Documents for the Record

Subcommittee on Health Hearing
Healthier America: Legislative Proposals on the Regulation and Oversight of Food
April 29, 2026

Majority:

1. April 29, 2026, statement by True Source Honey.
2. April 28, 2026, statement by the National Association of State Departments of Agriculture.
3. April 29, 2026, letter to Chairman Griffith from Steve Mister, President and CEO, Council for Responsible Nutrition.
4. April 28, 2026, letter to Chair Guthrie, Ranking Member Pallone, Chair Griffith, Ranking Member DeGette, and Members of the House Energy and Commerce Committee from Emmy Schroder Executive Director La Soupe Cincinnati.
5. April 28, 2026, letter to Chair Guthrie, Ranking Member Pallone, Chair Griffith, Ranking Member DeGette, and Members of the Committee from Chris MacAulay, VP Operations North America, Too Good To Go.
6. April 27, 2026, letter to Chair Guthrie, Ranking Member Pallone, Chair Griffith, Ranking Member DeGette, and Members of the Subcommittee from Daniel Schoonmaker, Executive Director, Michigan Sustainable Business Forum.
7. April 29, 2026, statement by Representative Bryan Steil (WI-01).
8. April 29, 2026, statement by the Institute of Food Technologists.
9. April 28, 2026, statement by the National Fisheries Institute.
10. Summary of H.R. 2300, Preserving Access to Specialized Preterm Infant Formulas, submitted by Rep. Harshbarger.

Minority:

1. April 28, 2026, letter to Chair Guthrie, Chair Griffith, Ranking Member Pallone and Ranking Member DeGette from the Alpha-Gal Alliance Action Fund.
2. April 29, 2026, letter to Chairman Griffith, Ranking Member DeGette, and Members of the Committee from Arjun Ganesan, CEO, Ancera.
3. April 29, 2026, letter to Chairs Guthrie and Latta, and Ranking Members Pallone and DeGette from the Center for Science in the Public Interest.
4. April 29, 2026, statement from Representative DeLauro (CT-03).
5. April 27, 2026, Letter to Chair Guthrie, Ranking Member Pallone, Chair Griffith, Ranking Member DeGette, and Members of the Committee from the Food Recovery Network.
6. April 29, 2026, statement from the Global Cold Chain Alliance.
7. Article from the Environmental Defense Fund entitled “Broken GRAS.”
8. April 29, 2026, statement by the Harvard Law School, Food Law and Policy Clinic.

9. April 27, 2026, letter to Chair Guthrie, Chair Griffith, Ranking Member Pallone and Ranking Member DeGette from the Hunger Network.
10. April 29, 2026, statement from the Institute of Food Technologists.
11. March 10, 2026, article by Jennifer L. Pomeranz, JD, MPH, et al. entitled "Food Ingredients, State Actions, and Federal Preemption."
12. April 28, 2026, statement from La Soupe Cincinnati.
13. April 29, 2026, letter to Chair Guthrie, Chair Griffith, Ranking Member Pallone and Ranking Member DeGette from Jennifer Pomeranz.
14. April 27, 2026, statement by the Michigan Sustainable Business Forum.
15. April 28, 2026, statement by the National Food Recovery Association.
16. April 29, 2026, statement by the Natural Resources Defense Council.
17. April 29, 2026, statement by the Plant-Based Foods Association.
18. October 2024, article by Jennifer L. Pomeranz, JD, MPH, et al. entitled "Regulation of Added Substances in the Food Supply by the Food and Drug Administration Human Foods Program."
19. April 2025, article by Jennifer L. Pomeranz, et al. entitled "Advancing The FDA's Human Foods Program Through Additional Authorities And User Fees."
20. 2019, article by Jennifer L. Pomeranz, JD, MPH, et al. entitled "Harnessing the Power of Food Labels for Public Health."
21. April 28, 2026, letter to Chair Guthrie, Chair Griffith, Ranking Member Pallone and Ranking Member DeGette from Dana Gunders, President, ReFED.
22. April 28, 2026, letter to Chair Guthrie, Chair Griffith, Ranking Member Pallone and Ranking Member DeGette from Liz Miller, Senior Public Affairs Manager, Spoonfuls.
23. April 28, 2026, letter to Chair Guthrie, Chair Griffith, Ranking Member Pallone and Ranking Member DeGette from Chris MacAulay, VP Operations North America, Too Good To Go.
24. April 29, 2026, letter to Chair Guthrie, Chair Griffith, Ranking Member Pallone and Ranking Member DeGette from Alejandro Pérez, Senior Vice President, Policy and Government Affairs, World Wildlife Fund.
25. April 28, 2026, letter to Chair Guthrie, Chair Griffith, Ranking Member Pallone and Ranking Member DeGette from Katie Naessens, Executive Director, Zero Food Waste Coalition.

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The Honey Integrity Act:
Good Intentions but Some Concerns about Unintended Consequences

The U.S. Honey Industry is composed of Beekeepers who produce honey, Importers who source honey internationally and import it to the U.S., and Packers who process and package the honey for sale. Packers will buy both U.S. produced and imported honey to serve the 650-million-pound annual demand, of which 135 million pounds is produced domestically. This honey is sold across Retail, Food Service, and Manufacturing Ingredient segments of the U.S. market.

True Source Honey (TSH) is an industry-created organization with rigorous standards for Traceability and Honey Authenticity and third-party certification administered by the independent auditing company NSF. TSH membership includes 28 Packers, 24 Importers, and 479 U.S. and Canadian Beekeepers. Our certified Packer members represent approximately 225 million pounds, or 35% of the U.S. market. For more information about TSH visit our website at www.truesourcehoney.com.

