



National Association of County & City Health Officials

The National Connection for Local Public Health

November 1, 2017

Division of Dockets Management
Food and Drug Administration
Room 1061, HFA-305
5630 Fishers Lane
Rockville, MD 20852

Re: Docket No. FDA-2012-N-1210

Food Labeling: Revision of the Nutrition and Supplement Facts Labels and Serving Sizes of Foods That Can Reasonably Be Consumed at One Eating Occasion; Dual-Column Labeling; Updating, Modifying, and Establishing Certain Reference Amounts Customarily Consumed; Serving Size for Breath Mints; and Technical Amendments; Proposed Extension of Compliance Dates

On behalf of the National Association of County and City Health Officials (NACCHO), I write to oppose any delay of the updated Nutrition Facts label regulations and request that the Food and Drug Administration (FDA) not delay the compliance dates. NACCHO is the voice of the nearly 3,000 local health departments across the country. Local health departments create and promote conditions that make it easier for people to be healthy. Many local health departments have been leaders in making sure that people in their communities have the information they need to make healthy choices.

This revision represents the first comprehensive overhaul of the Nutrition Facts label since its inception in 1994. The updated Nutrition Facts labels are easier for consumers to understand and use, and also provide critical information that consumers need to make healthy food choices, including a line for added sugars, more prominent disclosure of calorie content, more accurate serving sizes, updated percent Daily Values (DVs), and new, required disclosures of nutrients of public health concern. Consumers should not have to wait an additional year and a half to have access to this important information.

The urgency of keeping to the original compliance dates is underlined by the recent release of national obesity data from the Centers for Disease Control and Prevention (CDC), showing unacceptably high and rising prevalence rates. The CDC reported all-time high prevalence—almost 40% of adult Americans and almost 19% of youth have obesity.¹ These new data also underscore the health inequity of the obesity epidemic, with CDC reporting that the “overall prevalence of obesity was higher among non-Hispanic black and Hispanic adults than among non-Hispanic white and non-Hispanic Asian adults.”²

NACCHO urges the FDA not to delay the Nutrition Facts label compliance dates and move forward with implementing the regulations with the original timeline. In May, more than 40 scientists and researchers wrote to then-Secretary Price and Commissioner Gottlieb, urging that the compliance



date not be delayed.³ Also, in May, 11 health departments from the Big Cities Health Coalition administered by NACCHO wrote the Secretary and Commissioner opposing a delay, saying the updated labels were critical to helping them protect the health of their communities.⁴ In June, 29 public health organizations made the same request,⁵ citing the public health importance of the updated label. NACCHO opposes the proposed delay for the following reasons:

1) Delaying compliance can harm the public's health.

Consumers cannot follow the 2015 Dietary Guidelines for Americans' (DGA) advice on added sugars or potassium without the updated Nutrition Facts label's mandatory disclosures. The current Nutrition Facts label does not disclose the amount of added sugars in foods, yet that information is crucial to help consumers comply with the Dietary Guidelines for Americans' recommendation to limit daily added-sugars consumption to less than 10% of calories (e.g., 50 grams in a 2,000-calorie diet).⁶ Even if consumers could recognize all the forms of added sugar listed in the ingredient label—such as fructose, maltose, sucrose, honey, evaporated cane juice, and concentrated fruit juice—they could not possibly estimate the added sugars in a food.

Declaration of added sugars on the Nutrition Facts label is of great public health importance, especially given that two out of three adults and one out of three children have overweight or obesity,⁷ one out of three adults now have prediabetes,⁸ and as many as one out of three adults could have diabetes by 2050.⁹ It is particularly important to differentiate naturally occurring and added sugars—as the updated Nutrition Facts label will do—because people should be consuming *more* of the foods that contain naturally occurring sugars, such as fruit and low-fat dairy products instead of foods containing added sugar.

Current consumption levels of added sugars can lead to serious health problems. Strong evidence shows that consuming sugar-sweetened beverages—the largest source of added sugars in Americans' diets—leads to weight gain.¹⁰ The 2015 Dietary Guidelines Advisory Committee found “strong” evidence that added sugars from food and/or beverages are associated “with excess body weight in children and adults” and with the “risk of type 2 diabetes among adults.”¹¹ Furthermore, added sugars are associated with an increased risk of dying of cardiovascular disease (CVD), high blood pressure, high LDL cholesterol, and triglyceride levels,^{12,13} and sugar-sweetened beverages are associated with an increased risk of CVD, metabolic syndrome, gout, and dental caries.^{14,15,16,17}

Additionally, the mandatory declaration of potassium on Nutrition Facts labels is a critical public health need that will go unmet until the updated label is in the marketplace. The 2010 DGA, the then-Institute of Medicine, and the 2015 Dietary Guidelines Advisory Committee have highlighted the role of potassium in lowering blood pressure by blunting the adverse effects of sodium on blood pressure.^{18,19,20} Hypertension is a critical public health issue. According to the CDC, about 75 million American adults, or one of every three adults, have high blood pressure. According to the National Health and Nutrition Examination Survey 2003–2006, only about two percent of the general population has potassium intakes above the Adequate Intake of 4,700 mg from foods or from foods plus supplements.²¹ However, some people with certain medical conditions, such as diabetes, or those taking medications that can impair potassium excretion, such as ACE inhibitors, angiotensin receptor blockers, and potassium-sparing diuretics, may need to avoid consuming too much potassium because of potential adverse

cardiac effects (arrhythmias).²² Without a declaration of potassium on the Nutrition Facts label, individuals cannot comply with medical advice on potassium and prevent hypertension.

2) A delay keeps consumers from benefiting from the updated Nutrition Fact label’s refreshed design, including the larger and bolder type size for key information and clearer labeling of the nutrient content of a single-serving container.

