

FASTER Act of 2021: Updated Sesame Labeling Requirements

July 13, 2021 Suzie Trigg

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On April 23, 2021 the Food Allergy Safety, Treatment, Education, and Research (FASTER) Act of 2021 (the “FASTER Act”) was signed into law, adding sesame as the ninth major food allergen that manufacturers are required to declare on the labeling of packaged foods.¹ The FASTER Act amends the list of major food allergens that manufacturers must declare under the Food Allergen Labeling and Consumer Protection Act of 2004 (“FALCPA”), which list now includes sesame, in addition to milk, eggs, fish, shellfish, tree nuts, peanuts, wheat, and soybeans.²

The updated labeling requirements will apply to any foods sold or distributed in interstate commerce on or after January 1, 2023.³ As with the eight other major food allergens, foods containing any sesame must be labeled with sesame declarations in one of two formats. Manufacturers may either declare that the product contains sesame in the ingredient list using parentheses following the common or usual name of the ingredient (e.g., “tahini (sesame)”) or they may declare “Contains: Sesame” immediately after or adjacent to the ingredient list.⁴

Notably, the FASTER Act also subjects manufacturers that use sesame to the cross-contamination regulations in the Food Safety Modernization Act (“FSMA”).⁵ Through FSMA, FDA requires that facilities implement preventive controls to minimize the risk of undeclared food allergens cross-contaminating a product during manufacturing, processing, or packing.⁶ Because cross-contamination can increase the risk of food recalls by FDA, manufacturers handling sesame should carefully review their safety practices to ensure compliance with FSMA and determine if additional precautions are necessary.

Prior to the passage of the FASTER Act, food manufacturers had to declare sesame ingredients by their common or usual name within a product’s ingredient list, but foods prepared with sesame oil or containing sesame as part of a spice or flavoring did not always require plain-language disclosure of the sesame present in the product.⁷ Although FDA issued draft guidance in 2020 that encouraged food manufacturers to voluntarily declare the presence of sesame in the list of ingredients, the passage of the FASTER Act will now require manufacturers to inform consumers, using plain language, of sesame ingredients in the foods they manufacture.⁸

¹ Food Allergy Safety, Treatment, Education, and Research Act of 2021 (FASTER Act of 2021), Pub. L. No. 117-11, § 2, 135 Stat. 262 (2021).

² See *id.*; see also 21 U.S.C. § 321(qq)(1).

³ FASTER Act of 2021 § 2(b).

⁴ 21 U.S.C. § 343(w).

⁵ See U.S. FOOD AND DRUG ADMIN., FDA NEWSROOM: FDA STEPS UP EFFORTS TO

PROTECT CONSUMERS FROM FOOD ALLERGENS, <https://www.fda.gov/news-events/fda-voices/fda-steps-efforts-protect-consumers-food-allergens>.

⁶ 21 U.S.C. § 350g.

⁷ See 21 U.S.C. 343(i).

⁸ See U.S. FOOD AND DRUG ADMIN., DRAFT GUIDANCE FOR INDUSTRY: VOLUNTARY DISCLOSURE OF SESAME AS AN ALLERGEN (Nov. 2020), at 4, <https://www.fda.gov/media/143521/download>; FASTER Act of 2021.