TSH supports the basic elements of the Honey Integrity Act. As an organization, we require application of the advanced and accredited authenticity testing methods called for in the Act. Independent auditors conduct annual inspections of Packers, reviewing compliance with the standards and collecting samples for validation testing.

TSH has the following concerns with the Honey Integrity Act:

- The Act does not address foreign honey that enters the U.S. which has already been bottled as ready-for-retail packaged goods. If U.S. Packers will be held to these standards with inspections and testing, any foreign bottled products should be held to the same standard. As currently drafted, the Act could result in significant harm to U.S. Packers and the U.S. Honey Industry.
- The regulation/inspection/testing of imported honey should be focused within U.S. Customs and Border Protection (CBP) which has the authority to detain, sample, and test imported honey. Packers and Importers have appealed to CBP to make use of advanced testing methods at this point in the supply chain to disincentivize the importation of adulterated honey, whether bulk for delivery to U.S. Packers or pre-packaged finished goods intended for direct retail sale.
- The U.S. Honey Industry submitted a consensus Standard of Identity, based on the CODEX standard to the FDA (which was subsequently denied by the FDA). This consensus document was developed by every major industry organization across Packers, Importers, and Beekeepers.

Contact Eric Wenger, TSH Chairman, at 620-947-3173 or ewenger@barkmanhoney.com, or Jill Clark, TSH Vice Chair, at 717-393-1716 or jclark@dutchgoldhoney.com, if you have any additional questions about TSH and its certification program.

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The True Source Certified logo appears in retail stores across the U.S. market in both Private Label and Brand products. Retailers who carry products with this logo include Costco, Walmart, Kroger, Publix, Wegmans, and Aldi to name a few of the more prominent retailers.

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April 28, 2026

The Honorable Morgan Griffith
Chairman
Subcommittee on Health
House Committee on Energy and Commerce
United States House of Representatives
Washington, D.C. 20515

The Honorable Diana DeGette
Ranking Member
Subcommittee on Health
House Committee on Energy and Commerce
United States House of Representatives
Washington, D.C. 20515

RE: E&C Health Subcommittee Hearing: "Healthier America: Legislative Proposals on the Regulation and Oversight of Food."

Dear Chairman Griffith and Ranking Member DeGette:

The National Association of State Departments of Agriculture (NASDA) appreciates the opportunity to provide input ahead of the House Energy & Commerce Subcommittee hearing on food regulation and oversight. We are grateful for the Subcommittee's leadership in examining policies that strengthen the safety, resilience, and efficiency of the U.S. food system and food supply.

NASDA represents the elected and appointed commissioners, secretaries, and directors of agriculture in all 50 states and four U.S. territories. State departments of agriculture are co-regulators within the nation's integrated food safety system, working in close partnership with federal agencies to conduct inspections, respond to foodborne illness outbreaks, and help ensure a safe, reliable food supply for all.

Data & Information Sharing: H.R. 8430, Federal and State Food Safety Information Sharing Act of 2026

NASDA supports H.R. 8430 and commends Rep. Rulli (R-OH) and Rep. Ross (D-NC) for their bipartisan leadership in reintroducing this legislation.

NASDA supports authorizing federal agencies to share critical information with state and local partners during outbreak investigations, recalls, and other food emergencies. An effective food safety system depends on real-time coordination across federal, state, and local partners. States conduct the majority of food safety inspections and are often the first to identify and respond to potential foodborne illness outbreaks. However, current limitations on FDA's ability to share key information—particularly food product distribution data—can delay response efforts and increase risks to public health. State and local agencies played a critical role in verifying product removal and protecting consumers at the point of sale, including conducting effectiveness checks to ensure recalled products are removed from the marketplace. Without timely access to this

information, products that pose a risk to consumers can remain on store shelves and in the marketplace.

H.R. 8430 would remove these barriers, improve coordination, reduce duplicative burdens on industry, and ensure that frontline agencies have the information needed to act quickly, particularly during high-risk public health events and recalls.

NASDA urges swift consideration and passage of this legislation.

Federal Preemption

NASDA urges the Subcommittee to carefully consider and exercise caution when evaluating the role of federal preemption in food and ingredient safety policy. Overly broad or under-resourced preemption can unintentionally weaken the integrated food safety system and disrupt long-standing federal–state partnerships critical to food safety.

A strong national framework must be balanced with the ability of state and local agencies to respond to emerging risks and implement programs effectively.

NASDA encourages the Subcommittee to engage state departments of agriculture as co-regulators and key partners when evaluating any preemption proposals to ensure policies remain both consistent and responsive to public health and safety.

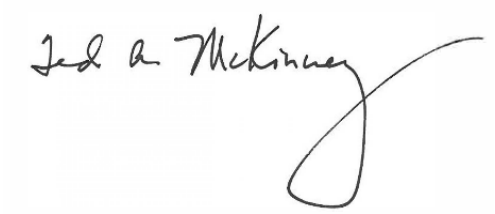
Food Waste – H.R. 4987, Food Date Labeling Act of 2025

NASDA supports H.R. 4987 and commends Rep. Dan Newhouse (R-WA) and Rep. Chellie Pingree (D-ME) for their bipartisan leadership in reintroducing this legislation.

Standardized, voluntary food date labeling is a practical step toward improving consumer understanding and reducing unnecessary food waste. This legislation would establish clear, uniform voluntary standards aligned with NASDA priorities to reduce food waste and strengthen the U.S. food system. It represents a practical, bipartisan opportunity to reduce food waste, lower costs for American households, and improve the efficiency of the U.S. food system, and we urge its timely consideration and passage.

