



American Society for Nutrition  
*Excellence in Nutrition Research and Practice*

February 16, 2023

Center for Food Safety and Applied Nutrition (HFS-830)  
Food and Drug Administration  
5001 Campus Drive  
College Park MD 20740

Re: Docket No. FDA-2016-D-2335; “Food Labeling: Nutrient Content Claims; Definition of Term ‘Healthy’.”

To Whom it May Concern,

The American Society for Nutrition (ASN) appreciates the opportunity to comment on the proposed definition of the term healthy. Established in 1928, ASN is a non-profit organization dedicated to our mission of advancing the science, education, and practice of nutrition. ASN has more than 8,000 members around the world, working throughout government, clinical practice, academia, and industry, to conduct research to achieve the ASN vision of “A Healthier World Through Evidence-Based Nutrition”.

ASN supports the Agency’s efforts to define the term healthy to be consistent with current nutrition science and federal dietary guidance so that food products meet updated limits for added sugars, saturated fat and sodium and provide a meaningful amount of recommended food groups and subgroups. The healthy labeling claim is important to help consumers quickly and easily select food products that can be part of a healthy dietary pattern; to influence both the food supply and consumer choice; and to potentially prevent misleading claims and consumer confusion. ASN applauds the consumer research conducted by FDA to inform development of the definition for healthy.

Select requests for comment from FDA relating to the definition of the term healthy are bolded below with ASN’s responses following in plain text.

**FDA Proposal: We request comment on whether nutrients to encourage should be included in addition to the food group criteria. (pg. 59176)**

**We tentatively conclude that using food groups to encourage as the criteria for “healthy,” rather than a limited set of nutrients, would better identify foods with the nutrient content that may help consumers maintain healthy dietary practices, consistent with current nutrition science and Federal dietary guidance....We solicit comment on this tentative conclusion. (pg. 59177)**

The criteria for use of the term healthy is aligned with the *Dietary Guidelines for Americans, 2020-2025 (DGAs)* translation of the current evidence on nutrition science into healthy dietary

pattern recommendations to help Americans select foods and beverages that are part of a healthy diet. As the *DGAs*<sup>1</sup> note “Because foods provide an array of nutrients and other components that have benefits for health, nutritional needs should be met primarily through foods.” By eating a healthy dietary pattern that more closely follows the *DGAs* it is hoped that nutrients to encourage would be met. Thus, ASN supports using food groups/subgroups as the criteria for healthy rather than a set of nutrients and does not see a need for the definition of healthy to have criteria for nutrients to encourage and supports the efforts to point consumers to food and beverage products that can be part of a healthy dietary pattern. ASN also supports the Agency’s clarification that fortification *alone* should not be used in order for products to meet the healthy criteria.

**FDA Proposal: We seek comments on whether there are any other terms synonymous with “healthy” that we should consider as we finalize this rulemaking. (pg. 59183).**

There are other terms that may be considered synonymous with healthy, such as wholesome, nutritious, and heart healthy. It could be confusing for consumers to see products in the marketplace that are labeled with one of these terms or have other front-of-package labeling that indicates healthfulness if the product doesn’t meet the FDA’s definition of healthy. For example, certain products can bear a qualified health claim but cannot bear a healthy nutrient content claim under the current proposal without the equivalent food group serving criteria, such as products with certain bioactives. We appreciate the FDA’s ongoing consumer research and upcoming efforts to further clarify front-of-package labeling and hope this topic will be a consideration during those efforts. ASN recommends that FDA reconsider the proposed definition of healthy to include those products that already meet a qualified health claim or bear other FDA-approved labeling that indicates the product’s healthfulness.

