

Authorised nutrition and health claims

Guide to the use of authorised Nutrition and Health Claims in accordance with Regulation (EC) 1924/2006 on Nutrition and Health Claims made on Foods

The European Nutrition and Health Claims Regulation EC 1924/2006 (NHCR), came into force on 1 July 2007. It controls any nutrition, health and disease reduction claims made about a food. There was a transition period for the implementation of this Regulation. Officially, the list of nutrient claims permitted under the Regulation became effective on 19 January 2010, meaning that claims not on the Regulation annex are now illegal.

The document has been produced to give guidance on the health and nutrition claims that have been approved, or are likely to be approved, and which may be useful in seafood promotion. It is intended as a guide to the rules and criteria related to making approved claims.

This document is not a definitive interpretation of the law, which only the courts can provide. It is the responsibility of the individual business to ensure compliance with the law.

For more information on the Regulation and how it may affect your business please see the Seafish Guide to Omega-3 and health claims.

1. What nutrition claims have been approved that could be used to encourage the consumption of seafood?

The nutrition claims annex has recently been amended to include claims for Omega-3. As there was no established Recommended Daily Allowance (RDA) for Omega-3, it has been set within the conditions of this claim at 250mg per day. Claims for 'source of' must provide at least 15% of this, and claims for 'high in' at least 30% of this per 100g.

2. Can I continue to use my existing nutrition claim?

No, the transition period for using existing claims expired on 19th January 2010. To use a nutrition claim it must now be included in the annex. There is however a generic claim for 'source of' or 'high in' a named nutrient. This can be used where an RDA has been established for the named nutrient. RDAs for nutrients can be found in the Food Labelling Regulation 1996.

3. Can I continue to use my existing health claim?

The transition period for health claims ended on 31st January 2010. When the Regulation came into force in 2007 it was expected that by the time this transitional measure expired that the health claims list would be established. However this has been delayed and although the transition period has ended, claims already in use can be used, if the claim has been submitted for approval and it is still awaiting a decision. Once a claim has been rejected by EFSA or the Commission then the existing claim can no longer be used.

4. What health claims have been approved that could be used to encourage the consumption of seafood?

Approval of a health claim is a two part process. The application and references are submitted to the European Food Safety Authority (EFSA) for an opinion. The Commission then take this opinion into account when deciding whether to approve a claim to be held on the list of approved claims.

There have been some positive opinions from EFSA on iron, zinc, selenium, DHA/EPA, but as of May 2010 these are not yet included on the list of claims.

Zinc has a positive opinion for normal function of the immune system, normal DNA synthesis and cell division, protection of DNA, proteins and lipids from oxidative damage, maintenance of normal bone function, normal cognitive function, normal fertility and reproduction, normal metabolism of fatty acids, normal acid-base metabolism, normal vitamin A metabolism and maintenance of normal vision. This will be for foods where 100g contain 15% of the RDA of 10 milligrams. Full details here http://www.efsa.europa.eu/EFSA/efsa_locale-1178620753812_1211902908313.htm

Iodine has a positive opinion for normal thyroid function and normal production of thyroid hormones, normal energy-yielding metabolism, and maintenance of normal skin. This will be for foods where 100g contain 15% of the RDA of 150 micrograms. Full details here http://www.efsa.europa.eu/EFSA/efsa_locale-1178620753812_1211902907924.htm

Selenium has a positive opinion for protection of DNA, proteins and lipids from oxidative damage, normal function of the immune system, normal thyroid function and normal spermatogenesis. This will be for foods where 100g of the food contains 15% of the RDA of 55 micrograms. Full details here http://www.efsa.europa.eu/EFSA/efsa_locale-1178620753812_1211902906597.htm

5. Does the exact wording of the approved claim need to be used?

No, the Regulation allows words that would have the same meaning to the average consumer to be used. However care should be taken that any wording or other claim representation still complies with the general conditions (see Q. 7).

6. Do I need to seek permission to use the claim?

No, once published claims can be freely used for all foods that meet the conditions of use.

7. Are there any terms and conditions attached to the use of claims?

Yes, as well as meeting the requirements of the claim there are also general requirements that must be fulfilled for both nutrition and health claims.

- A. Claims must not be false, this will be fulfilled by meeting the requirements of the claim. However you must ensure that the presentation of the labelling as a whole is also not misleading.

