

Questions & Answers on Nutrition Labeling

Q1. When will FSIS start scheduling webinars and meetings?

- A.** FSIS plans to have a webinar within a month or two that discusses the general requirements of the nutrition labeling final rule and some Q&As. Once FSIS has prepared point-of-purchase materials and labels, FSIS also plans to schedule additional webinars and meetings.

Q2. When FSIS provides the point-of-purchase materials, will they be different than the current posters and will they take into account the change in the values in the ARS database?

- A.** The format will be similar to the existing posters. FSIS will continue to be in touch with ARS and the posters will include the new ARS values.

Q3. Will the point-of-purchase materials be in high resolution quality on FSIS's website, so you can print larger posters?

- A.** Yes, we plan to make the point-of-purchase materials in high resolution quality so that they can be enlarged, similar to the ones on the FDA website.

Q4. Does the Agency intend to research the format of the point-of-purchase materials for better readability? The Industry is willing to work with FSIS on improving the format.

- A.** FSIS is looking into and researching consumer readability. FSIS may conduct research on these issues in the future, provided resources are available.

Q5. Currently some posters include nutrition information for ground product. Will this nutrition information on posters disqualify businesses from using the small business exemption?

- A.** No.

Q6. Who has the burden of complying with the rule, e.g. the packer or the producer?

- A.** Normally, the packer is considered the producer because the packer produces the final product. For ground or chopped product, the producer of the final packaged product is required to provide nutrition labels on the product, unless an exemption applies. The producer of the final packaged product may be a Federal establishment or retail facility. Retailers are required to provide point-of-purchase materials or nutrition labels for major cuts, unless an exemption applies.

Q7. Will the inspectors be checking labels at the Federal establishments?

- A.** As part of label verification activities, inspectors at establishments that produce ground or chopped products will periodically review labels to verify that establishments meet labeling

requirements, including the requirement that the product bears a nutrition label, unless an exemption applies.

Q8. If an establishment produces a mixed package of white meat and dark meat and both are major cuts, does the package need to carry 2 nutrition labels (one for white meat and one for dark meat)?

A. The nutrition information for each of the major cuts could be provided at point-of purchase. Alternatively, the establishment could composite the nutrition facts panels or include two separate nutrition facts panels on the label for each product in the package.

Q9. Is the leeway on values still 20%?

A. Yes. The regulations in 9 CFR 317.309(h) and 381.409(h) specify that certain nutrient values are not out of compliance, unless they are more than 20% above the labeled value. That rule applies to the labeled values for calories, sugars, total fat, saturated fat, cholesterol, or sodium. These regulations also specify that certain nutrient values are not out of compliance, unless they are 20% below the labeled value. That rule applies to the labeled values for vitamins, minerals, protein, total carbohydrates, dietary fiber, other carbohydrates, polyunsaturated or monounsaturated fat or potassium.

Q10. Will FSIS be doing educational sessions around the country like AMS did for country of origin labeling?

A. This final rule is consistent with voluntary labeling regulations that have been in place since 1993. Therefore, FSIS thinks webinars and other meetings should be sufficient.

Q11. If a producer is not sure of the lean and fat percentage of a ground or chopped product, could the producer label it with a worse lean and fat percentage? For example, could a producer label a product that is actually 80% lean and 20% fat, with a 70%lean/30% fat label?

A. FSIS would not take action against producers estimating that their products are higher in fat than they actually are.

Q12. Will State officers be doing any sampling for nutrient analysis?

A. States that have their own meat and poultry inspection program are required to have programs at least equal to the Federal inspection program. Therefore, when FSIS begins conducting sampling for nutrient analysis of ground or chopped product, states with their own inspection program will have to conduct "at least equal" sampling and analysis.

Q13. How will sampling work at retail? Will it be as complicated as with pathogens (micro-sampling)? How will establishments or retailers be notified?

A. The details of the sampling program have not yet been worked out. However, product would not be considered adulterated if nutrition labeling information is inaccurate. Therefore, when

FSIS begins sampling ground or chopped product at retail for nutrient content, FSIS does not anticipate providing establishments advance notice.

Q14. Will the webinars include opportunities to ask questions? Will they be archived on the FSIS Website?

- A. We plan on having question and answer sessions in the webinars. Webinars are typically posted on FSIS's website for 30 days.

Q15. Will there be a label review process for retailers with unique needs?

- A. FSIS does not anticipate the need for this. LPDD does not pre-approve labels applied at retail unless they are shipped with the product from a Federal establishment. Retailers can submit questions concerning labeling through askFSIS.

Q16. Will FSIS personnel be available to participate at industry conferences that are coming up in the next 90 days?

