October 31, 2017

Via electronic submission

To Whom It May Concern:

As leaders of large, urban health departments, we welcome the opportunity to comment on the proposed rule to extend the compliance dates for the Nutrition Facts Label Final Rule and the Serving Size Final Rule, originally published in the Federal Register on May 27, 2016.

We commend the Food and Drug Administration’s (FDA) continued efforts to provide consumers with important nutrition information through labeling requirements, and we recognize the Nutrition Facts Label Final Rule and the Serving Size Final Rule as necessary advances on this front. Accordingly, we oppose any extension of the compliance deadlines articulated in these rules for two reasons. First, any delay deprives the public of accurate, scientific information critical to making informed food choices. Second, industry compliance by the current deadlines is feasible, as demonstrated by early adopters.

Extension Would Adversely Affect Public Health

Collectively, Big Cities Health Coalition (BCHC) member jurisdictions directly impact more than 55 million people or one in six Americans. BCHC is a forum for the leaders of America’s largest metropolitan health departments to exchange strategies and jointly address issues to promote and protect the health and safety of their residents.

As such, our members undersigned below, are committed to protecting and promoting public health. A primary concern is that a delay denies the American people information to act in the interests of their health, at a time when heart disease and other diet-related diseases continue to be among the leading causes of death.

A key component of the Nutrition Facts Label Rule is the introduction of “Added Sugars” information to food and beverage labels. The 2015-2020 Dietary Guidelines for Americans recommends less than 10% of total calories come from added sugars, but many Americans exceed this limit. The average daily intake of added sugars of American adults and children is approximately 13% and 16% of total calories consumed, respectively. By “requiring the declaration of “Added Sugars” in a serving of a product, establishing a Daily Reference Value (DRV), and requiring the percent Daily Value (DV) declaration for added sugars,” the updated Nutrition Facts Label provides consumers with information about a product’s added sugars – information necessary to making informed decisions about packaged food and beverages. Overconsumption of added sugars can make it more difficult to meet nutrient needs within appropriate calorie limits and is associated with risk of cardiovascular disease mortality. Providing a DV for added sugars informs consumers about how the amount of added sugars contained in a packaged food product relates to national recommended limits for added sugars. This information improves consumers’ ability to choose products that best support their health and the health of their families.

Consumers deserve to know the nutritional value of the food they consume, and an extension would delay this opportunity.
Industry Compliance by Current Deadlines is Feasible

We oppose an extension because industry compliance by the current deadlines is achievable. The scheduled 26-month period for compliance, applicable to companies with $10 million or more in annual food sales, ends on July 26, 2018, over nine months away. Companies generating annual sales under $10 million are permitted an extra year to reach compliance, with a July 26, 2019 deadline.

In the proposed rule, the FDA has cited several reasons that companies and trade associations have asserted as a basis for the extension request. These include “the need for upgrades to labeling software, the need to obtain nutrition information from suppliers, the number of products that would need new labels, and a limited time for reformulation of products.”¹ No evidence is offered to support these claims. Further, these claims are undermined by the progress made by companies moving forward in the compliance process including such as Mars Inc.,² KIND,³ and Nabisco/Mondelez.⁴ The health of Americans must remain a priority, and we urge the FDA to side in favor of public health when considering these industry claims.

The Alameda County (Oakland), Baltimore City, Boston, Detroit, Kansas City (MO), Maricopa County (Phoenix), Multnomah County (Portland), New York City, Philadelphia, Southern Nevada Health District (Las Vegas) Public Health Departments appreciate the opportunity to comment on this important issue and urge the FDA to move quickly to ensure all U.S. consumers have access to updated, science-based nutrition labeling so they can make informed decisions that benefit their health. Like the FDA, we are charged with protecting and promoting the public health. In light of that duty, we implore the FDA to maintain the current compliance date for the updated Nutrition Facts label. Any delay stands in conflict with public health interests. Thank you for your consideration.

Sincerely,

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