



## FDA Announces Intent to Target Nutritional Claims on Food Packaging

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The Office of Nutrition, Labeling and Dietary Supplements Center for Food Safety and Applied Nutrition of the Food and Drug Administration (FDA) recently issued its "Guidance for Industry: Letter Regarding Point of Purchase Food Labeling." In the letter, the FDA announced its intent to take action against food manufacturers who make nutritional claims on front of packaging (FOP) food labeling that misleads consumers on the products' health benefits. Currently, FOP labeling is voluntary information that is intended to provide information about nutritional attributes of food. Nevertheless, FOP labeling is subject to the provisions of the Federal Food, Drug, and Cosmetic Act that prohibit false or misleading claims.

The FDA reported that FOP labeling makes it less likely consumers will read the Nutritional Facts labels on foods, which are typically located on the side or back of food packaging. The FDA also announced its investigation of misleading FOP labels. Part of this investigation centers on food manufacturers' use of symbols that expressly or impliedly advertise nutrient content claims.

In addition, the FDA announced its consideration of enforcement actions against "clear violations" of established labeling requirements. The FDA has not identified any specific food products or manufacturers as targets of its investigation, nor has the FDA provided any timeline for enforcement. The FDA also announced its intent to develop a regulation that would define specific, standardized criteria that food manufacturers would be required to meet before making certain nutritional claims on FOP packaging.

It has been speculated that the FDA's announcement was prompted, in part, by the Smart Choices program, which is a nutritional labeling campaign launched this summer by several U.S. manufacturers. The Smart Choices program gives nutritional seals of approval for many foods, including foods that are deemed to be unhealthy in certain respects (i.e., high sugar, high fat). The FDA sent a warning letter about the Smart Choices program, expressing its concern that the



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program could lead consumers to select highly processed foods over more healthy foods, such as fruits, vegetables, and grains.

The FDA clearly recognizes the increasing trend of using broad claims, logos, numerical ratings, and icons to tout nutritional benefits on FOP packaging. Accordingly, food manufacturers must ensure that such claims are adequately substantiated and not misleading to consumers.

The FDA's letter is available at <http://www.fda.gov/Food/GuidanceComplianceRegulatoryInformation/GuidanceDocuments/FoodLabelingNutrition/ucm187208.htm>.

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