

New Canadian Food Labeling Regulations

by Gordon S. Jepson and M. Susana Diaz



On January 1, 2003, new food labeling regulations were introduced in Canada.¹ Previously, Canada differed greatly from the United States in food labeling requirements, which caused headaches for businesses selling products in both countries. Health claims were prohibited on foods, nutrient content claims were severely limited, and, most noticeable of all, the “Nutrition Facts” information tables required on U.S. foods were not permitted on the labels of food sold in Canada.

The new Canadian Regulations include additional nutrient information, and address new consumer concerns. It is important to remember, however, that many products that may be considered foods or dietary supplements in the United States could, by virtue of their ingredients or claims, be regulated as drugs in Canada.² So now there are two similar—yet still significantly different—sets of food labeling regulations in Canada and the United States.

Nutritional Facts Table

Both U.S. and Canadian food labels now require Nutritional Facts tables.³ Although the tables from both countries visually appear to be the same, there are differences, in fact, examples of which are set out below.

Nutrient Names

The Canadian labels allow a larger variety of nutrient descriptions to be used in the table. These include the use of the words “Fat,” “Carbohydrate,” and “Fiber,” instead of the longer descriptions “Total Fat,” “Total Carbohydrate,” and “Dietary Fiber” as required in the United States. Note that the U.S. descriptors *can* be used on the Canadian labels.



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Core List Requirements

For the most part, the tables for both countries require the same core list of nutrients. A few differences have emerged, however. For example, “Calories from fat” must be listed on U.S. labels, but it is voluntary in Canada. “Trans fat” and the “sum of saturated fat and trans fat” are part of the required core list on Canadian labels, but are not even optional on U.S. labels.⁴

Optional Nutrients

Each country has set out a list of nutrients that, while not being required, can be optionally included on the nutritional list. Most of these optional nutrients are the same in both countries. Some nutrients, however, are optional in Canada, but are not allowed in the United States. For example, “Calories from Saturated + Trans fat,” “Omega-6 polyunsaturated fatty acids,” and “Omega-3 polyunsaturated fatty acids” can all be included in the Canadian table, but they are not yet allowed in U.S. tables. In addition, “Starch” may be listed on Canadian labels, but the closest U.S. option is the inclusion of “Other Carbohydrate” in the table.

Rounding Down

Another important issue that is not immediately noticeable in a comparison of the two countries’ regulations is the difference between the applications of the “rounding down” thresholds. These thresholds are used to determine when a nutrient can be listed as “0” in the table. In the United States, an amount of 0.5 g (or 5 calories or less, depending on the nutrient) may be expressed as “0.” This threshold applies to the majority of required and optional nutrients.⁵



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The Canadian Regulations have stricter limitations than the United States on rounding down. Many nutrients require the amount to be rounded to the nearest “0.1 g” unless a list of other requirements is met. For example, in order to list 0 g of fat, the food will have to meet the requirements for a “free of fat” claim; otherwise, the amount listed will be rounded to the nearest “0.1 g.” This difference was intentionally included in the Canadian Regulations due to concerns about consumer deception regarding the actual cumulative amounts of nutrients consumed over a day. The rounding down method used on U.S. labels could result in consumers unknowingly ingesting higher daily cumulative amounts of nutrients such as saturated fat.

Health Claims

There is a world of difference between allowable health claims in Canada and in the United States. In Canada, only the specific health claims set out in the Canadian Regulations may be used on product labeling. There is no opportunity to alter the wording of a claim, or to introduce a new claim. In the United States, not only are more health claims available and may be introduced, but there are no requirements to use specific wording for a claim. So long as it meets certain requirements and is based on an approved “topic,” original claim wording can be used.

When the Canadian Regulations were being drafted, the concern was raised that allowing a user to draft the claims—albeit based on a list of requirements—would open the door to customer confusion and deception, therefore, claims that could be made were limited to a specific list set out in the Canadian Regulations. It was determined that this was the easiest way to ensure the claims were consistent and not deceptive to consumers.

Canadian Health Claims

Currently, the Canadian Regulations allow only the following five types of claims:

(1) A healthy diet containing foods high in potassium and low in sodium may reduce the risk of high blood pressure, a risk factor for stroke and heart disease.

(2) A healthy diet with adequate calcium and vitamin D, and regular physical activity, help to achieve strong bones and may reduce the risk of osteoporosis.

(3) A healthy diet low in saturated and trans fats may reduce the risk of heart disease.

(4) A healthy diet rich in a variety of vegetables and fruit may help reduce the risk of some types of cancer.