NASDA is ready to work with you on these critical policies and to ensure the safety, resilience, and efficiency of the U.S. food system and food supply are strengthened.

Sincerely,



Ted McKinney
CEO
NASDA

CC: Rep. Brett Guthrie, Chairman, House Energy and Commerce Committee
Rep. Frank Pallone, Ranking Member, House Energy and Commerce Committee

Council for Responsible Nutrition
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Statement for the Hearing Record
Committee on Energy and Commerce
Subcommittee on Health
House of Representatives
Healthier America: Legislative Proposals on the Regulation and Oversight of Food
Wednesday, April 29, 2026
2:00 pm/ 2123 Rayburn

Submitted by the Council for Responsible Nutrition.

Dear Chairman Griffith:

The Council for Responsible Nutrition (CRN)[1] appreciates the opportunity to submit this statement for the record and commends the Subcommittee for holding today's hearing titled "Healthier America: Legislative Proposals on the Regulation and Oversight of Food." We applaud the Committee for addressing these important issues, and look forward to working with you and the other stakeholders to create a healthier America. The food we eat, nutrition, and diet affect every American and we are excited to have the role of dietary supplements be part of this policy discussion.

Dietary supplements are vital to the health and well-being of Americans. A 2022 CRN Foundation Report, "Supplements to Savings," finds dietary supplement use reduces risks associated with various chronic diseases and conditions, including coronary artery disease, osteoporotic fractures, cognitive decline, macular degeneration, early childhood development disorders (as a result of inadequate maternal choline intake), and irritable bowel syndrome. Supplement use not only improves health and reduces the risk of disease but also can reduce

[1] The Council for Responsible Nutrition (CRN), founded in 1973 and based in Washington, D.C., is the leading trade association representing the dietary supplement and functional food industry. Bringing together manufacturers, ingredient suppliers, and service providers, CRN unites its member companies around a shared commitment to science, transparency, and responsible business practices—advancing a strong, credible marketplace that supports consumer health and industry growth.

In an increasingly complex regulatory and media environment, CRN serves as the industry's front line—shaping science-based policy, defending market access, and countering misinformation. Through strategic advocacy, self-regulatory leadership, voluntary guidelines, and evidence-based communications, CRN ensures that responsible companies are recognized, protected, and positioned to innovate and compete. Learn more at crnusa.org and follow @CRN_Supplements on X and LinkedIn.

healthcare spending for subsequent treatment of these diseases.[2] Ensuring that dietary supplement products remain accessible and affordable to all Americans is vital to enhancing public health. This necessity highlights the need for effective federal policy that adds clarity and transparency for dietary supplement manufacturers, regulators, and consumers alike, thus underscoring the importance of many of the proposals being considered by the Subcommittee today.

CRN's member companies are responsible for manufacturing, supplying, and marketing safe and regulated products used by 75 percent of U.S. consumers to promote their health and wellness. The dietary supplement industry is critical to the United States economy, accounting for nearly $159 billion in total economic impact annually and responsible for over 616,000 American jobs throughout the country. Our industry also generates over $9 billion annually in state taxes—money that helps build and supply schools, police and fire departments, roadways, and other projects—and $10.7 billion in federal taxes.[3]

As such, CRN is grateful for the opportunity to address legislation being considered by the Subcommittee. While each listed bill touches on important food and nutrition issues, we would like to focus our comments on those proposals with the most direct impact on the dietary supplement industry.

H.R. 7366, Dietary Supplement Regulatory Uniformity Act

States have been enacting a patchwork of regulations for dietary supplements, which creates burdensome requirements on industry, and increased costs for consumers. That is why CRN strongly supports H.R. 7366, the Dietary Supplement Regulatory Uniformity Act, which reaffirms the United States Food and Drug Administration's (FDA) authority as the national regulator of dietary supplements. Since the passage of the Dietary Supplement Health and Education Act of 1994 (DSHEA), dietary supplements have been regulated under a consistent, science-based federal framework that ensures products are safe, properly labeled, and marketed responsibly. H.R. 7366 reinforces that system by preventing individual states from creating conflicting or duplicative supplement regulations that undermine federal oversight and create confusion for consumers and businesses alike. National uniformity of supplement regulation is needed because states have recently considered, and in many cases advanced, policies that are inconsistent with FDA requirements pertaining to supplements. This creates a "patchwork" of different state laws and regulations, leading to a complex landscape for industry, retailers, and consumers. Some states want to restrict certain safe and regulated ingredients, implement disparate labeling requirements, and mandate unwarranted warning

[2] Frost & Sullivan. (2022). Supplements to Savings: Health care cost savings from the targeted use of dietary supplements, 2022–2030. Council for Responsible Nutrition (CRN) Foundation. Available at: https://www.crnusa.org/sites/default/files/HCCS/00-CRN-Supplements-to-Savings-2022-FullReport.pdf.

[3] CRN Report: Dietary Supplement Companies Pump More Than $158 Billion into U.S. Economy, Up 23% from 2016, https://www.crnusa.org/newsroom/crn-report-dietary-supplement-companies-pump-more-158-billion-us-economy-23-2016.

disclosures. These restrictions and requirements often lack the thoughtful scientific backing and evidence-based decision-making that has been the hallmark of FDA, while undermining the authority of FDA to regulate the market. Inconsistency among federal and state regulations also risks driving up costs and inhibiting the wide availability of products for consumers. H.R. 7366 restores clarity by affirming that only FDA can establish new regulatory requirements for dietary supplements, while still allowing states to petition the agency if they can demonstrate a legitimate local concern. This balanced approach preserves flexibility without sacrificing consistency or scientific rigor. Importantly, the legislation does not prevent states from enforcing identical state versions of federal requirements to supplement federal oversight with their own enforcement resources. CRN urges the Subcommittee to advance this legislation.

