

Moving on From "Natural," FDA Seeks Comments on What It Means to Be a "Healthy" Food

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As **it signaled** it would be doing earlier this year, FDA has initiated a public process to redefine the implied nutrient content claim "healthy" when it is used on food labels and labeling. In addition, while the process is underway, the Agency intends to exercise enforcement discretion for (meaning it will not take action against) foods labeled with the term "healthy" as long as they meet the conditions in the regulatory definition at 21 CFR 101.65(d) and other criteria laid out in a newly issued **guidance document**.

FDA explained in announcing this initiative late last month that:



"Redefining 'healthy' is part of an overall plan to provide consumers with information and tools to enable them to easily and quickly make food choices consistent with public health recommendations and to encourage the development of healthier foods by the industry. ... Public health recommendations for various nutrients have evolved, as reflected by the 2015-2020 Dietary Guidelines for Americans and the updated Nutrition Facts label. For example, healthy dietary patterns now focus on food groups, the type of fat rather than the total amount of fat consumed and now address added sugars in the diet. Also, the nutrients of public health concern that consumers aren't getting enough of have changed."

Questions the Agency is asking stakeholders to weigh in on include:

1. What current dietary recommendations should be reflected in the definition of "healthy?"
2. What are the public health benefits, if any, of defining the term "healthy" or other similar terms in food labeling?
3. What is consumers' understanding of the meaning of the term "healthy" as it relates to food? FDA states that it is especially interested in any data or other information that evaluates whether or not consumers associate, confuse, or compare the term "healthy" with other descriptive terms or claims.
4. What factors and criteria should be used for the new definition of "healthy?"
5. If "healthy" is not the best term to characterize foods that should be encouraged, what other words or terms might be appropriate (e.g., nutritious)

The Agency's recent Final Rules that revamp the Nutrition Facts label, as well as federal serving size guidelines, to reflect new scientific information play an important role in the effort to redefine "healthy." The framework for this and other nutrient content and health claims are linked to various elements of food product serving sizes, Nutrition Facts, and the Daily Values of individual nutrients. Compliance with the new Nutrition Facts label will phase in between July 2018 and July 2019, but manufacturers may want to comply earlier as they launch new products or redesign food labels. FDA was also urged to reexamine the rules for "healthy" through a Citizen Petition filed by KIND LLC after last year's dispute with the company regarding label claims for some of its KIND Bar products.

The comment period for this FDA consultation is scheduled to end on January 26, 2017 (see formal notice and link to the e-docket [here](#)). The comparable public comment period for the label claim "natural" was extended by the Agency, but interested stakeholders should not assume that this "healthy" comment period will also be extended. Accordingly, individuals planning to comment should be targeting the January 26th deadline for all submissions.

Authors



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