

CRS Report for Congress

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Nutrition Labeling: Fresh Meats

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Summary

Since the early 1990s, nutrition labeling information on most fresh food products has been provided voluntarily, under the provisions of the Nutrition Labeling and Education Act. On January 18, 2001, the U.S. Department of Agriculture proposed mandatory nutrition labeling rules for both major cuts and raw/ground fresh meat and poultry products. This proposal is intended to provide consumers with more information on the fat content of the products that they are selecting in the marketplace. This report provides background information and a brief history of the labeling issue, particularly with regard to fresh meats, and will be updated when the new rules are final.

Background

Following the recommendations of the 1969 White House Conference on Food, Nutrition and Health, the federal government embarked on the initial nutrition labeling program, in part to address concerns about hunger in America and promote consumption of adequate amounts of key nutrients. Under existing statutory labeling provisions, the Food and Drug Administration (FDA) and the Department of Agriculture (USDA) initiated a voluntary program in 1972 to permit nutrition information on packaged food, and processed meat and poultry products, by allowing the listing of certain information on the food package. The information, which was required to appear in a prescribed format, included serving size, servings per container, and certain key nutrients. The information was mandatory only if the foods were fortified or a claim was made about the product.

FDA, which is responsible for the regulation of most food products, and USDA, which is responsible for meat and poultry products, each developed labeling requirements that were unique to their respective products and statutory requirements. While the information on pre-packaged food and meat products was for the most part similar, some differences in the labeling of these products made it difficult for consumers to compare the nutrient profile of the foods available for purchase.

Moving Toward Mandatory Nutrition Labeling for Foods

Almost from the start of voluntary nutrition labeling, there were calls for such information to be mandatory on all food and meat products. Consumer groups sought mandatory declarations of the nutrient content of foods so that consumers could be fully informed about the food products they were purchasing. Health professionals viewed this information as particularly useful for consumers whose health required special dietary choices to treat various chronic diseases. However, throughout the 1970s and into the early 1980s, FDA did not believe that there was adequate scientific evidence on the relationship between certain nutrients and specific chronic diseases for the government to *require* manufacturers to provide such information on food products.

By the mid-1980s, various events led both policymakers and health professionals to recognize the need for reform of nutrition labeling information. Numerous organizations, both public and private, had issued dietary advice that addressed one or more specific diet and chronic disease relationships with the intent of helping consumers to modify their eating habits to prevent or delay the onset of these illnesses. In addition, the food industry, which had previously opposed mandatory nutrition labeling, discovered that as consumers were becoming more knowledgeable about diet and disease relationships, nutrition information and claims on food products were promoting sales. By the late 1980s, about 60% of FDA-regulated packaged foods and 35% of USDA-regulated processed meats and poultry carried nutrition information.¹ However, no nutrition information was required on, or generally provided voluntarily at the point of purchase for, fresh or frozen meats, poultry, eggs or seafood, fruits and vegetables.

In 1988 the Surgeon General's Report on Nutrition and Health² was released, followed in 1989 by the National Academy of Sciences' (NAS) report, Diet and Health.³ Both of these landmark reports provided a comprehensive review of all the scientific information known at that time on the relationships between dietary constituents and various chronic diseases. In an effort to use this diet and disease information to improve public health, the Surgeon General's report specifically called for manufacturers to provide more nutrient content information on their products to better inform consumers. By 1990 the third edition of the U.S. Dietary Guidelines for Americans was issued, which is the government's set of consumer "rules" for making healthful food selections.⁴ It was followed by USDA's Food Guide Pyramid, which outlined recommendations for different foods and the number of servings to consume daily.

¹ National Academy of Sciences. Institute of Medicine. *Nutrition Labeling: Issues and Directions for the 1990s*. Committee on the Nutrition Components of Food Labeling. D.V. Porter and R. O. Earl, editors. National Academy Press. 1990. 355 p.

² U.S. Dept. of Health and Human Services. Public Health Service. *Surgeon General's Report on Nutrition and Health*. 1988. HHS (PHS) Publication No. 88-50210. 727 p.

