



FDA-2024-N-2910 - FDA Healthy Labeling, Front of Package, and Dietary Guidelines

Date: May 13, 2025

Dear Sir or Madam,

The Food and Drug Administration's new Healthy Labeling rule allowing a "healthy" label only on foods low in sugar, sodium, and saturated fat discriminates against many of the most nutrient-dense foods that contain under consumed nutrients of public health concern. The front-of-package "nutrition information box" for rating saturated fat, sodium, and added sugar as high, medium, and low is also concerning because it causes confusion.

To call the front of label rating box "nutrition information" is a misnomer. The most nutrient dense natural foods that are high in nutrients of public health concern are also above the thresholds being set for saturated fat and sodium. For example, most natural and minimally processed dairy foods, as well as all natural meats and other animal-derived products, would not be permitted to make a healthy claim or use the healthy label under the rule FDA is finalizing. *This is a travesty to Making America Healthy Again.*

The front-of-label 'nutrition information box' contains no 'nutrition information,' which will confuse consumers and direct them away from reading the back-label containing actual nutrition information! The front-of-label box only highlights saturated fat, sodium, and added sugar without regard for nutrients. Furthermore, those ratings are based on outdated Dietary Guidelines not grounded in sound science.

Under the current thresholds for saturated fat in the healthy labeling rule, only unflavored non-fat yogurt and unflavored non-fat milk would qualify. These two products tend to be flavored and sugared to make up for the removal of fat, so even they may not qualify. Few adults and practically zero children will consume nonfat yogurt or nonfat milk without flavoring. By keeping the fat in these products, more consumers would be takers -- without needing added sugar, or certainly less of it.

Under the threshold for sodium, dairy products are also discriminated against – without regard for actual nutrition. This means no cheese, yogurt, kefir, or other natural dairy products would qualify even though dairy is a most nutrient-dense and natural source of complete high-quality protein in the diet. Even HHS has observed that dairy contains hard to find, under consumed nutrients for health, such as natural calcium, potassium, as well as Vitamin D. Dairy contains 13 essential nutrients! Nutrition and health panels have already declared that Americans – especially children – do not consume enough dairy and do not consume enough calcium, potassium, Vitamin D, and other nutrients that dairy delivers, *and some of these nutrients are fat soluble.*

Reduced consumption of these foods and nutrients – because of saturated fat and sodium content -- is especially harmful to growing children. Surely by now, it is now obvious that the experiment with nonfat and low-fat diets has shown an inverse relationship with negative health impacts in the higher rates of overweight, obesity, and chronic illness, including for children and teens. The latter are even more subjected to the flawed basis for Dietary Guidelines for Americans (DGAs) via school lunch rules, where most children get two meals a day, five days a week, most of the year.

Saturated Fat --

The Nutrition Coalition notes nearly two dozen meta-analyses and systematic reviews by independent scientists across the globe concluding that saturated fats are associated with lower risk of stroke, lower risk of metabolic disorders, and have no effect on cardiovascular or total mortality and that saturated fats have little to no effect on cardiovascular events.

As an example, a “State-of-the-Art” *Journal of the American College of Cardiology* review, whose authors include top nutrition experts, found **“no robust evidence that current population-wide arbitrary upper limits on saturated fat consumption in the United States will prevent CVD or reduce mortality.”** (Astrup A, et al. Saturated Fats and Health: A Reassessment and Proposal for Food Based Recommendations. *J Am Coll Cardiol.* 2020 Aug, 76 (7) 844–857.)

In addition, most of the independent scientific reviews are listed in a paper by Nina Teicholz, Ph.D., reviewing the history of the flawed hypothesis that saturated fats cause heart disease. (Current Opinion in Endocrinology & Diabetes and Obesity 30(1):p 65-71, February 2023. | DOI: 10.1097/MED.0000000000000791)

As noted by the Nutrition Coalition, another paper reviews the flawed history of the scientific reviews on saturated fat prepared for the U.S. Dietary Guidelines for Americans. The authors include former members of previous DGA Committees. **The paper reveals that the USDA’s own review on saturated fats in 2020 misrepresented its own findings.** Some 88% of the papers reviewed did *not* find a link between saturated fats and heart disease, yet the review concluded that the evidence against these fats was “strong.” (Astrup, A.; Teicholz, et. Al, Dietary Saturated Fats and Health: Are the U.S. Guidelines Evidence-Based? *Nutrients* 2021, 13, 3305. <https://doi.org/10.3390/nu13103305>)

Furthermore, the complex matrix of dairy fat with protein, which includes saturated and unsaturated fats, has been found neutral to beneficial for cardiovascular disease.

During the April 1, 2025 Senate Ag Committee hearing on the topic of whole milk in schools, Dr. Keith T. Ayoob, EdD, RD, FAND, Assoc. Clinical Professor Emeritus, Dept of Pediatrics, Albert Einstein College of Medicine, NYC, testified as follows:

“A systematic review of studies that looked at cardiometabolic health in children ages 2 to 18 years found that consumption of dairy products including Whole and Reduced Fat milk had no association with cardiometabolic risk. (O’Sullivan, 2020) Nutrition is not a static science. It is dynamic. It should be. We should constantly be learning, revising, and fine tuning our recommendations, as credible science keeps evolving. I am required to do at least 75 hours of continuing education every 5 years in order to maintain my RDN credential and to keep current with nutrition science.

