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**GIBSON DUNN**



**FDA & Health Care Update**

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## **HHS and USDA Publish Updated Dietary Guidelines for Americans – What You Need to Know**

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On January 7, 2026, the U.S. Department of Health and Human Services (HHS) and the U.S. Department of Agriculture (USDA) released the Dietary Guidelines for Americans, 2025-2030 (Dietary Guidelines).<sup>[1]</sup> By law, USDA and HHS must publish the Dietary Guidelines at least every five years, and the new Dietary Guidelines replace the previous guidelines, which were published in December 2020.<sup>[2]</sup> The new Dietary Guidelines represent a notable departure from the previous edition. In particular, the new Dietary Guidelines reflect the goals of the Make America Healthy Again (MAHA) initiative, including recommendations to “eat more real food,” “prioritize high-quality, nutrient-dense protein foods,” incorporate “healthy fats,” and “limit highly processed foods, added sugars, and refined carbohydrates.”

The new Dietary Guidelines are described by USDA and HHS as marking “the most significant reset of federal nutrition policy in our nation’s history”<sup>[3]</sup> and include several notable changes from prior editions, including:

- **A Target on “Highly Processed” Foods:** Similar to the previous version of Dietary Guidelines, the new Dietary Guidelines emphasize the importance of nutrient-dense, whole foods. However, the new Dietary Guidelines more squarely take aim at “highly processed foods.” Although the guidelines do not define the term “highly processed foods,” they specifically focus on foods deemed to be overly processed due to refining and the addition of petroleum-based dyes, flavors, fats, sugars, and sodium. For example, the new Dietary Guidelines advise against consumption of “highly processed, refined carbohydrates,” “[h]ighly processed foods that are high in sodium,” and “highly processed vegan or vegetarian foods that can include added fats, sugars, and salts.”<sup>[4]</sup> They also recommend limiting “highly processed foods” to keep saturated fat consumption low, and limiting “foods and beverages that include artificial flavors, petroleum-based dyes, artificial preservatives, and low-calorie non-nutritive sweeteners.”<sup>[5]</sup>

Although the guidelines use different terminology, they may reflect the developing views of HHS and the U.S. Food and Drug Administration (FDA) regarding so-called “ultra-processed foods” (UPFs). As we reported last year, FDA and USDA published a request for information (RFI) seeking public input on a definition for UPFs, and an official definition has not yet been proposed or finalized.<sup>[6]</sup> The Dietary Guidelines demonstrate the Administration’s intent to continue its focus on these food products.

- **A New Focus on “Healthy Fats” and Animal Products:** Some of the most notable differences in the new Dietary Guidelines concern the recommendations in favor of “healthy fats” and animal sources of protein. While the new Dietary Guidelines continue to recommend that saturated fat not exceed 10% of total daily calories, they encourage prioritizing fats with “essential fatty acids,” including olive oil, butter, and beef tallow.<sup>[7]</sup> In addition, the new Dietary Guidelines emphasize the benefits of animal-source protein foods and “full-fat” dairy.<sup>[8]</sup>
- **A Departure from the Recommendations of the Dietary Guidelines Advisory Committee (DGAC):** The “information and guidelines” contained in the Dietary Guidelines are required to be based on the “preponderance of the scientific and medical knowledge which are current at the time” the Dietary Guidelines are prepared.<sup>[9]</sup> Historically, in developing the guidelines, USDA and HHS have considered a scientific report published by the DGAC, which advises the Departments on the development of the DGA, as they draft new editions of the guidelines. The DGAC submitted that report to USDA and HHS in December 2024, with public comment requested until February 2025.<sup>[10]</sup> This year, the Departments “implemented an independent evidence review process to address and correct deficiencies identified” in the DGAC Report, citing concerns with DGAC’s “fram[ing] its analysis through a health equity lens.”<sup>[11]</sup> The new Dietary Guidelines present a notable deviation from the DGAC Report.

The new Dietary Guidelines will have a significant impact on policy and regulation by USDA, HHS, and FDA.

- **Impact on Federal and State Nutrition Assistance:** The Dietary Guidelines likely will impact federal and state programs that provide nutrition assistance, most notably the National School Lunch Program (NSLP), which looks to the Dietary Guidelines in establishing school nutrition standards.<sup>[12]</sup> States may also consider the Dietary Guidelines in imposing limitations on funding for their own nutrition assistance programs.

