

FDA Announces “Nutrition Action Plan” while Stakeholders await Final Guidance on Nutrition Labeling

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As we near the two year mark since FDA issued the new Nutrition Facts Label (NFL), stakeholders anxiously await FDA’s final NFL guidance, particularly FDA’s conclusions on the pending fiber petitions and other fiber ingredients. FDA proposed last fall to extend the July 26, 2018 compliance date until January 1, 2020 (for large companies and January 1, 2021 for small companies).

Although FDA has yet to release its final NFL guidance, FDA did release last Thursday (January 11, 2018) its [Strategic Policy Roadmap](#) with four priority areas, the third of which is directed in part at nutrition and is called the “Nutrition Action Plan.” The goal of the Nutrition Action Plan is to “Reduce preventable death and disease caused by poor nutrition by ensuring that consumers have access to accurate, useful information to make healthy food choices; foster development of healthier food options.” As part of the Nutrition Action Plan, FDA states that it will “provide guidance for industry to implement the new requirements for updating the Nutrition Facts label.” It would make sense for this “guidance” to include conclusions from FDA on pending fiber petitions and other fibers. Given the potential significance of the decisions on fiber petitions and that technically, any fiber “approvals” require amendments to FDA’s dietary fiber regulation, the White House presumably will review such information prior to its release to the public. We recently confirmed on the [White House review docket](#) that there is nothing pending related to the NFL or fiber petitions.

The following is a brief summary of FDA’s Nutrition Action Plan, which can be found on page 15 of the [Strategic Policy Roadmap](#):

- Issue practical, substantive guidance to advance implementation of the menu labeling regulations.
- Provide guidance for industry to implement the new requirements for updating the Nutrition Facts label.
- Launch a new public education campaign to help consumers maximize the public health benefits of the Nutrition Facts label and new menu labeling provisions.
- Initiate a new, comprehensive action plan encompassing steps FDA will take to advance policies that better leverage nutrition and diet as ways to reduce morbidity and mortality from disease. Among steps FDA will consider as part of this plan:

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- Revising requirements for certain existing food label claims such as “healthy”;
- Creating a more efficient review system for evaluating health claims on food labels;
- Modernizing certain standards of identity to address current barriers to the development of healthier products while making sure consumers have accurate information about the foods they eat. Among other steps, FDA intends to issue a request for information to identify and help prioritize which potential standards of identity should be modernized based on their public health value;
- Providing new opportunities to make ingredient information more helpful to consumers; and
- Advancing guidance on dietary sodium reduction.

If you would like any additional information on FDA’s Strategic Road Map or have any questions related to FDA’s new NFL requirements, please feel free to contact any of the attorneys listed below. We will continue to track and provide updates on FDA’s activities on the revisions to nutrition labeling and serving sizes.

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