³ National Research Council. Commission on Life Sciences. *Diet and Health: Implications for Reducing Chronic Disease Risk*. Committee on Diet and Health. National Academy Press. 1989. 749 p.

⁴ U.S. Dept of Agriculture. Dept. of Health and Human Services. *Nutrition and Your Health: Dietary Guidelines for Americans*. Home and Garden, Bulletin no. 232, 3rd Edition. 1990. 27 p.

In 1989, FDA and USDA announced their plan to overhaul all nutrition information in food labeling.⁵ Their coordinated plan included convening a series of public meetings to solicit ideas for labeling changes, commissioning a background report by the National Academy of Sciences-Institute of Medicine (NAS-IOM), beginning a multi-phased process of updating all relevant regulations to reflect current scientific knowledge, and developing a new food label that was easier for consumers to use.

The commissioned NAS-IOM report addressed a variety of labeling issues including all packaged and fresh foods, and foods sold or served in settings outside the home.⁶ Its recommendations became part of the reform debate for FDA and USDA in revising their regulations and Congress in passing legislation. For purposes of this CRS Report, only the issues of fresh foods, which were defined in the NAS-IOM study as produce, raw meats, poultry and fish, will be reviewed. The NAS-IOM report recommended that mandatory requirements for packaged foods and processed meats, which were anticipated as part of nutrition labeling reform, also be provided for fresh foods. The rationale for this recommendation was that current dietary advice was directing consumers to increase their intake of fruits, vegetables and grain products, while reducing their intake of foods high in fat and saturated fats by selecting leaner meat and dairy products. However, none of these foods is purchased in the type of traditional food packaging that lends itself easily to affixing a nutrition label. Labeling, by definition, means any information provided on or in close proximity to a product at the point of purchase, and can include both labels on packages and other forms of information at the point of purchase, including brochures, posters, shelf cards, and hang tags.

The NAS-IOM committee considered the heterogeneity, effects of storage, preparation and cooking, adequacy of food composition data, existing voluntary point-of-purchase information programs, current FDA produce guidelines, and enforcement issues in considering its recommendations for fresh foods. Specifically for fresh meat and poultry, the nutrient composition of animal-derived foods varies as a function of genetic and nutritional factors, stage of maturity at slaughter, and animal husbandry methods. Muscle-based foods are primarily eaten cooked, but may be frozen or stored in the home for considerable periods of time prior to use. All forms of food storage and preparation, whether commercial or in the home, result in the loss of nutrients. Changes in food composition occur during cooking; the amount of fat, water, and soluble nutrients lost from meat and poultry will vary with grade and cooking method. Both natural variability and home preparation methods of meat and poultry pose obstacles to providing reasonably accurate data for a mandatory nutrition labeling program for such foods.

At the time of the NAS-IOM study, existing USDA nutrient composition data available for nutrition labeling were relatively complete for a variety of cuts and grades of beef subject to representative cooking methods and fairly complete for poultry, pork, lamb, veal and game products. The IOM study also reviewed various methods which had been used to provide voluntary nutrition information on fresh foods, including signs posted in

⁵ U.S. Dept. of Health and Human Services. Food and Drug Admin. Food Labeling; Advanced Notice of Proposed Rulemaking. *Federal Register*, v. 54, August 8, 1989. p.32610-32615.

⁶ National Academy of Sciences. Institute of Medicine. *Nutrition Labeling: Issues and Directions for the 1990s*. Committee on the Nutrition Components of Food Labeling. D.V. Porter and R. O. Earl, editors. National Academy Press, 1990. 355 p.

produce departments, labeling affixed to meat products, and shelf cards based on 3-ounce portions of meat products. USDA's prior approval program provided enforcement controls over label information, but compliance verification of actual nutrient content would be necessary under a mandatory program. Given the variability of fresh products compared to packaged foods (that are standardized in content and packaging), the IOM committee recommended that retailers should be required to provide point-of-purchase nutrition information for all fresh foods, with appropriate followup to evaluate consumer reaction, use, and comprehension with modification as needed. It also recommended that FDA and USDA should allow flexibility in the format and nutrition information required for labeling of fresh foods.