Legislation Related to Generally Recognized As Safe (GRAS) Process

Current policy allows manufacturers to self-determine whether a food ingredient is Generally Recognized as Safe (GRAS) and to market GRAS ingredients in food without notifying FDA. Because the federal Food, Drug, and Cosmetic Act recognizes supplements as a category of food,[4] and expressly allows new dietary ingredients that have been present in the food supply,[5] supplement manufacturers sometimes utilize the self-GRAS pathway to bring innovative new ingredients to consumers. Several bills being considered today would make changes to the current process; instead of addressing each proposal one by one, we would like to convey our concerns about drastic changes to the self-GRAS pathway without careful consideration of unintended consequences.

CRN believes it is critical for FDA to focus on strengthening enforcement mechanisms to ensure the GRAS process is used *responsibly, without dismantling what is currently working.* CRN shares the goal of increasing safety and transparency for consumers and stands ready to work with FDA to achieve it. The solution should not be to eliminate self-GRAS, which would stifle innovation, but to provide FDA with the resources and tools it needs to maintain an effective regulatory system that fosters both safety and progress. As FDA plans to issue its Notice of Proposed Rulemaking, we look forward to working with the agency and Congress on a long-term policy that retains innovation while ensuring safety for consumers.

CRN's members have developed a proposal for a federal, FDA-administered, public-facing registry of GRAS ingredients that would require companies to provide basic information about their self-GRAS ingredients to the agency (e.g., ingredient name, description, intended uses, basis for safety conclusions, etc.). Such a registry of GRAS ingredients would provide accountability for a company's use of an ingredient and its safety determinations as well as a degree of transparency for FDA and consumers alike.

[4] 21 U.S.C. § 321(ff).
[5] 21 U.S.C. § 350b(a)(1).

In addition to proposals at the federal level, several state governments are moving policies that would alter the GRAS process; some would effectively eliminate self-GRAS altogether. Such proposals are duplicative and undermine the current federal safety framework, further underscoring the need for preemption legislation found in H.R. 7366, the Dietary Supplement Regulatory Uniformity Act.

H.R. 8370, Dietary Supplement Listing Act of 2026

CRN has long championed the creation of a federal mandatory dietary supplement registry, and thus welcomes the introduction of H.R. 8370, the Dietary Supplement Listing Act of 2026. DSHEA established dietary supplements as a new product category regulated by FDA and gave FDA authority to oversee the safety of these products while preserving consumer access. The dietary supplement industry has since expanded under this balanced framework — growing from a $4 billion industry in 1994 to over $65 billion today. However, FDA's tools to provide effective oversight have failed to keep up with the growing marketplace. DSHEA needs several modernizing changes to keep pace with this dynamic market, most notably, a mandatory registry.

This legislation, along with S. 3677 introduced by Senator Durbin, provides a good starting point. Manufacturers and marketers would be required to give FDA a copy of their product labels and basic information about the supplement whenever they introduce a new product. This provides FDA and other regulators, retailers, and consumers with a resource to identify products, their ingredients, and the companies who market them. CRN supports these efforts and looks forward to working with sponsors in both chambers to enhance transparency in the supplement marketplace. It should be noted that a product registry in no way equates to premarket approval; the legislation expressly states that entry of product labels into the registry is not meant to confer pre-market review of dietary supplements on FDA. However, it does accomplish the needed goal of guaranteeing consumer transparency and confidence.

CRN has already demonstrated that a transparent reporting system is effective and achievable without imposing undue burdens on manufacturers. We have created and maintain a public dietary supplement database where we require our member companies to list their products and labels. This database, known as the ***Supplement Online Wellness Library*** (or "Supplement OWL"),[6] is an industry-wide, self-regulatory initiative that serves as a resource for audiences to research dietary supplements, their ingredients, and marketers, and permits registry users to examine and evaluate labels and other product information. The OWL also includes manufacturing and packaging facility contact information, accessible only to FDA users. These features allow regulators to readily identify and contact manufacturers and/or packagers if there is a safety concern identified with a particular ingredient. It is simple to use and provides

[6] See https://supplementowl.org/.

consumers with confidence that products are safe, thus serving as a model for what a federal registry could achieve.

H.R. 2511, Sarah Katz Caffeine Safety Act

CRN prioritizes consumer safety and has consistently acted to assist with the removal of harmful products from commerce. CRN also encourages industry to take additional steps to ensure responsible use of products. Understanding concerns around misuse of caffeine, which are highlighted in H.R. 2511, the Sarah Katz Caffeine Safety Act, CRN created Voluntary Guidelines for its members and other dietary supplement companies regarding caffeine-containing dietary supplements.[7] These guidelines recommend that companies disclose the amount of caffeine in a dietary supplement, provide label advisories about safe use of these products, and refrain from sale under certain conditions, such as refraining from marketing caffeine-containing dietary supplements in combination with alcohol and refraining from sale of supplements in certain forms that FDA has considered dangerous due to potential misuse of the products.

Next Steps

CRN pledges to work with the Subcommittee on these and future legislative efforts that promote safety and transparency, while ensuring Americans have access to high-quality and affordable dietary supplements to improve their overall health. We are happy to answer any questions and meet with the Subcommittee to discuss these issues in further detail.

Sincerely,

Steve Mister
President & CEO

[7] CRN Recommended Guidelines for Caffeine-Containing Dietary Supplements, https://www.crnusa.org/sites/default/files/pdfs/CRN-RecommendedGuidelinesCaffeine0618.pdf.

