

TYPES NOT MAPPED YET March 31, 2020 | TTR not mapped yet | Kimberly (Kim) Bousquet

# FDA: Restaurants can omit Nutrition Facts label on packaged food during COVID-19

On March 26, 2020, the FDA issued temporary guidance regarding nutrition labeling of certain packaged foods during the COVID-19 public health emergency. In the guidance, the FDA advises that it does not intend to object to the sale by restaurants of food packaged and sold without Nutrition Facts labels. These foods do not normally contain Nutrition Facts labels because they are intended to be sold as prepared for immediate consumption, rather than in retail packaging.

FDA issued this guidance in recognition of the fact that many restaurants have closed during the outbreak, or have limited sales to take out or delivery, and there is a need to facilitate food distribution. These closures and operational changes have left food manufacturers and restaurants with excess inventory of food prepared for use in restaurants that do not meet retail packaging requirements, such as a Nutrition Facts panel.

Companies must still meet some labeling requirements. The packaged foods cannot have any nutrition claims and must contain the following on a label:

- A statement of identity,
- An ingredient statement,
- The name and place of business of the food manufacturer, packer or distributor,
- Net quantity of contents, and
- Allergen information required by the Food Allergen Labeling and Consumer Protection Act.

The FDA also provided guidance for food manufacturers that are unable to obtain retail packaging during the public health emergency. The FDA will not object to the further production of food labeled for in-restaurant use that is intended to be sold other than to restaurants until retail packaging is available.

FDA's guidance follows a similar guidance issued by the USDA's Food Safety and Inspection Service, applying to meat and poultry products not originally intended for retail.

This policy will remain in effect only for the duration of the public health emergency related to COVID-19. For questions, please reach out to your Thompson Coburn contacts.



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