Nutrition Labeling and Education Act of 1990 (NLEA)

Passage of NLEA came nearly two decades after voluntary nutrition labeling had been initiated. Dozens of bills that would have required mandatory labeling had been introduced in that period. The most comprehensive bills for mandated nutrition labeling for most packaged foods and meat products were introduced in the late 1970s by Senator McGovern and Congressman Richmond. Most bills took a more limited approach to mandatory labeling; i.e., sodium labeling. These labeling bills received little attention, and none was enacted. In considering these bills, Congress faced the same dilemma as the agencies. The science was slowly evolving, but there was still inadequate evidence on the relationship of nutrients to chronic disease to require the nutrient content listing proposed to be displayed on packages, and to justify placing this regulatory burden on the food industry in order to provide consumers with additional information.

NLEA amended the Food, Drug and Cosmetic Act of 1938, which was originally passed at a time when there was virtually no scientific knowledge of the diet and disease relationships that are the focus of public health concern today. Enacted in 1990, NLEA required mandatory nutrition labeling to appear on most packaged foods regulated by FDA.⁷ In addition, it directed the agency to determine the most appropriate way to provide nutrition information on fresh foods. A voluntary nutrition labeling program was to be established for fresh foods, but the Act required the agency to monitor and review regularly the degree to which stores actually provided this information for these foods. If the number of stores did not meet a specific proportion, then the labeling program was to become mandatory. Stores used a variety of methods to provide information to consumers. Various commodity trade associations also prepared nutrition labeling materials to promote their products.

USDA Nutrition Labeling

From the beginning of his tenure as Secretary of Agriculture in 1991, Edward Madigan supported changes in meat and poultry nutrition labeling. Although no meat labeling legislation comparable to NLEA was passed, Secretary Madigan pledged to promote efforts by USDA to make meat labels as comparable to other food labels as its statutes allowed. Those statutes were the Federal Meat Inspection Act of 1906, the Wholesome Meat Act of 1967, and the Poultry Products Inspection Act of 1957. Because

⁷ See archived CRS Report 92-382. *Food Labeling Reform: Current Status*, by Donna V. Porter (available from author).

the voluntary nutrition labels on meat products had been somewhat different in appearance and content from the nutrition labels on other foods, it had been difficult for consumers to compare products that were labeled by FDA and USDA. The most frequently cited example was pizza, with meat pizza being labeled under USDA rules and cheese pizza being labeled under FDA rules. As labeling reform proceeded, FDA took the lead by proposing rules in response to various NLEA provisions. In most cases, USDA followed, by proposing comparable rules that paralleled the FDA regulations.⁸ The one significant difference that remained was the USDA requirement for prior approval of all meat and poultry labels under its existing statutes.

On May 27, 2000, President Clinton announced that a proposal for the comprehensive nutrition labeling of fresh meat and poultry products, including all ground or chopped meat, was being developed.⁹ The proposed rules, published on January 18, 2001, would require retailers to provide nutrition information through product labels or at the point of purchase by posting signs or making information readily available in brochures or leaflets for major cuts of single ingredient, raw meat and poultry products, such as chicken breasts, turkey and steaks.¹⁰ The required information would include fat, calories, and cholesterol content, and be provided in the labeling format that has been in place since the mid-1990s. Providing such information has been voluntary, but fewer than 60% of retailers last year provided this information. Therefore, the Department is proposing to make mandatory the guidelines currently in place for the voluntary program. The proposal also requires nutrition labeling on the packages of all ground or chopped meat and poultry products, such as hamburger, ground turkey and ground chicken patties. Small business exemptions would be allowed for ground and chopped products, but not for major cuts of single-ingredient, raw products. Nutrition labeling would not be required on the package for major cuts of meat, because USDA believes that consumers have reasonable expectations about the nutrient content of these products, and the point of purchase availability of nutrient information would fulfill the requirement. However, for raw ground or chopped meat and poultry products, certain parameters, such as fat, can be controlled precisely to obtain a desired product. In addition, the nutrient and fat content of ground or chopped products varies so significantly that the Department believes consumers could not assess the nutritional quality of these products without the nutrition labeling information affixed to the product to make informed comparisons. The comment period for the proposed rules closed April 18, 2001.