- A. Yes.

Q17. How will retailers know the lean/fat content of ground products, and how will they determine the other nutrients in the nutrition facts panel?

- A. Retailers need to know that ground or chopped beef labeled as ground beef or hamburger does not contain more than 30% fat. Typically, they can get information concerning the lean and fat percentage from their suppliers or they can analyze the levels of fat at retail with an anal-ray or other device for measuring the fat content of ground beef.

If the product does not contain AMR or low temperature rendered product, once the fat content is known, retailers can obtain information for the nutrition facts panel from the ground beef calculator available from the Agricultural Research Service at the Nutrient Database for Standard Reference, Release 23. This is available at www.ars.usda.gov/nutrientdata.

Q18. Which cuts come under this rule?

- A. The final rule requires that nutrition information for the major cuts of single-ingredient, raw meat and poultry products be provided on the label or at point-of-purchase, unless an exemption applies. All ground or chopped products are also covered by the final rule (e.g., ground beef, ground pork, ground turkey). Nutrition information for all ground or chopped products must be provided on the label of the products, unless an exemption applies.

The major cuts of single-ingredient, raw meat products covered by the rule are: Beef chuck blade roast, beef loin top loin steak, beef rib roast large end, beef round eye round steak, beef round top round steak, beef round trip roast, beef chuck arm pot roast, beef loin sirloin steak, beef round bottom round steak, beef brisket (whole, flat half, or point half), beef rib steak small

end, beef loin tenderloin steak, pork loin chop, pork loin country style ribs, pork loin top loin chop boneless, pork loin rib chop, pork spareribs, pork loin tenderloin, pork loin sirloin roast, pork shoulder blade steak, pork loin top roast boneless, lamb shank, lamb shoulder arm chop, lamb shoulder blade chop, lamb rib roast, lamb loin chop, lamb leg (whole, sirloin half, or shank half), veal shoulder arm steak, veal shoulder blade steak, veal rib roast, veal loin chop, and veal cutlets.

The major cuts of single-ingredient, raw poultry products covered by the rule are: Whole chicken (without neck and giblets), chicken breast, chicken wing, chicken drumstick, chicken thigh, whole turkey (without necks and giblets; separate nutrient panels for white and dark meat permitted as an option), turkey breast, turkey wing, turkey drumstick, and turkey thigh.

Q19. In light of the new nutritional labeling regulations for ground product, is something like "85/15" still allowed on the label with no qualifiers?

- A. Under the 1993 nutrition labeling regulations that established the mandatory and voluntary nutrition labeling programs, in order for the term “__percent lean” to be used on the label or in labeling of the product, the product must have met the criteria for “low fat” (9 CFR 317.362(b)(6) and 381.462(b)(6)). Most ground beef and hamburger do not qualify as “low fat.” Therefore, the regulations precluded the use of the term “__percent lean” on these products.

On May 24, 1994 (59 FR 26916) FSIS proposed to amend its regulations to permit a statement of the lean percentage on the labeling of ground beef and hamburger if it were contiguous to a statement of the fat percentage. On August 5, 1994, FSIS published a notice of extension of the date that it would enforce compliance with the nutrition labeling requirements for ground beef and hamburger (59 FR 39941). The Agency extended the compliance enforcement date for these products indefinitely, pending publication of a final rule on percentage labeling for lean and fat on ground beef and hamburger. Since then, LPDD has approved many different labels, including use of a ratio like “85/15” without any qualifiers or words like “lean” or “fat” on the label, because FSIS did not have a regulation in effect on the nutrition labeling of ground beef.

FSIS has now published the nutrition labeling final rule, which permits a statement of lean percentage on the label or in labeling of ground or chopped meat and poultry products that do not meet the regulatory criteria for “low fat,” provided that a statement of fat percentage is also displayed on the label or in labeling. The required statement of fat percentage must be contiguous to, in lettering of the same color, size, and type as, and on the same color background as, the statement of lean percentage.

A ratio like “85/15” without the words “percent lean” and “percent fat” or “%lean” and “% fat” is not a statement of the lean and fat percentage. Without a complete statement of the percent fat and percent lean, consumers may not understand the meaning of the ratio. After the effective date of the nutrition labeling final rule, “85/15” and other ratios that are not complete statements should no longer be used. Once the nutrition labeling final rule becomes effective on January 1, 2012, LPDD will no longer approve labels with only a ratio like “85/15” without the words “percent lean” and “percent fat” or “%lean” and “% fat” also on the label. A statement of percent lean and percent fat (e.g., “85% lean/15% fat”) will be permitted on the label for ground products that do not meet the regulatory criteria for “low fat.”