

# Get the Facts: New Food Allergen Labeling Laws



U.S. Department of Agriculture

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## Labeling foods for allergenic ingredients is a new law ...

On January 1, 2006, the Food Allergen Labeling and Consumer Protection Act of 2004 (FALCPA) became effective. This law requires manufacturers to clearly identify on their food labels if a food product has any ingredients that contain protein derived from any of the eight major allergenic foods and food groups: milk, eggs, fish, Crustacean shellfish, tree nuts, peanuts, wheat, or soybeans. These eight foods and food groups account for 90 percent of all food allergies. Other allergenic foods (e.g., sesame) are not required to be declared in accordance with FALCPA.

Food manufacturers must comply with the law by identifying in plain English on their product labels the food source of any ingredient that is or contains protein from one of the eight foods or food groups mentioned above. FALCPA also requires the type of tree nut (e.g., almonds, pecans, walnuts); the type of fish (e.g., bass, flounder, cod); and the type of Crustacean shellfish (e.g., crab, lobster, shrimp) to be declared.

It is anticipated that FALCPA will improve food labeling information for the millions of consumers who suffer from food allergies. This Act may be especially helpful to children who must learn to recognize the presence of food allergens they must avoid.

A food product may be subject to recall if it contains a major food allergen as an ingredient that is not declared on the food label in accordance with FALCPA requirements.

## What this means for commodity foods ...

FALCPA applies to packaged foods subject to FDA regulation, including foods both domestically manufactured and imported. That includes all foods, except meat, poultry, and egg products regulated by USDA's Food Safety and Inspection Service (FSIS). To be consistent with FALCPA, FSIS is undertaking rulemaking to adopt the FALCPA requirements for the products it regulates. Meanwhile, meat, poultry, and egg products manufacturers may voluntarily add food allergen statements to their labels.

The USDA commodity fact sheets will not carry specific food allergen information, since they offer only generic information about a product produced by different vendors. Each vendor's product formula is allowed to vary within the limits of the product's commodity specification.

## Food labels may look different ...

Food manufacturers are required to label foods in one of two ways, if allergenic foods are present:

- 1) In the list of ingredients, put the name of the food source of the major food allergen in parenthesis after the common or usual name of the ingredient when that name does not already appear in the ingredient statement.

For example (bold text is for illustration purposes only):



**Ingredients:** Enriched flour (**wheat** flour, malted barley, niacin, reduced iron, thiamin mononitrate, riboflavin, folic acid), sugar, partially hydrogenated soybean oil, and/or cottonseed oil, high fructose corn syrup, whey (**milk**), **eggs**, vanilla, natural and artificial flavoring, salt, leavening (sodium acid pyrophosphate, monocalcium phosphate), lecithin (**soy**), mono- and diglycerides.

or

- 2) Immediately after or adjacent to the list of ingredients, put the word "Contains" followed by the name of the food for each of the major food allergens present in the food's ingredients.

For example:

*Contains Wheat, Milk, Egg, and Soy*

## Foods in schools fall under this new law ...

The new labeling requirements extend to retail and all food-service establishments that package, label, and offer products for human consumption. However, the new labeling requirements do not apply to foods that are placed in a wrapper, a carry-out box, or other container after being ordered by a consumer. For example, a sandwich ordered at a delicatessen that is wrapped, boxed, or put in a container would not be subject to FALCPA labeling requirements.

## Compliance is immediate, but ...

FALCPA does not require food manufacturers or retailers to re-label or recall any of their products that do not reflect the additional food allergen labeling, as long as the products were labeled before the law's effective date: January 1, 2006. So, consumers may continue to see packaged food on store shelves and in their homes without the revised allergen labeling until such product inventory disappears and is replaced by newly labeled products. Similarly, school food service operations also may continue to receive packaged foods without the new food allergen labeling, if they were labeled prior to January 1, 2006.

Manufacturers may “use up” existing stores of printed packaging and labels. However, to comply with the new law they must affix a label sticker on foods labeled on or after January 1, 2006. The FALCPA-compliant sticker must either: (1) obscure the old ingredient list or (2) provide a “Contains” statement immediately after or adjacent to the list of ingredients that complies with FALCPA. (See the graphic insert “Food labels may look different...”.)

If there are any questions about a product, including the presence of potential food allergens, reading the commodity package insert or calling the manufacturer directly to obtain more information is recommended.

## What you should do ...

The Food and Drug Administration (FDA) advises consumers who are allergic to particular foods to ask questions about ingredients and preparation when eating at restaurants or any place outside the consumer's home. Schools and institutions participating in any of the FNS nutrition assistance programs should be prepared to provide that information, again by reading the commodity package inserts or by calling the manufacturer directly to obtain needed information.

## Some foods are exempt from FALCPA ...

Raw agricultural commodities (including fresh fruits and vegetables) are exempt, as well as highly refined oils (or ingredients derived from them) made from one of the eight foods or food groups identified in the law.

## For more information about FALCPA ...

Visit FDA's food allergy page (<http://www.cfsan.fda.gov/~dms/wh-alrgy.html>) or the following specific pages from it:

- Advice to Consumers: <http://www.cfsan.fda.gov/~dms/alrgqa.html>
- The FALCPA Act: <http://www.cfsan.fda.gov/~dms/alrgact.html>
- FALCPA Press Release: <http://www.fda.gov/bbs/topics/NEWS/2005/NEW01281.html>

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