La SOUPE CINCINNATI

Bridging the gap between food waste and food insecurity

April 28, 2026

The Honorable Brett Guthrie
Chair, House Energy and Commerce Committee
United States House of Representatives
Washington, DC 20515

Re: Support for Markup of the Food Date Labeling Act

Dear Chair Guthrie, Ranking Member Pallone, Chair Griffith, Ranking Member DeGette, and Members of the House Energy and Commerce Committee,

On behalf of La Soupe, a Cincinnati and Northern Kentucky based nonprofit dedicated to bridging the gap between food waste and hunger, I write in strong support of the Food Date Labeling Act (H.R.4987) and urge the Committee to move it forward in markup in the Energy and Commerce Subcommittee on Health's Hearing entitled *Healthier America: Legislative Proposals on the Regulation and Oversight of Food*. This commonsense, bipartisan legislation would standardize food date labels nationwide, prevent the needless disposal of safe, wholesome food, and meaningfully reduce food costs and increase access for families.

La Soupe works at the intersection of food waste and food security in Greater Cincinnati, partnering each week with grocers, distributors, and farms across the region. Through that work, we see firsthand how confusing and inconsistent date labels can be. For example, "sell by," "best by," "enjoy by," and dozens of other variations cause households to throw away perfectly safe food they have already paid for. Research from ReFED and the Harvard Food Law and Policy Clinic estimates that label confusion alone drives roughly seven percent of consumer food waste, costing American families billions of dollars every year.

The Food Date Labeling Act offers a clear, evidence-based fix. By establishing a uniform two-label system: "Best If Used By" for quality and "Use By" for the narrow set of products with genuine safety concerns, the bill puts money back in the pockets of American families. The average household of four currently throws away an estimated $1,500 in food each year, and label confusion is one of the largest preventable drivers of that loss. Clear, consistent labels mean consumers stop discarding safe, wholesome food they have already paid for.

Equally important, this bill cuts red tape for businesses. Today, food manufacturers, distributors, and retailers must navigate a fragmented patchwork of state date-labeling laws with conflicting requirements, prohibited phrases, and inconsistent rules on the sale or donation of past-date products. That complexity raises compliance costs, complicates interstate commerce, and ultimately gets passed through to consumers at the checkout. A single, preemptive federal standard replaces dozens of competing state regimes with one predictable rule, lowering costs across the supply chain while giving every shopper in America the same clear information.

We respectfully urge the Committee to advance the Food Date Labeling Act through markup without delay and pass the bill into law. Thank you for your leadership on this critical issue. Please do not hesitate to contact me if La Soupe can serve as a resource as the bill moves forward.

Sincerely,

Emmy Schroder

Emmy Schroder
Executive Director
La Soupe Cincinnati
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Tuesday 28th April 2026

The Honorable Brett Guthrie
Chair, Subcommittee on Health
House Committee on Energy and Commerce
2125 Rayburn House Office Building
Washington D.C. 20515

The Honorable Morgan Griffith
Chair Subcommittee on Oversight and Investigations
House Committee on Energy and Commerce
2125 Rayburn House Office Building
Washington, D.C. 20515

The Honorable Frank Pallone, Jr.
Ranking Member
House Committee on Energy and Commerce
2322 Rayburn House Office Building
Washington, D.C. 20515

The Honorable Diana DeGette
Ranking Member Subcommittee on Health
House Committee on Energy and Commerce
2322 Rayburn House Office Building
Washington, D.C. 20515

RE: Support for the Food Date Labeling Act (H.R. 4987) – Hearing on "Healthier America: Legislative Proposals on the Regulation and Oversight of Food"

Dear Chair Guthrie, Ranking Member Pallone, Chair Griffith, Ranking Member DeGette, and Members of the Committee:

On behalf of Too Good To Go, I am writing to express our strong support for the Food Date Labeling Act (H.R. 4987). We appreciate the Subcommittee on Health holding this timely hearing, "Healthier America: Legislative Proposals on the Regulation and Oversight of Food," and we respectfully urge the committee to proceed to a markup of the Food Date Labeling Act and pass the bill into law.

At Too Good To Go, we operate a multi-country e-commerce marketplace that partners with third-party businesses, from local bakeries to major grocery chains, to sell their surplus, unsold food directly to consumers at a discount. We sit at the intersection of retail operations, consumer behavior, and sustainability. From this vantage point, we see firsthand how the current, fragmented system of food date labeling acts as a massive regulatory bottleneck that stifles business revenue, burdens consumers, and generates completely avoidable waste.

Our global experience has shown us that the current patchwork of date labeling is one of the most significant, yet most solvable, drivers of household food waste..

The cost of confusion

In the US currently, there are no federal standards for date labels on food. This has resulted in an array of phrases including "Sell By," "Use By," "Best Before," and "Enjoy By." Nearly 4 million tons of food waste are generated annually in the U.S. due to consumer and retailer confusion over these dates.

This confusion carries a heavy price tag:

- **For Families:** The average American family of four spends roughly $1,500 a year on food that ends up in the trash, often because they mistakenly believe a "Best If Used By" date is a hard safety deadline.
- **For Businesses:** Retailers are often forced to discard perfectly safe products to comply with inconsistent state-level regulations or out of fear of liability, hampering supply chain efficiency.
- **For the Environment:** When food is wasted, all the water, land, and energy used to produce it are also wasted. Food waste is responsible for roughly 6% of U.S. greenhouse gas emissions.

