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FOOD AND BEVERAGE LITIGATION AND REGULATORY UPDATE

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FDA Publishes Front-of-Pack Regulation, Bans Red Dye No. 3

The U.S. Food and Drug Administration (FDA) has published a [proposed front-of-package nutrition label](#), the "Nutrition Info box," that would give consumers readily visible information about the "Low," "Med" or "High" levels of a food's saturated fat, sodium and added sugars content. The proposed rule would require food manufacturers with \$10 million or more in annual food sales to add a Nutrition Info box to most packaged foods within three years of the final rule's effective date, or four years for businesses with less than \$10 million in annual food sales. Comments will be accepted until May 16, 2025.

FDA also revoked the [authorization for use](#) of Red Dye No. 3 in food and ingested drugs in response to a 2022 color additive petition, according to an agency constituent update. Food manufacturers must remove Red No. 3 from their products by January 15, 2027.

U.S. Surgeon General Warns Against Alcohol's Cancer Risks

Shook offers expert, efficient and innovative representation to clients targeted by food lawyers and regulators. We know that the successful resolution of food-related matters requires a comprehensive strategy developed in partnership with our clients.

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Before the end of his term under the Biden administration, former U.S. Surgeon General Dr. Vivek Murthy issued an [advisory](#) on alcohol and cancer risk, highlighting a purported link between alcohol consumption and increased cancer risk. The advisory includes recommendations to help minimize alcohol-related cancer cases and deaths, including updating the existing Surgeon General's health warning label on alcohol-containing beverages, and calls for a reassessment of the guideline limits for alcohol consumption to account for cancer risk.

FDA Issues Guidance For Labeling Plant-Based Foods

The U.S. Food and Drug Administration has released [draft guidance](#) on best practices for naming and labeling plant-based alternatives to certain foods made from animals. Under the guidance, food products that do not have standards of identity should be labeled with their common or usual names.

Additionally, predominant plant sources should be part of the name and all plant sources are required to be in the ingredient statement. Comments will be accepted until May 7, 2025.

TTB Proposes Allergen, Alcohol Facts Labeling for Wine, Distilled Spirits and Malt Beverages

The U.S. Alcohol and Tobacco Tax and Trade Bureau (TTB) has published [Notices of Proposed Rulemaking](#) that would require companies to disclose allergen and Alcohol Facts information on the labels of wine, distilled spirits and malt beverages. In Notice No. 238, the agency proposes requiring a label disclosure of all major food allergens used in the production of alcohol beverages subject to the agency's regulatory authority under the Federal Alcohol Administration Act. Notice No. 237 proposes requiring Alcohol Facts label disclosures such as the serving size, the number of calories per serving and the amounts of carbohydrates, fat and protein in the product. Comments will be accepted until April 17, 2025.



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ABOUT SHOOK

Shook, Hardy & Bacon is widely recognized as a premier litigation firm in the United States and abroad. For more than a century, the firm has defended clients in some of the most substantial national and international product liability and mass tort litigations.

Shook attorneys are experienced at assisting food industry clients develop early assessment procedures that allow for quick evaluation of potential liability and the most appropriate response in the event of suspected product contamination or an alleged food-borne safety outbreak. The firm also counsels food producers on labeling audits and other compliance issues, ranging from recalls to facility inspections, subject to FDA, USDA and FTC regulation.



Newsom Issues Executive Order on Ultra-Processed Foods

California Gov. Gavin Newsom has issued an [order](#) directing state entities to recommend potential actions aiming to limit harms associated with ultra-processed foods and food ingredients that pose a health risk to individuals. The order seeks recommendations to reduce purchases of ultra-processed foods and foods with synthetic food dye or other additives.

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