**FDA Proposal: We are not proposing to subject raw, whole fruits and vegetables to the criteria. Raw, whole fruits and vegetables automatically qualify for use of the claim, regardless if they meet the criteria required of other foods. We therefore tentatively conclude that raw, whole vegetables and fruits should be able to meet the “healthy” criteria without meeting a food group equivalent threshold. We seek comment on our tentative conclusions. (pg. 59184).**

ASN supports that all fruits and vegetables automatically qualify for the use of the healthy claim, regardless of form, provided they do not contain any added sugars or fat, and meet the sodium criteria for specific, individual food products. Fruits and vegetables, whether fresh, frozen, canned, dried, or juiced, can be rich in fiber, vitamins, minerals, and other nutrients, and many will be able to meet the sugar, sodium, and saturated fat limits in order to use the

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<sup>1</sup> U.S. Department of Agriculture and U.S. Department of Health and Human Services. *Dietary Guidelines for Americans, 2020-2025*. 9th Edition. December 2020. Available at [DietaryGuidelines.gov](https://www.dietaryguidelines.gov).

healthy label. However, other fruit and vegetable options will not meet the current requirements and should be reconsidered. For example, frozen fruits and vegetables are picked at the height of freshness and often do not include any *added* fat, sodium, or sugars. Frozen avocados are one example mentioned by FDA. The same is true for ready-to-eat fruits and vegetables and some minimally processed products like mashed avocado.

ASN supports that all raw, single-ingredient nuts, legumes, seeds, fruits and vegetables, 100% whole grains, dairy, fish, eggs, and lean meats with no *added* sugars, sodium, or fat should be allowed to bear healthy labeling without meeting a food group equivalent threshold. This will enable foods containing significant amounts of heart healthy fats, like avocados, to be labeled healthy where this option did not previously exist due to total fat content. This would also enable products such as certain herbs and spices to bear the healthy label so long as they do not contain any added sugars, fats, or sodium.

**FDA Proposal: We tentatively do not consider vegetable powders to be vegetables for the purpose of calculating food group equivalents. These products could be produced or used in a way that modifies the whole vegetable to an extent that removes some essential characteristics that are beneficial when consuming the whole vegetable, which could impact nutrient content. However, we recognize that food manufacturers continue to innovate in this space. We welcome comment on whether we should consider certain vegetable powders to be vegetables for the purpose of calculating food group equivalents. (pg. 59185).**

**We welcome comment on whether we should consider certain fruit powders to be fruits ‘ for the purpose of calculating food group equivalents. In particular, we are interested in any comments or data regarding whether fruit powders have similar or different nutrient content, or similar or different roles in a healthy dietary pattern, compared to whole fruits. (pg. 59186).**

ASN agrees that vegetable and fruit powders should not be considered the same as vegetables or fruits when calculating food group equivalents, particularly if they are no longer nutrient rich. ASN suggests that FDA consider pursuing methodology for determining when nutrients have been significantly lost in the processing of fruits and vegetables to determine food group equivalents, rather than basing criteria solely on food form.

**FDA Proposal: We are proposing that the added sugars content for vegetable products must be no greater than 0% DV per RACC. We are proposing that vegetable products be subject to the baseline values for sodium and saturated fat. We are seeking comment on this proposal. (pg. 59185).**

ASN supports FDA’s proposal that the added sugar content for vegetable products be no greater than 0% DV per RACC and the baseline values for sodium and saturated fat to be labeled as healthy.

**FDA Proposal:** We propose that grain products must contain whole grains to bear the “healthy” claim. Applying the baseline calculation for food group equivalent as explained in section VI.A (“Overview of Approach”), we are proposing that a whole grain equivalent is 3/4 oz-eq. This means that to bear the “healthy” claim, an individual grain product must contain at least 3/4 oz-eq whole grains per RACC. We seek comment on this approach. (pg. 59186).

ASN supports that grain products should contain whole grains to bear the healthy label claim. However, the proposed whole grain requirement could allow foods that have less than half of their grains from whole grains to be labeled as healthy, which does not seem to align with the *DGA* recommendation that at least half of one’s daily grains be whole grains (at least 3 oz-eq). FDA may want to reconsider the whole grain requirement to align more closely with federal dietary guidance.