Prominent labeling of calories and serving sizes is critical for the two-thirds of adults and one third of youth who have overweight or obesity, and for millions of normal-weight Americans who want to avoid weight gain. While calorie information has been included on the Nutrition Facts label since its inception, it has not been sufficiently prominent. Information on calories is particularly important considering the prevalence of obesity and the resulting diseases, disabilities, and costs.

Delaying the updated Nutrition Facts label will also deny consumers timely access to nutrient information based on the container size for items that could reasonably be consumed in one sitting.

The proposed delay will also postpone implementation of dual-column labeling, which will also present calorie and nutrient disclosures per container for packages that contain 200–300% of the Reference Amount Customarily Consumed (RACC). Critically, this update allows consumers monitoring their sodium intake, for example, to see the sodium content of an entire 19-oz. can of soup.

3) Many major food companies have already begun using the updated label or have made commitments to meet the original July 2018 compliance date.

This delay is not needed to assist the food industry—indeed, the delay creates uncertainty, disruption, and competitive hurdles for many. In fact, many major food companies welcomed the changes to the updated Nutrition Facts label. Since the announcement of the updated label, several larger companies have publicly committed to meeting the original compliance date of July 2018; these companies include Mars, Inc., Panera Bread, Campbell’s, the Hershey Co., and KIND.²³ According to Label Insight, a firm that tracks food labeling, an estimated 8,000 products already carry the new label.²⁴ The Center for Science in the Public Interest has also informally tracked the updated Nutrition Facts label and has found that dozens of companies are already using the updated label.²⁵

4) Delaying the compliance date for the updated Nutrition Facts label creates a confusing and unfair hodgepodge of different labels in the marketplace.

As described above, many food and beverage companies are already using the updated Nutrition Facts label on their products, and more will do so. However, an inconsistent application of the updated Nutrition Facts label in the marketplace—which will be exacerbated by the proposed delay in the compliance date—makes it difficult to compare products that feature the updated label with products that do not. Products with the updated label feature different serving sizes than products with the current label, making it difficult to compare between products.

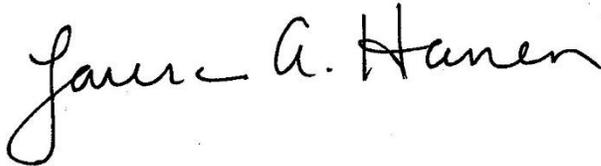
5) FDA should issue guidance expeditiously and can provide enforcement discretion to provide flexibility for compliance while maintaining original timeline.

A primary reason offered by FDA for the delay is the lack of final guidance that the agency needs to provide industry on issues such as added sugars and dietary fiber. Therefore, the most appropriate course of action is for the agency to commit to a timely and expeditious completion of this guidance. To accommodate industry, the agency can elect to exercise enforcement discretion in those instances where awaiting the guidance prevents companies from a timely compliance with the original deadlines.

In summary, we strongly urge the FDA not to delay to the Nutrition Facts label compliance date and move forward with a timely implementation. The updated Nutrition Facts label will provide information consumers need to make informed decisions and select healthier foods for themselves and their families.

Please contact Eli Briggs, NACCHO Senior Government Affairs Director at ebriggs@naccho.org or 202-507-4194 with any questions or for further information.

Sincerely,



Laura A. Hanen, MPP
Interim Executive Director & Chief of Government Affairs

¹ Hales CM, Carroll MD, Fryar CD, Ogden CL. Prevalence of obesity among adults and youth: United States, 2015–2016. National Center for Health Care Statistics, Centers for Disease Control and Prevention. October 2017. Data Brief No. 288. Available at <https://www.cdc.gov/nchs/products/databriefs/db288.htm>.

² Hales CM, Carroll MD, Fryar CD, Ogden CL. Prevalence of obesity among adults and youth: United States, 2015–2016. National Center for Health Care Statistics, Centers for Disease Control and Prevention. October 2017. Data Brief No. 288. Available at <https://www.cdc.gov/nchs/products/databriefs/db288.htm>.

³ Letter from health scientists and researchers to Secretary Price and Commissioner Gottlieb opposing a delay to the updated Nutrition Facts Label. May 26, 2017. Available at <https://cspinet.org/sites/default/files/attachment/nfl-scientists.pdf>.

⁴ Big Cities Health Coalition. Letter to Secretary Price and Commissioner Gottlieb regarding the Nutrition Facts label. May 31, 2017. Available at <https://static1.squarespace.com/static/534b4cdd4b095a3fb0cae21/t/5931975a37c58109d82620f6/1496422235065/Nutrition+Fact+Label+Sign+On+Letter.pdf>.

⁵ Letter from health organizations to Secretary Price and Commissioner Gottlieb opposing a delay to the updated Nutrition Facts Label. September 22, 2017. Available at <https://cspinet.org/sites/default/files/attachment/updated-nutrition-facts.pdf>.

⁶ U.S. Department of Health and Human Services and U.S. Department of Agriculture. 2015–2020 Dietary Guidelines for Americans. 8th Edition. December 2015. Available at <https://health.gov/dietaryguidelines/2015/guidelines/chapter-2/a-closer-look-at-current-intakes-and-recommended-shifts/>.

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- ¹³ Yang Q, Zhang Z, Gregg EW, et al. Sugars intake and cardiovascular disease mortality among US adults. *JAMA Intern Med*. 2014; 174:516–24.
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- ²³ Center for Science in the Public Interest. Bringing Consumers the Updated Nutrition Facts Label. July, 2017. Available at <https://cspinet.org/sites/default/files/attachment/companies-menu.pdf>.
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