Too Good To Go's experience and expertise

At Too Good To Go, across 15 countries in Europe and Canada we have launched the "Look, Smell, Taste" initiative to help consumers understand that for the vast majority of shelf-staple and produce items, the date on the package is an indicator of quality, not safety. However, our educational efforts can only go so far when the regulatory environment is designed for confusion.

We see the impact of this daily. We have seen partners hesitate to list surplus items on our marketplace because they are unsure of the legal distinction between a "Sell By" date and a "Best If Used By" date. By standardizing labels to "Best If Used By" for quality and "Use By" for safety, H.R. 4987 provides the clarity that businesses need to donate or sell surplus food with confidence.

A win-win-win solution

The Food Date Labeling Act addresses multiple national priorities simultaneously:

- **Economic Efficiency:** It streamlines interstate commerce by replacing 41 different state labeling laws with one federal standard, reducing the regulatory burden on food producers.
- **Food Security:** By making it easier for businesses to donate food that is past its "quality" date but still perfectly safe, we can help close the gap for the millions of Americans facing food insecurity.
- **Personal Responsibility:** It empowers consumers with clear, actionable information, allowing them to make informed decisions about the food they buy and eat.

The Food Date Labeling Act is one of the most cost-effective solutions available to reduce food waste and lower grocery bills for American families. It is time for a uniform, common-sense approach to how we date our food.

We thank the Committee for its leadership on these critical health and oversight issues and strongly encourage you to move H.R. 4987 forward to a markup.

Sincerely,

Chris MacAulay
VP Operations North America
Too Good To Go

Michigan Sustainable Business Forum

April 27, 2026

Submitted to:

Chair Brett Guthrie — Ranking Member Frank Pallone

Chair Morgan Griffith — Ranking Member Diana DeGette

Members of the House Energy and Commerce Subcommittee on Health

RE: Statement for the Record - Hearing on "Healthier America: Legislative Proposals on the Regulation and Oversight of Food"

Support for the Food Date Labeling Act (H.R. 4987)

Dear Chair Gurthie, Ranking Member Pallone, Chair Griffith, Ranking Member DeGette, and Members of the Subcommittee:

On behalf of Michigan Sustainable Business Forum (MiSBF), we appreciate the opportunity to submit this statement for the record in support of the Food Date Labeling Act (H.R. 4987).

MiSBF is a statewide nonprofit organization that engages businesses, institutions, and community partners to advance practical, scalable sustainability solutions. A central focus of our work is reducing food loss and waste while strengthening systems that redirect surplus food to people in need. Through initiatives such as the Michigan Food System Waste Reduction Roadmap and our ongoing Double Food Donation campaign, we work closely with food businesses, food banks, food rescue organizations, and public agencies across Michigan.

Confusion around food date labels is one of the most persistent and solvable drivers of food waste in the United States. The current patchwork of labeling practices (inconsistent phrases such as "sell by", "best by", and "use by")[2] creates uncertainty for consumers and operational challenges for businesses and institutions. This confusion leads to the premature disposal of safe, wholesome food.

[1] ReFED: How Confusing Food Date Labels are Hitting Your Wallet: Five Things To Know About Food Date Labels, Consumer Behavior, and Policy

[2] Zero Food Waste Coalition: Widespread Industry Support for the Food Date Labeling Act of 2025

The FDA also estimates that confusion over date labeling accounts for approximately 20 percent of consumer food waste[3]. ReFED similarly identifies date label confusion as a major driver of household food waste and estimates that it contributes to millions of tons of wasted food annually, with significant costs to households and businesses[4].

This is not just a consumer education issue; it is a systems issue that affects supply chains, donation practices, and organizational decision making.

MiSBF's work with food donors and recovery organizations highlights how date labeling confusion directly limits the effectiveness of food rescue efforts. Food businesses often err on the side of caution, discarding items earlier than necessary due to unclear or inconsistent labels. Similarly, donation partners may decline items out of concern for compliance or perceived risk.

Standardizing date labels would increase confidence among food donors and recipients, improve consistency in food handling and donation practices, and unlock additional volumes of safe, nutritious food for redistribution. In Michigan, where we are working to significantly increase the amount of food donated into the charitable food system, addressing labeling confusion is a critical upstream intervention.

The Food Date Labeling Act represents a commonsense, bipartisan solution with wide-ranging benefits. Reducing unnecessary food disposal can lower costs for households and businesses, improve operational efficiency, and conserve the substantial land, water, and energy resources used to produce food. FDA estimates that 30 to 40 percent of food in the United States goes uneaten and notes that food waste has significant environmental and economic consequences.[5]

Importantly, standardized labeling also complements existing federal protections, such as the Bill Emerson Good Samaritan Food Donation Act, by reinforcing confidence in donation practices.

Through MiSBF's statewide initiatives, we engage hundreds of stakeholders across the food system, including businesses, institutions, and food recovery organizations. Our experience demonstrates that while education and outreach are essential, structural clarity (such as standardized labeling) is necessary to drive lasting change at scale.

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[3] U.S. FDA: How to Cut Food Waste and Maintain Food Safety
[4] ReFED: How Confusing Food Date Labels Are Hitting Your Wallet: Five Things to Know About Food Date Labels, Consumer Behavior, and Policy
[5] U.S. FDA: How to Cut Food Waste and Maintain Food Safety

The Food Date Labeling Act would provide that clarity, supporting both private sector efficiency and public-benefit outcomes.

For these reasons, Michigan Sustainable Business Forum respectfully urges the Committee to proceed to a markup of the Food Date Labeling Act and to advance this legislation toward passage.

We appreciate your leadership in addressing food system challenges through practical, evidence-based policy solutions and stand ready to support continued efforts to reduce food waste and strengthen food recovery systems.

