Timetable for Food Labeling Reform and Need for Concurrent FDA/USDA Action

Phase I: Efforts to Provide Up-to-Date Nutrition Information on Food Labels
Development of a Front-of-Pack (FOP) labeling program and a proposed rulemaking to modernize the Nutrition Facts Panel (NFP) should occur simultaneously. FOP program should not be based on outdated NFP requirements.

- A Daily Value must be established for added sugars, a leading factor in obesity. FDA invited public comment on added sugars on June 26, 2000.
  - FDA should announce ANPR/proposed rule
  - Fall 2010

- Serving Size must be changed so that nutrition information is presented for the amount that is reasonably expected to be consumed. An ANPR was issued on April 4, 2005.
  - FDA should announce proposed rule
  - Fall 2010

- The calorie listing should appear in a larger font than other required information to underscore the fact that consumers must carefully monitor calorie intake. An ANPR was issued April 4, 2005.
  - FDA should announce proposed rule
  - Fall 2010

Front of pack labeling program should be announced
- Fall 2010

Phase II: Prevention of Misleading Claims that Undermine Nutrition Information Initiatives
After FDA announces FOP program and related NFP proposed rules, agency should promptly address misleading health-related claims that detract from and undermine the agency's new FOP scheme and NFP reforms in Phase I.

- "Made with real fruit." "Made with whole grains," etc. claims must be controlled to avoid undermining the FOP program.
  - Options:
    - Case-by-case enforcement
    - Letter to industry/enforcement policy statement in Federal Register
    - ANPR/Proposed regulations as part of ingredient label reform efforts. FDA should follow USDA lead.
    - (No First Amendment issues raised by express or implied misleading claims).
      - FDA chooses regulatory approach
      - Winter 2010/11

Revisions to Ingredient labeling
- Graphic Revisions: The First Lady wants ingredient labels to be readable. FDA should follow USDA's lead. Sources of added sugars should be grouped so consumers can determine relative amount of added sugars in product.
  - Proposed rule Summer 2011
- Percent Ingredient Labeling: Percent of key ingredients such as fruit, vegetables and whole grains could be indicated in parentheses after the name of the ingredient, handled via FDA's common or usual name regulations, or inserted adjacent to the NFP.
  - FDA should announce ANPR Fall 2011

- Caffeine Content Labeling
  - Necessary for women of childbearing age
  - Recommended by AMA
  - American College of Obstetricians and Gynecologists recommends 200 mg or less.
  - Proposed rule Fall 2011

Misleading claims that a conventional food can "strengthen the immune system" or otherwise improve health must be halted to avoid undermining FOP labeling program.

Options for FDA consideration:
- Create Safe Harbor list and mandatory disqualifying nutrient levels
- Letter to industry/Guidance document covering level of scientific evidence necessary to substantiate a claim.
- ANPR/Proposed regulations (Address First Amendment issues.)
  - FDA announces chosen regulatory approach
  - Winter 2010/11

Definition of Natural
- FDA should follow USDA's lead. USDA issued ANPR on Sept. 12, 2009.
  - FDA Final rule Spring 2012

Completion date for final rules and related programs
- October 2012