carbs 37g
Dietary Fiber 4g	16%	14%	Dietary Fiber 4g
Sugars 1g			Sugars 1g
Protein 3g			Added Sugars 0g
			Protein 3g
Vitamin A	10%	10%	Vitamin D 2 mcg
Vitamin C	8%	20%	Calcium 260 mg
Calcium	20%	45%	Iron 8 mg
Iron	45%	5%	Potassium 235 mg
* Percent Daily Values are based on a 2,000 calorie diet. Your daily value may be higher or lower depending on your calorie needs.		* Footnote on Daily Values (DV) and calories reference to be inserted here.	
	Calories:	2,000	2,500
Total Fat	Less than	65g	80g
Sat Fat	Less than	20g	25g
Cholesterol	Less than	300mg	300mg
Sodium	Less than	2,400mg	2,400mg
Total Carbohydrate		300g	375g
Dietary Fiber		25g	30g

Highlights include:

Changes in Required Nutrients

- "Added Sugars" (amount, not %DV) would be required to be declared. This may be the most controversial change in FDA's proposal.
- "Calories from Fat" would no longer be required.
- "Fiber" as listed on the label would be redefined to exclude purified, processed fibers, such as maltodextrin and inulin.
- Insoluble fiber may be declared voluntarily (but disclosure becomes mandatory if a claim is made).
- Vitamins and minerals - FDA is proposing to require declaration of Vitamin D and Potassium because of concern that Americans are not consuming enough of these micronutrients. Declaration of vitamins A and C would become optional. FDA would also require the amount, as well as the %DV, for vitamins and minerals.

Changes in Format

- The size of the "Calories" and "Servings Per Container" declarations would increase substantially to emphasize this information.
- %DV's would move from the right hand to the left hand side of the box, also to give this information greater prominence.
- The footnote about DV's would be shortened. As of this time, the agency has not said exactly how.

Changes in Daily Values

- The DV for Sodium would decrease slightly from 2,400 mg to 2,300 mg.
- The DV for fiber would be updated to 28 g.

RACC's and Serving Sizes

- FDA would update 17% of the reference amounts customarily consumed (RACCs) to reflect more recent consumption data; most would increase. This would likely mean larger serving sizes for many food products. For example, the RACC for ice cream would increase from ½ cup to 1 cup.
- 27 new RACCs would be created for food products that previously did not have one.
- Certain larger packages would have to be labeled both per serving and per package. For example, a 24-ounce bottle of soda, a 19-ounce can of soup and a pint of ice cream would have to be labeled in a dual column format-per serving and per package-if the package contains at least two times the serving size and less than or equal to four times the serving size.
- For a package more than four times the RACC, the dual column listing would not be required.

The proposed rule does not include some changes that FDA reportedly had been considering.

- FDA is not proposing to establish a DV for added or total sugars;
- FDA is not proposing to amend its nutrient content claim or health claim regulations to take into account a food's "added sugars" content;
- FDA is not proposing any change to the 0.5 gram threshold for declaring "Trans Fat" and is not proposing a Daily Value for trans fat; and
- FDA is not proposing any regulations on the use of front-of-pack nutrition rating symbols. Such labeling, including grocery store shelf-markers, will remain subject to [FDA's 2009 enforcement policy](#) on the matter.

There will be a 90-day comment period, which industry members should take full advantage of, given the \$2 billion price tag.

Should you have any questions, please contact Roger Szemraj at rszemraj@theciaa.org.

DATES TO REMEMBER

March 15, 2014 (approximately)

FAS issues final notice of calendar year 2014 licenses to licensees.

May 1, 2014

Calendar year 2014 license fee payments must be transmitted no later than this date. Last transmission date for a licensee to notify FAS that it will not accept a calendar year 2014 license.

May 1, 2014

CIAA Member Meeting. Saddle Brook Marriott, Saddle Brook, New Jersey.

May 2, 2014

CIAA Dinner Dance. Macaluso's, Hawthorne, New Jersey.

July 1, 2014

Last day for an exporting country that is not designating importers for calendar year 2014 to notify FAS.

August 31, 2014

Last day to Enter dairy products into U.S. Customs territory that may be used to qualify and establish eligibility for a calendar year 2014 license.

October 19-23, 2014

SIAL Trip, Paris, France

* If a deadline date falls on a Saturday, Sunday, or Federal holiday, the deadline will be the next business day (Section 6.36(a) of the Dairy Tariff-Rate Import Quota Licensing Regulation). This does not apply to dates of entry for eligibility.

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