Sincerely,

Daniel Schoonmaker
Executive Director
Michigan Sustainable Business Forum

April 29, 2026

Statement from Representative Bryan Steil (WI-01)
House Committee on Energy and Commerce Subcommittee on Health
"Healthier America: Legislative Proposals On The Regulation And Oversight of Food"

Chair Guthrie, Ranking Member Pallone, Subcommittee Chair Griffith, and Subcommittee Ranking Member DeGette, I write to thank you and express my support for holding today's important hearing on improvements to food regulations in the United States.

I greatly appreciate the opportunity to have my bill, the Codifying Useful Regulatory Definitions (CURD) Act (H.R. 1394), included in today's hearing. I am grateful to Representatives Miller-Meeks, Fulcher, and Tonko on the Energy and Commerce Committee, as well as the broad support from a bipartisan group of Members of Congress across the nation, for their support of the CURD Act. Today's hearing marks an important step towards passing this important legislation into law.

As you may know, the CURD Act would create a statutory definition for "natural cheese" in federal law. This bipartisan legislation would provide certainty and clarity to dairy farmers, cheese producers, and American consumers where certainty currently does not exist. Providing a distinction between "natural cheese", made from dairy and using traditional cheesemaking practices, and "process cheese" would eliminate any confusion about what consumers are buying.

Wisconsin is America's Dairyland, producing more than 3 billion pounds of cheese annually. Creating a clear definition of natural cheese would protect the dairy and cheese industries, provide the Food and Drug Administration with the tools it needs to properly regulate cheese products, and help consumers make informed decisions.

I am very encouraged to see continued interest in this issue from leadership at the Energy and Commerce Committee. Since its introduction in 2019, the CURD Act has received broad support from industry stakeholders and Members of Congress on both sides of the aisle. The FDA has also provided technical assistance in the drafting and revision of the CURD Act, meaning that this legislation effectively addresses the needs of both stakeholders and regulators. I encourage this committee to include the CURD Act in a future markup hearing. Moving this legislation forward as quickly as possible will provide clarity in this space and enable the FDA to regulate this industry in accordance with long-time cheesemaking standards.

Thank you again for holding this important hearing today and for including the CURD Act in your discussion. I look forward to continuing to work with you all to enact the CURD Act into law.

April 29, 2026

Statement for the Record

House Energy & Commerce Health Subcommittee Hearing

Healthier America: Legislative Proposals on the Regulation and Oversight of Food

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The Institute of Food Technologists (IFT) is thankful for the opportunity to provide comments on the House Energy & Commerce Health Subcommittee hearing titled, "Healthier America: Legislative Proposals on the Regulation and Oversight of Food". For more than 80 years, IFT has brought together a diverse community of scientists, technologists, and professionals working in academia, industry, and government to ensure that our food supply is safe, nutritious, sustainable, and accessible. Our members span disciplines including chemistry, microbiology, engineering, nutrition, and data science – all fields that converge to support a modern, resilient food system.

IFT welcomes the growing interest among policymakers in strengthening the nation's food system and improving healthfulness across the nation. To that end, **IFT commends the Health Subcommittee for holding this important discussion of strong legislative proposals to improve the health of American consumers, families, and children.** This renewed focus presents a critical opportunity: to ensure that food science expertise is meaningfully integrated into policy development and implementation.

This new focus on a Healthier America necessitates strong investments in interdisciplinary food science research. Whether addressing microbial risks, improving nutrient retention, studying food additive safety, exploring formulary or processing health impacts, reducing food waste, or advancing new technologies such as precision fermentation, food scientists play a central role in delivering outcomes that directly impact consumers. As such, **the inclusion of food science perspectives is not optional; it is essential to effective policymaking.**

A strong example of this interdisciplinary approach can be seen in the work surrounding H.R. 8432, introduced by Congresswoman Diana DeGette (CO-01). IFT strongly supports the establishment of a Human Foods Innovation Account to accelerate essential research activities within the Food and Drug Administration (FDA). We also support the concept of an Advisory Committee on Human Foods, though Sec. 3(c) should be revised to ensure that statute directs the Committee to have members with specific expertise in food science and production, not solely nutrition, food safety, etc.

Additionally, removing barriers to expedite information sharing and adoption of traceability best practices as they support food safety and public health, is another example of the critical importance of food science, safety and traceability. **The effort to improve information sharing between federal and state authorities to protect public health, as seen in H.R. 8430, The**

Federal and State Food Safety Information Sharing Act, introduced by Congresswoman Deborah Ross (NC-02) and Congressman Michael Rulli (OH-06), is a needed step in supporting the application of traceability best practices across agencies. IFT is home to the Global Food Traceability Center (GFTC) and committed to supporting interoperable traceability standards to improve food safety and public health.

Equally important as the bills highlighted is the broader context in which this and the legislation before this hearing today have emerged. IFT and food scientists across the country welcome the renewed national focus on building a healthier America. The challenge of delivering safe, nutritious, and affordable food at scale is solvable, but only through sustained collaboration with Congress, the Administration, and other key partners.

IFT stands ready to serve as a trusted resource to policymakers, regulators, and stakeholders. Our members bring deep technical expertise and real-world experience across the entire food system – from production and processing to safety, nutrition, and innovation. We are committed to advancing evidence-based, practical solutions that protect public health while supporting a dynamic and resilient food sector. Meaningful progress will require strong partnerships across government, academia, and industry.

In closing, we commend the growing attention to food policy and its central role in the nation's well-being. We encourage policymakers to build on this momentum by fully integrating food science expertise into policy development and implementation. By leveraging the insights of food scientists, we can strengthen the food system, enhance public trust, and deliver healthier outcomes for all Americans.