**FDA Proposal:** We are also proposing that the saturated fat content of nuts and seeds does not contribute toward the overall saturated fat limit for nut and seed products, which would be the baseline value of  $\leq 5\%$  DV per RACC. We seek comment on whether nuts with relatively higher amounts of saturated fat should be eligible for the “healthy” claim. (pg. 59189).

Since the *DGAs* recommend limiting saturated fat to less than 10% of calories per day and replacing saturated fats with polyunsaturated fats, ASN has concerns with allowing products such as nuts with higher amounts of saturated fat to be eligible for the healthy claim. If that is the case, consumer education is critical and language should be paired with the healthy icon on a label to help consumers understand the relationship between a food bearing the healthy claim and an overall healthy dietary pattern (i.e., certain “healthy” nuts should be consumed in moderation due to their higher saturated fat content).

**FDA Proposal:** We seek comment on the proposed criteria for oil-based dressings; in particular, we seek comment on whether the proposed 30 percent oil level is an appropriate requirement for oil-based dressings, and on whether the proposed saturated fat criteria adequately ensure that dressings that are part of a healthy dietary pattern because they are lower in saturated fat and higher in unsaturated fatty acids, consistent with current nutrition science and Federal dietary guidance, are eligible to bear the “healthy” claim. (pg. 59189-90).

ASN supports allowing 100% oils to use the healthy labeling claim to encourage their use during the cooking process instead of saturated fats. ASN does not support oil-based spreads and oil-based dressings using the healthy labeling claim at only a 30% oil level.

**FDA Proposal:** We seek comment on whether water should be included in the definition,

**and whether “water” should be expanded, for example, to include waters containing non-caloric flavors or other noncaloric ingredients. In addition, we also seek comment on whether allowing bottled water to be labeled “healthy” could potentially lead some consumers to believe that bottled water is healthier than tap water. We also seek comment on the eligibility of calorie-free beverages, coffee, and tea to bear the “healthy” claim. (pg. 59193).**

ASN supports including plain unsweetened water, tea, coffee and carbonated water or seltzers under the definition of healthy.

ASN encourages FDA to accompany the definition of healthy with a robust consumer education campaign to help consumers understand what constitutes healthy/healthful eating patterns and that food products in and of themselves do not impart health. It is important for consumers to understand how a food bearing the ‘healthy’ claim can help meet their food group needs and consumers should have access to the recommended food group equivalents healthy is based on. Comprehensive consumer education will be particularly useful when FDA allows use of an icon to denote healthy along with use of the healthy claim. It would be beneficial for FDA to collaborate with various partner organizations to help educate consumers on use of the term healthy. ASN would be pleased to help disseminate information and participate in such a consumer education campaign as a partner organization. Our reach includes health care providers who will be invaluable in encouraging consumers better understand healthy food choices and eating patterns. It may also be useful to have multiple education campaigns targeted to various stakeholders. This may include a direct campaign for consumers, as well as a campaign to educate health care professionals.

We also encourage FDA to consider ways for the proposed definition of healthy to remain science-based over time as the latest published edition of the *DGAs* and other published scientific evidence supports necessary updates. Regularly aligning the requirements for use of the term healthy to be consistent with federal dietary recommendations will ensure this consumer tool remains accurate and up to date to help consumers follow healthy dietary patterns.

ASN commends the Agency’s efforts to improve public health with a proposed definition for the use of the term healthy on food products. Clarity in the use of the term healthy will help consumers make more informed food choices for themselves and their families. Thank you for your consideration of ASN’s comments. Please contact Sarah Ohlhorst, MS, RD, ASN Chief Science Policy Officer (240-428-3647; [sohlhorst@nutrition.org](mailto:sohlhorst@nutrition.org)) if ASN may provide additional information.

Sincerely,

A handwritten signature in dark ink, reading "Martha A. Belury". The signature is written in a cursive style with a large, stylized 'M' and 'B'.

Martha A. Belury, PhD, RDN  
2022-2023 President, American Society for Nutrition