- B. Claims do not give rise to doubt about the safety and/or nutritional adequacy of other foods. This is most likely to occur when making comparative claims.
- C. Claims do not encourage or condone excess consumption of a food.
- D. Claims do not state, suggest or imply that a balanced and varied diet cannot provide appropriate quantities of nutrients in general.
- E. Claims do not refer to changes in bodily functions which could give rise to, or exploit fear in the consumer, either textually or through pictorial, graphic or symbolic representations.
- F. The presence, absence or reduced content (in a food or category of food) of the particular nutrient or substance relating to the claim has been shown to have a beneficial nutritional or physiological effect, as established by generally accepted scientific evidence.
- G. The nutrient or other substance for which the claim is made;
 - Is contained in the final product in a significant quantity. This is defined in Community legislation or, where such rules do not exist, it must be present in a quantity that will produce the nutritional physiological effect claimed (as established by generally accepted scientific evidence). For vitamins and minerals RDAs are given in the Food Labelling Regulations 1996. 15% of RDA is deemed a significant amount.
 - Is not present, or is present in a reduced quantity, so as to produce the nutritional or physiological effect claimed, as established by generally accepted scientific evidence.
- H. Where applicable, the nutrient or other substance for which the claim is made must be in a form that is available to be used by the body.
- I. The quantity of the product that can reasonably be expected to be consumed must provide a significant quantity of the nutrient or other substance to which the claim relates. This is defined in Community legislation or, where such rules do not exist, it must be present in a significant quantity that will produce the nutritional physiological effect claimed (as established by generally accepted scientific evidence.)
- J. Compliance with the specific conditions set for nutrition and health claims.
- K. If called upon to do so by the enforcement authorities a food business operator must be able to justify the claim. In some cases this may be by reference to the Community register and use of references to generally accepted scientific evidence, unless the specific substantiation is subject to data protection. Food business operators will also have to show that the nutrient or other substance to which the claim relates is present in a significant amount and is available to be used by the body.
- L. Nutrition and health claims shall only be permitted if the average consumer can be expected to understand the beneficial effects as expressed in the claim.

For health claims only

The Regulation requires additional statements to be made with the health claim.

- A. Include a statement indicating the importance of a varied and balanced diet and a healthy lifestyle.
- B. Include information about the quantity of the food and pattern of consumption required to obtain the claimed beneficial effect.
- C. Where appropriate, include a statement addressed to persons who should avoid using the food. Specific statements may be included within the conditions of use for a particular claim.
- D. An appropriate warning for products likely to present a health risk if consumed in excess. Specific statements may be included within the conditions of use for a particular claim.

8. Can I continue to use logos and pictorial representations to highlight health and nutrition benefits of a food?

Yes, logos will be seen as nutrition claims and depending on their wording may be seen as 'source of' or 'high in' claims. Any such logos will need to comply with the rules for this type of claim.

NB: Some Logos may be owned and controlled by third parties under trade marking or copyright rules.

9. Do claims made in other forms of advertising need to be approved?

Yes, all claims made in commercial communications will have to comply with the Regulation. A commercial communication is deemed to be where there is a direct or indirect benefit to the company responsible.

10. Are there any rules regarding size or legibility of the claim?

Not in this Regulation, however in the changes to be made to European food labelling laws it is proposed to set criteria on legibility. However as claims are intended to be a marketing tool it is likely that they would meet any criteria for legibility.

11. If I am making a claim do I need to include details in the nutrition panel as well?

Yes, the Nutrition and Health Claims Regulation requires that if a claim is made the product must be labelled with full (group 2) nutrition information. This is also required by the Food Labelling Regulations 1996.

If the nutrient named in the claim is not included in the prescribed nutritional panel, then it must be added in addition.

Omega-3, DHA and EPA are not listed as nutrients to be included in the nutritional panel and so the amounts per 100g must be added to the prescribed list.

Links

- Up to date information can be found on the Commission website.
- Approved and rejected claims can be viewed on the community register.
- There is also a facility for commenting on an EFSA opinion before Commission approval or rejection.

http://ec.europa.eu/food/food/labellingnutrition/claims/index_en.htm

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See the Seafish web pages at:

<http://www.seafish.org/b2b/subject.asp?p=350>

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