



American Society for Nutrition
Excellence in Nutrition Research and Practice

June 14, 2023

Dockets Management Staff (HFA-305)
Food and Drug Administration
5630 Fishers Lane, Room 1061
Rockville, MD 20852

Re: Docket No. FDA-2023-D-1027, Questions and Answers About Dietary Guidance Statements in Food Labeling: Draft Guidance for Industry; Availability; Agency Information Collection Activities; Proposed Collection; Comment Request

To Whom it May Concern,

The American Society for Nutrition (ASN) appreciates the opportunity to comment on “Questions and Answers About Dietary Guidance Statements in Food Labeling: Draft Guidance for Industry.” Established in 1928, ASN is a not-for-profit organization dedicated to the 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 update food labeling to reflect the most up-to-date nutrition recommendations, such as those found in the *Dietary Guidelines for Americans, 2020-2025*, to help consumers identify healthier foods and follow more nutritious dietary patterns.

As noted in the *Dietary Guidelines for Americans, 2020-2025*, more than 80% of Americans have dietary patterns that are low in vegetables, fruits, and dairy. While more than half of the population meets or exceeds total grain and protein recommendations, they are not meeting recommendations for subgroups within these food groups, such as whole grains and seafood. Dietary Guidance Statements on the front of packages may help consumers, particularly those with lower nutrition or health literacy, better understand a food product’s role as part of a nutritious dietary pattern. They also may encourage industry to reformulate products to apply voluntary Dietary Guidance Statements to their product’s labels. Empowering consumers with more informative and accessible labeling to choose more nutritious foods will improve health outcomes and advance health equity for Americans.

FDA is modernizing their approach to food labeling to provide guidance and regulations that support the use of more claims and nutrition-related statements. ASN urges FDA to ensure that adequate consumer research and testing has been done to accompany all of FDA’s labeling modernization efforts to ensure that this information will be beneficial to consumers, and not create additional consumer confusion. This is particularly important as the agency also undertakes a front of package labeling initiative, as an overabundance of nutrition-related information on the front and back of a package could be confusing for consumers. In particular, consumer research is important to determine if products bearing Dietary Guidance Statements

with disclosure statements (for nutrients to limit that exceed the limits set forth by FDA) might be confusing for consumers to understand.

A 2021 International Food Information Council survey, “Knowledge, Understanding and Use of Front-of-Package Labeling in Food and Beverage Decisions: Insights from Shoppers in the U.S.,” found that more than half of individuals polled were extremely or very interested in having nutritional information presented in a *consistent* way on the front of all packaging; 71% agreed that it would be easier to make healthy choices if front of package nutrition information was presented in a *consistent* way.

However, FDA recently defined the term “healthy” for use as a labeling claim with limits for added sugars, saturated fat and sodium and required amounts of recommended food groups and subgroups. Yet, the same limits and nutrient requirements are not found with Dietary Guidance Statements. Although use of the term “healthy” is an implied nutrient content claim, and differs from Dietary Guidance Statements in that the recommended nutrient levels for Dietary Guidance Statements provide greater flexibility than the “healthy” claim requirements, it may be confusing to consumers that a product can bear a Dietary Guidance Statement but not be labeled as “healthy” per FDA guidance.

While consistency among food labeling regulations is important, one of the primary goals of modernizing food labeling is to help consumers make healthy choices filling food group and nutrient gaps and leading to a more nutritious dietary pattern. Consumers may increase consumption of certain food products that bear a Dietary Guidance Statement, but in turn, they would also be consuming higher amounts of certain nutrients to limit, such as added sugars, if the product also contains a disclosure statement. If labeling is confusing to consumers and potentially leads to increased consumption of nutrients to limit, there are concerns that the proposed statements will not be most beneficial in ensuring that consumers gain a better understanding of what leads to a more nutritious dietary pattern. As the nutrient content claim on the term “healthy” is still being finalized, it may be premature to consider draft guidance for Dietary Guidance Statements. It may be more appropriate once the “healthy” claim is finalized, as the final rule on “healthy” may impact any Dietary Guidance Statement determinations made by the FDA.

Regarding the specific questions which FDA seeks input on in the draft guidance, ASN suggests that individual foods bearing Dietary Guidance Statements not contain more than 10% of the DV for sodium per RACC (230 mg). This is in line with the proposed Dietary Guidance Statement limits for added sugars and saturated fats and in line with recommendations from consensus reports including the *Dietary Guidelines for Americans*, as well as the “healthy” labeling claim. Products that exceed the established levels of nutrients to limit should not bear Dietary Guidance Statements, even with disclosure statements, to prevent consumer confusion.

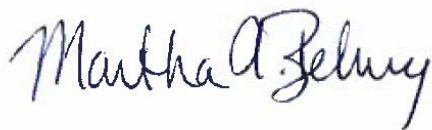
ASN would support allowing noncaloric beverages, including water, tea, coffee and carbonated

water or seltzers to bear Dietary Guidance Statements in alignment with recommendations from the *Dietary Guidelines for Americans*. Enriched and/or fortified refined grains that are staples of cultural cuisines may bear Dietary Guidance Statements when not high in added sugars, saturated fats, or sodium, in accordance with the *Dietary Guidelines for Americans*.

ASN urges FDA to include a consumer education campaign to help consumers best understand all labeling changes, including what constitutes healthy/healthful/nutritious dietary patterns. Comprehensive consumer education is of utmost importance to accompany FDA's front of package labeling initiatives, including Dietary Guidance Statements and the "healthy" labeling claim. It would be beneficial for FDA to collaborate with partner organizations to help educate consumers on use of the term "healthy" and on Dietary Guidance Statements. 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.

Thank you for considering ASN's comments on "Questions and Answers About Dietary Guidance Statements in Food Labeling: Draft Guidance for Industry." ASN commends the Agency's efforts to improve public health with labeling changes that will help consumers make more informed food choices for themselves and their families. Please contact Sarah Ohlhorst, MS, RD, ASN Chief Science Policy Officer (240-428-3647; sohlhorst@nutrition.org) if ASN may provide additional information.

Sincerely,

A handwritten signature in blue ink that reads "Martha A. Belury". The signature is written in a cursive, flowing style.

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