(5) Does not promote tooth decay.

Slight variations of these claims, such as including the

name of the food referred to, are allowed but only if the variation has been set forth in the Canadian Regulations. In addition, before a claim can be used, very specific conditions set out in the Canadian Regulations must be met.

U.S. Health Claims

Currently, there are 12 approved health claims for use on U.S. labels, only five of which are approved for use in Canada (see above). It is important to ensure that products sold in Canada do not carry claims relating to a connection between:

- dietary lipids and cancer;
- fiber-containing grain products, fruits, and vegetables, and cancer;
- folic acid and neural tube defects;
- fruits, vegetables, and grain products that contain fiber, particularly soluble fiber, and risk of coronary heart disease;
- soluble fiber from certain foods and risk of coronary heart disease;
- soy protein and risk of coronary heart disease; or
- stanols/sterols and risk of coronary heart disease.

Nutrient Content Claims

As they do for acceptable health claims, the Canadian Regulations set out a list of the specific nutrient content claims that may be made, and the conditions that must be met in order to make them. The Canadian Regulations are far more restrictive, however, than the U.S. regulations. It would be prudent, therefore, to double-check all claims to ensure that they are acceptable under the Canadian Regulations. What may be acceptable in the United States may not be in Canada. Some of the differences between the available claims are noted below.⁶

Omega-6 and Omega-3 Fatty Acids

The Canadian Regulations allow for “source of” claims to be made for Omega-6 and Omega-3 fatty acids. These nutrients currently do not have a daily value in the United States and are restricted to claims regarding the amount of the nutrient per serving in the product.

“Modified” and “Extra”

“Modified” and “Extra” are two claims that cannot be used in Canada,⁷ but can be used in the United States.

Fat Claim and Disclosure Statement

Unlike the United States, Canada does not require a fiber claim to be made in conjunction with a fat claim, nor does it

require a disclosure statement to be made when a food contains one or more of the following nutrients in excess of the levels listed per serving size:

- Fat: 13.0 g
- Saturated fat: 4.0 g
- Cholesterol: 60 mg
- Sodium: 480 mg

Future Claims

The U.S. regulations set out a process for the addition of claims and nutrients in the future. The Canadian Regulations have not included this type of mechanism; claims and nutrients are limited to those set out in the Canadian Regulations.

Although the task of coming into compliance with the new Canadian Regulations seems daunting at first, the new regulations actually will be easier to work with than the original requirements. To lessen the impact of the changes, adjustment time has been built into the new regulations. Depending on the size of a business, there is a three-to-five year transition period in which to comply.⁸ Review of existing U.S. labels and a few modifications to them should ensure a smooth entry into the Canadian market.

Note: This article is a brief overview of some of the similarities and differences between Canadian and U.S. food labeling requirements. Only a few illustrative points are discussed under each major heading; the article should not be relied upon for compliance with Canadian Law. ▲

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- ¹ Regulations Amending the Food and Drug Regulations (Nutritional Labeling, Nutrient Content Claims and Health Claims) SOR/2003-11, available at <http://canadagazette.gc.ca/partII/2003/20030101/pdf/g2-13701.pdf> (last visited Mar. 17, 2003).
 - ² The decision to initially position a product as a food is a critical and complex one, and is outside the scope of this article. For a detailed look at this issue, see Gordon Jepson, *Regulation of Natural Health Products in Canada*, 57 *FOOD & DRUG L.J.* 59 (2002).
 - ³ All Canadian foods may be subject also to bilingual labeling requirements (i.e., English and French).
 - ⁴ The U.S. Food and Drug Administration (FDA) currently is considering whether to amend its nutrition labeling regulations to provide for the mandatory declaration of trans fat content in a food.
 - ⁵ This rounding down threshold does not apply to cholesterol (less than 2 mg may be declared as "0"), potassium (less than 5 mg = 0), and vitamins and minerals (less than 2% RDI = "0").
 - ⁶ This list is not comprehensive, but is provided as some examples of differences.
 - ⁷ The Canadian Regulations do allow for "extra" to be used to describe "extra lean" meat and poultry. All other cases of "extra," however, which are allowed in the United States, are not allowed in Canada.
 - ⁸ The Regulations are considered to be applicable immediately (no transition period) if the label includes: a) the following nutrient content statements or claims: 100% fat-free; —% fat-free; free of trans fatty acids; reduced in trans fatty acids; lower in trans fatty acids; source of omega-3 polyunsaturated fatty acids; or source of omega-6 polyunsaturated fatty acids; b) any health claim set out in the regulations; or c) the expression "Nutrition Facts."