I will also tell you that I did not come to my position quickly or without careful thought and scrutiny of the evidence. Saturated fat doesn't exist in isolation in foods. In dairy, it is bound to protein, occurring in a "dairy matrix." In this form, the body appears to handle it differently. When they are in a protein-fat network that occurs in dairy foods like milk, yogurt, and cheese, they appear not to increase bad cholesterol and to lower the harmful portion of bad cholesterol. Can other foods lower bad cholesterol and reduce CVD risk? Absolutely, **but they're not able to provide the 13 essential nutrients in milk.** (Dunne, 2023; de Goeds, 2015; Nicholl, 2021; Schmidt, 2021)"

While the FDA Healthy Labeling rule says it considers "nutrient density," this is in reality a half-hearted consideration at best because the most nutrient-dense foods are prohibited from the healthy label even when they represent a single natural ingredient with no ultra processing characteristics and rich in nutrient density!

The FDA Healthy Labeling rule, as currently written, is steeped in over 40 years of the Dietary Guidelines for Americans (DGAs) being based on an incomplete picture of saturated fat, which is part of the complex matrix of natural beneficial fat and protein in milk and dairy products. While adults can make choices, America's children are forced to eat according to the DGAs in the school meal programs.

A proliferation of ultra processed foods using non-caloric sweeteners has filled the caloric and flavor void. As school foodservice directors strive to meet these rules, the global consumer packaged goods industry formulates and markets ultra processed empty calories that come with the claim: Guaranteed USDA compliant.

Current flawed DGAs are the underpinning for this FDA Healthy Labeling rule as well as for FDA's labeling actions – or inaction – over the past nearly 20 years.

The DGAs position animal foods poorly, which has led to poor labeling enforcement of FDA standards of identity, allowing fake alternative dairy products with far less nutrition to achieve substitutability in the eyes of many consumers.

The DGAs also pave a path for bioengineered lookalikes used by a dozen companies, including a few of the largest dairy processors, making empty cow-less 'sustainability' claims based on a fundamental misunderstanding of what cows actually do for the environment.

These 'fermentation proteins' are the result of 'synthetic biology' that genetically alters fungus and yeast, grows them in heated fermentation vats, and harvests the excrement said to 'mimic' dairy whey protein. Yet, these materials lack important elements of real dairy whey protein, including key nutrients and amino acids.

A recent investigation also found adulteration by unidentified fungal proteins never tested for human diets. Plaintiffs in a recently filed lawsuit discuss the findings and their concerns about FDA's generally regarded as safe (GRAS) designation.

Sodium –

The FDA Healthy Labeling rule would cap sodium at 0.23 grams per serving for most products. This leaves out the most natural whole or fermented dairy foods, including cheese and kefir, yogurt, and even milk itself.

Population-wide sodium reductions are not necessary and can increase negative health outcomes. Several large studies, including one in The Lancet, find mortality risk increases with low sodium intake. They can all be found listed by the Nutrition Coalition at this link <https://www.nutritioncoalition.us/news/erosion-of-protein-in-us-dietary-guidelines-8payw-n2zhg>

Again, nutrient dense dairy foods are left out of the healthy labeling due to sodium.

Children and the elderly, as well as those relying on government feeding programs and others in institutional feeding settings are most disadvantaged because they don't get to choose – officials choose for them based on the Dietary Guidelines, which will be made worse by the FDA Healthy Labeling Rule, as written.

Added Sugar -

On the limitations for added sugar, we can all agree that reducing added sugar in diets is beneficial; however, substitution with non-caloric artificial sweeteners is not necessarily the beacon of health solution. The elements of fat, sodium, and sugar all have one thing in common: reducing one leads to an increase in the other because all three provide FLAVOR.

When fat is removed from the diet, the void in calories is filled by carbohydrate and the void in flavor is filled with sugar and/or sodium.

A good example for the dairy industry is the fat-free chocolate milk in schools. If whole milk – with the saturated fat – is served, a mild flavoring requires less added sugar because the fat is retained! This fat is where some of the nutrients are found and are made more absorbable in the human body.

From the USDA / HHS oversight of DGAs to the FDA's Healthy Labeling Rule to the rules for school meals, where are we going? Further away from natural, whole foods, like real dairy and closer to ultra processed reformulations of false alternatives.

It's time to prioritize nutrient density and use a more balanced approach when evaluating saturated fat, sodium and added sugars.

Calorie-for-calorie, nutrients matter, and dairy foods as well as other animal-derived products, are the most naturally nutrient dense foods on the planet. And as far as our children go, they'll eat their veggies with cheese or butter on them far faster than plain. That's a bonus.

Thank you for your consideration of our formal comment.

Sincerely

Laurie Fischer

Laurie Fischer, CEO
American Dairy Coalition, advocacy by dairy farmers for dairy farmers