

E-ALERT | Food & Drug

February 2, 2011

USDA AND HHS ANNOUNCE 2010 DIETARY GUIDELINES FOR AMERICANS

On January 31, 2011, the Departments of Agriculture and Health and Human Services announced the 2010 Dietary Guidelines for Americans.¹ USDA Secretary Tom Vilsack and HHS Secretary Kathleen Sebelius jointly announced the release at a 45-minute press conference at the George Washington University that included questions from the audience. The Guidelines are “being released at a time of rising concern about the health of the American population” as “Americans are experiencing an epidemic of overweight and obesity.” As Secretary Sebelius stated, there is a high cost of obesity, and the Guidelines will assist America in being a more healthy, competitive, and productive country. In addition, Secretaries Vilsack and Sebelius discussed plans to make food and nutrition information more accessible to Americans. Secretary Sebelius noted that HHS is working on front-of-package (FOP) labeling to make nutrition information more accessible.² Secretary Vilsack discussed the development of an experimental program to provide discounts on fruits and vegetables to Supplemental Nutrition Assistance Program (SNAP) participants.

The Dietary Guidelines are reviewed and updated every five years. They provide the federal government’s advice for people two years and older about good dietary habits, and they play an important role in guiding federal nutrition policy at all levels as all federally-issued dietary guidance for the general public is required by law to be consistent with the Dietary Guidelines.

Significant Dietary Guidelines Recommendations

The 2010 Guidelines generally comport with the recommendations in the report released by the 2010 Dietary Guidelines Advisory Committee (DGAC) in June of 2010.³ The Guidelines’ recommendations encompass two overarching concepts: (1) maintaining calorie balance over time to achieve and sustain a healthy weight, and (2) focusing on consuming nutrient-dense foods and beverages. Nutrient-dense foods and beverages provide vitamins, minerals, and other substances that may have positive health effects with relatively few calories.

The Guidelines include 23 key recommendations for all Americans, and six additional recommendations for specific population groups.⁴ These include recommendations on balancing calories to activity levels to manage weight, foods and food components to consume less, food and

¹ The Dietary Guidelines and supplemental information are available at <http://www.dietaryguidelines.gov/>.

² For additional information, see our client alerts on FOP labeling: [IOM Holds First Phase II Committee Meeting on Front-of-Package Nutrition Rating Systems and Symbols](#) (Oct. 29, 2010); [IOM Releases Phase I Report on Front-of-Package Nutrition Labeling](#) (Oct. 14, 2010); [IOM Committee Holds Public Workshop Regarding Front-of-Package Labeling Systems](#) (Apr. 12, 2010); and [FDA Requests Comments and Information on Front-of-Package Labeling Systems](#) (Apr. 29, 2010). In January of 2011 food industry groups announced their own voluntary FOP labeling system. See [Food Industry Groups Announce “Nutrition Keys” Front-of-Package Labeling System](#) (Jan. 25, 2011).

³ For additional information, see our client alert on the DGAC Report: [2010 Dietary Guidelines Advisory Committee Releases Report](#) (Jun. 16, 2010).

⁴ See Dietary Guidelines for Americans 2010, at x-xi.

nutrients to consume more, and building healthy eating patterns based on caloric intake and the proper mix of nutrient dense foods. Although these are the most important in terms of their implications for improving public health, the Guidelines state that individuals should carry out the Dietary Guidelines recommendations in their entirety as part of an overall healthy eating pattern to get the full benefit.