- **Shaping FDA Oversight of Foods:** The Dietary Guidelines likely will influence the development of FDA policy on food labeling. For example, in January 2025, FDA published a proposed rule on front-of-package labeling of foods to indicate the levels of three nutrients (sodium, saturated fat, and added sugars) in foods, based on the then-current Dietary Guidelines.<sup>[13]</sup> Although the new Dietary Guidelines retain the same recommended limits of 10% of daily calories each for saturated fat and sodium, they replace the 10% daily calories limit for added sugars with a recommended limit of 10 grams per meal.<sup>[14]</sup> FDA, which has announced its intent to finalize the front-of-package labeling rule in May 2026, could thus seek to adjust the requirements in the final rule to reflect these changes.<sup>[15]</sup> In addition, in 2024, FDA published a final rule updating the definition of the implied nutrient content claim “healthy” to be tied, in part, to the then-current Dietary Guidelines.<sup>[16]</sup> The new Dietary Guidelines do not amend the existing rule—and reference its added sugar limits—but could reshape FDA’s broader evaluation and enforcement of “healthy” claims.
- **Impact on Litigation Regarding UPFs:** Multiple high-profile lawsuits have been filed against food manufacturers challenging so-called UPFs, including a lawsuit filed by the City of San Francisco in December 2025. Although these lawsuits raise state-law claims, they have pointed to statements by federal agencies to support their factual allegation that processed foods are linked to a variety of health harms. The statements about “highly processed” foods in the new Dietary Guidelines—and the Administration’s continued focus on processed foods, more broadly—may be leveraged in those cases and could spur additional litigation throughout the country.

Gibson Dunn is closely monitoring developments and is prepared to help companies consider and address the implications of the new Dietary Guidelines, including through regulatory counseling, preparing comments in response, agency and legislative engagement, and litigation.

<sup>[1]</sup> HHS and USDA, *Dietary Guidelines for Americans, 2025-2030* (Jan. 2026) (Dietary Guidelines).

<sup>[2]</sup> 7 U.S.C. § 5341(a)(1).

<sup>[3]</sup> Dietary Guidelines at 1.

<sup>[4]</sup> *Id.* at 3, 5, 9.

<sup>[5]</sup> *Id.* at 3-4.

<sup>[6]</sup> 90 Fed. Reg. 35305 (July 25, 2025); [Gibson Dunn, Client Alert, FDA and USDA Look to Define “Ultra-Processed Foods”: What You Need to Know](#) (July 30, 2025).

<sup>[7]</sup> Dietary Guidelines at 3.

<sup>[8]</sup> *Id.*

<sup>[9]</sup> 7 U.S.C. § 5341(a)(2).

[\[10\]](#) DGAC Report.

[\[11\]](#) HHS and USDA, The Scientific Foundation For The Dietary Guidelines For Americans (Jan. 2026), at i.

[\[12\]](#) 42 U.S.C. § 1779.

[\[13\]](#) 90 Fed. Reg. 5426 (Jan. 16, 2025); Gibson Dunn, Client Alert, FDA Publishes Proposed Rule on Front-of-Package Labeling – What You Need to Know (Jan. 15, 2025).

[\[14\]](#) Compare 2020-2025 Dietary Guidelines at 77-85 with 2025-2030 Dietary Guidelines at 4.

[\[15\]](#) Office of Information and Regulatory Affairs, HHS/FDA RIN 0910-AI80, Front of Package Labeling (Spring 2025).

[\[16\]](#) 89 Fed. Reg. 106064 (Dec. 27, 2024); Gibson Dunn, Client Alert, “Healthy” Claims, Allergens, Heavy Metals, and More: FDA Acts on Food Safety and Nutrition Labeling Priorities in Biden Administration’s Last Days (Jan. 9, 2025).

**The following Gibson Dunn lawyers prepared this update: Katlin McKelvie, Eric Womack, Carlo Felizardo, and Al Kelly.**

Gibson Dunn’s lawyers are available to assist in addressing any questions you may have regarding these developments. Please contact the Gibson Dunn lawyer with whom you usually work, the authors, or any leader or member of the firm’s FDA & Health Care practice group.

Katlin McKelvie – Washington, D.C. (+1 202.955.8526, [kmckelvie@gibsondunn.com](mailto:kmckelvie@gibsondunn.com))

Eric Womack – Washington, D.C. (+1 202.887.3528, [ewomack@gibsondunn.com](mailto:ewomack@gibsondunn.com))

Carlo Felizardo – Washington, D.C. (+1 202.955.8278, [cfelizardo@gibsondunn.com](mailto:cfelizardo@gibsondunn.com))

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