Meat Labeling Legislation

At the time of NLEA passage, there was discussion of legislation to require nutrition labeling on meat and poultry products, but no bills were introduced. While there were a number of meat labeling bills during the 106th Congress, only one addressed nutrition information. No comparable bills have yet been introduced in the 107th Congress.

⁸ U.S. Dept. of Agriculture. Food Safety and Inspection Service. Nutrition Labeling of Meat and Poultry Products; Final Rule. *Federal Register*. v. 58, no.3, January 6, 1993. p. 632-691.

⁹ Radio address by the President of the Nation, May 27, 2000.

¹⁰ U.S. Dept. of Agriculture. Food Safety and Inspection Service. Nutrition Labeling of Ground or Chopped Meat and Poultry Products and Single-Ingredient Products; Proposed Rule. *Federal Register*. v. 66, no.12. January 18, 2001. p.4969-4999.

The Fresh Meat and Poultry Consumer Awareness Act of 2000 (H.R. 4175) was introduced on April 4, 2000, by Congresswoman Lowey and a dozen cosponsors, to amend the meat and poultry laws to extend mandatory nutrition labeling information requirements to single-ingredient raw meats and poultry products. The Secretary of Agriculture would have 1 year from the date of enactment to issue final regulations to require nutrition information labeling on products sold at retail to consumers. To the extent possible, the regulations for these products would be identical to the current mandatory labeling requirements applicable to processed meats and poultry, unless the Secretary determined that a difference in the labeling information would better promote consumer awareness. Failure by the Secretary to issue final regulations within the year specified would result in the current mandatory labeling requirements on processed meats and poultry to be used until the final regulations were issued. The bill was referred to the House Committee on Agriculture, but no further action was taken.

Preliminary Observations

The White House announcement about the mandatory nutrition labeling of fresh meats and poultry indicated that the requirement would be comprehensive. The proposed regulations address the labeling of both ground/chopped and single ingredient major cuts of raw meat, but indicate that the labeling of each product would follow different requirements. USDA has proposed mandatory labeling on ground and chopped fresh meat packages, while single ingredient raw major cuts of meat would provide nutrition information either on the package or at the point of purchase. This different approach for major cuts of meat is based on the assumption that consumers have some knowledge of the nutrient content of these products. While there are certain safe food handling issues unique to ground meat, requiring only one type of meat product to provide nutrition information on the package may limit the value of the new regulation to consumers. All meats have similar nutrient content so health-conscious consumers wishing to limit certain components in their diets (such as total fat, saturated fat, and cholesterol) would likely want to be able to compare a variety of meat products. Furthermore, ground meat packages already carry the percentage fat content information on the package in order to make “lean” and “extra lean” claims under existing regulations. A number of raw major cuts of meat and poultry have already been found to carry the nutrition information on the labels of their packages so some grocery stores seem to have determined that providing this information on the product is useful for their consumers.

The NAS-IOM report recommended that nutrition labeling be required on most foods, including fresh meats and poultry. This view appears to be supported by the U.S. Dietary Guidelines 2000, which devoted four pages to directing consumers to “choose a diet that is low in saturated fat and cholesterol and moderate in total fat.” The section discusses different types of fat, appropriate food choices to meet the guideline, the upper limit on fat for the calories consumed, advice for children and a comparison for saturated fat in some foods. USDA’s proposal seems to support this concern by providing either point of purchase or labels on all raw major cuts of meat. The decision to require ground or chopped meat products to carry the label on the package, but allow the option of point of purchase or labels for major cuts of meat and poultry seems to assume that consumers know more about the content of major cuts than is supported by research evidence. However, the Department has requested comments on this option (on package or posted) and whether consumers have reasonable knowledge of the nutrient content of the major cuts of single ingredient raw meat and poultry products.