- **TOTAL DIET APPROACH.** The Dietary Guidelines recommend controlling “total calorie intake to maintain body weight.”⁵ This means controlling calorie intake from food and beverages, as well as calories used in physical activity. In addition, Americans should “[a]ccount for all foods and beverages consumed and assess how they fit within a total healthy eating plan.”
- **SODIUM.** Although the DGAC Report recommended that Americans consume no more than 1,500 mg of sodium per day, the Dietary Guidelines suggest a reduction of sodium to less than 2,300 mg per day for the “general population.” But the Guidelines recommend a further reduction to 1,500 mg of sodium per day among persons who are 51 or older and those of any age who are African American or have hypertension, diabetes, or chronic kidney disease, noting that the 1,500 mg per day recommendation applies to about half the population.⁶
- **SATURATED FATS.** The Guidelines recommend for Americans to consume less than 10 percent of calories from saturated fatty acids by replacing them with monounsaturated and polyunsaturated fatty acids.⁷ This is in line with the DGAC Report’s recommendation and conclusion that “strong evidence” indicates that the intake of saturated fatty acids is positively associated with increased LDL cholesterol and cardiovascular death, as well as type 2 diabetes.
- **TRANS FATS.** In addition, the Guidelines recommend keeping trans fatty acid consumption as low as possible by limiting foods that contain synthetic sources of trans fats, such as partially hydrogenated oils, and by limiting other solid fats.
- **CHOLESTEROL.** The Dietary Guidelines recommend consumption of less than 300 mg per day of dietary cholesterol.⁸
- **SoFAS.** The Guidelines recommend reducing the intake of calories from solid fat and added sugars.⁹ Most fats with a high percentage of saturated or trans fatty acids are solid at room temperature and are referred to as “solid fats.” The Guidelines include a separate recommendation on solid fats because, unlike saturated or trans fatty acids that are components of foods, many solid fats are foods themselves or ingredients, and they are “abundant in the diets of Americans and contribute significantly to excess calorie intake.” The Guidelines recommend that solid fats and added sugars be limited because they contribute a substantial portion of calories consumed by Americans, but do not contribute necessary nutrients.
- **WHOLE GRAINS.** The Guidelines recommend that individuals limit the consumption of foods that contain refined grains, especially refined grains that contain solid fats, added sugars, and sodium.¹⁰ Although the Guidelines note that many refined grains are enriched with vitamins and minerals, they caution that “[t]his returns some, but not all, of the vitamins and minerals that were removed during the refining process.”¹¹ Accordingly, the guidelines suggest that refined

⁵ *Id.* at 9.

⁶ *Id.* at 21-24.

⁷ *Id.* at 24-26.

⁸ *Id.* at 26-27.

⁹ *Id.* at 27-29.

¹⁰ *Id.* at 29-30.

¹¹ *Id.* at 30.

grains should be replaced with whole grains, such that at least half of all grains eaten are whole grains.¹²

- **PROTEIN.** The Guidelines recommend that Americans choose a variety of protein foods that include “seafood, lean meat and poultry, eggs, beans and peas, soy products, and unsalted nuts and seeds.”¹³ In addition, the Guidelines recommend replacing protein foods that are higher in solid fats with choices that are lower in solid fats and calories and/or are sources of oils.
- **FOOD SAFETY.** The Guidelines also address food safety in food preparation to reduce the risk of foodborne illnesses. They put forth four basic food safety principles: (1) clean hands, food contact surfaces, and vegetables and fruits; (2) separate raw, chopped, and ready-to-eat foods while shopping, storing, and preparing foods; (3) cook foods to a safe temperature; and (4) chill (refrigerate) perishable foods promptly.¹⁴

Next Steps

Both the USDA Center for Nutrition Policy and Promotion (CNPP) and the HHS Office of Disease Prevention and Health Promotion (ODPHP) plan to develop simple, direct, actionable messages, tools, and information as part of nutrition education and communication efforts. In addition, CNPP will conduct marketing activities to promote the overarching Dietary Guidelines concepts and recommendations.¹⁵

If you have any questions concerning the material discussed in this client alert, please contact the attorneys listed below:

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¹² *Id.* at 30, 36-37.

¹³ *Id.* at 38-39.

¹⁴ *Id.* at 48.

¹⁵ See Questions and Answers on the 2010 Dietary Guidelines for Americans at 7, <http://www.cnpp.usda.gov/Publications/DietaryGuidelines/2010/PolicyDoc/QandA.pdf>.