Sincerely,

Anna Rosales

Anna Rosales, RD
Vice President – Science & Policy
Institute of Food Technologists

NATIONAL FISHERIES INSTITUTE

April 28, 2026

The Honorable Morgan Griffith
Chairman
Subcommittee on Health
United States House of Representatives
2125 Rayburn House Office Building
Washington, D.C. 20515

The Honorable Diana DeGette
Ranking Member
Subcommittee on Health
United States House of Representatives
2125 Rayburn House Office Building
Washington, D.C. 20515

Dear Chairman Griffith and Ranking Member DeGette:

On behalf of the over 300 members of the National Fisheries Institute (NFI), we are writing in connection with your Committee's April 29 Legislative Hearing on H.R. 3324, the *Safer Shrimp Imports Act*, introduced by Reps. Mike Ezell and Troy Carter.

For 80 years, NFI has been the leading voice for the seafood industry as America's largest seafood trade association. Our members span the entire seafood value chain—from domestic harvesters, growers, processors, importers, and exporters to distributors, cold storage providers, retailers, and seafood restaurants. The industry accounts for over 1.6 million U.S jobs and provides American families with tens of millions of delicious, sustainable seafood meals every year.

NFI and its member companies are steadfast advocates for the safety of both domestic and imported seafood, actively promoting industry initiatives and regulatory measures to ensure Americans have access to safe and wholesome products. NFI played a pivotal role in fostering adoption of FDA's Seafood Hazard Analysis and Critical Control Points (Seafood HACCP) regulatory system and creation of the Seafood HACCP Alliance.

All shrimp imported into the U.S. must be produced in accordance with seafood HACCP requirements under 21 CFR Part 123, with importers responsible for verifying that foreign suppliers are operating in compliance. These shipments are screened by FDA at U.S. Ports of Entry using the agency's PREDICT (Predictive Risk-based Evaluation for Dynamic Import Compliance Targeting) system, which applies risk-based analytics to prioritize higher-risk entries while facilitating the clearance of compliant products. When a food safety concern is identified, FDA's framework enables rapid traceability and targeted response across the supply chain. Where warranted, FDA can place firms or products on Import Alert, resulting in detention without physical examination and shifting the burden to the importer to demonstrate compliance, typically through private laboratory analysis.

In light of these advances, H.R. 3324 takes the wrong approach. Both domestic and imported shrimp have consistently maintained a strong food safety record, with seafood of all types accounting for 0.31 percent of overall reported foodborne illnesses[1]. Though well-resourced, FDA does not have the funds to hire thousands of auditors and technical staff, sending them to foreign capitals to develop comparability arrangements with dozens of foreign governments for one type of food, especially where, as discussed above, a time-tested food safety system is already in place. It is counterproductive to direct increased enforcement efforts solely toward shrimp; this ultimately ties FDA's hands, forcing the agency to divert resources away from areas which may require closer attention.

This legislation will not enhance food safety outcomes but instead will impose unnecessary burdens with no benefit for anyone. FDA will not be able to meet the bill's 180-day deadline for comparability arrangements with all major producing nations, resulting in across-the-board embargoes. Embargoing even a few major producing nations will immediately trigger a run on available product; indeed, merely enacting the legislation will push prices sky high, as processors and distributors rush to buy as much product as possible before the deadline. This will diminish access to an affordable and healthy protein source for many Americans, at a time when they are struggling to absorb higher food, fuel, and other costs of living—and when the Trump Administration is urging Americans to eat three or more servings of finfish and shellfish each week. This will in turn cause job losses for U.S. seafood workers reliant on globally-sourced shrimp, from retailers to the workers at the seafood restaurant.

We hope to continue to work with the Committee to help ensure that shrimp and other seafood products continue to be a safe and healthy option for all. We encourage the Committee to carefully consider the broader implications of this legislation on both the seafood industry and consumers. As regulatory issues related to FDA and seafood safety are addressed, NFI and its member companies stand ready to assist the Committee, so that collectively we can maintain access to a consistent supply of a variety of safe and affordable seafood products for American families.

Thank you for your time and consideration of our views.

Sincerely,

Lisa Wallenda Picard
President and CEO

[1] U.S. Centers for Disease Control and Prevention. 2017. *Outbreaks of Disease Associated with Food Imported into the United States, 1996–2014:*Emerging Infectious Diseases, Volume 23, Number 3: https://wwwnc.cdc.gov/eid/article/23/3/16-1462_article

H.R. 2300, Preserving Access to Specialized Preterm Infant Formulas

Over the last couple of years, a growing number of pediatric physicians, public health officials and policymakers have expressed grave concerns about the potential for a public health crisis in neonatal care and neonatal nutrition across the country caused by the flood of litigation against the only two U.S. manufacturers of cow-based specialized preterm infant formula — which is sold only to hospitals and doctors, and only available in doctor-supervised settings. These suits attempt to attribute the use of preterm infant formula to necrotizing enterocolitis (NEC) despite agreement among neonatology experts and public health officials that there is a lack of evidence to support this association.

NEC is a devastating intestinal inflammatory disease which affects approximately one in ten very low birthweight babies. The cause of NEC is not fully understood, although a premature baby's underdeveloped digestive system lends itself to the occurrence of the disease. While using human breast milk to feed preterm infants may reduce the risk of NEC, it does not eliminate this risk.[1] For many infants, human milk is not available making the use of special formulas designed for preterm infants an essential source of nutrition.

On September 16, 2024 the National Institutes of Health (NIH) released a report to the Secretary of the U.S. Department of Health and Human Services regarding the latest research regarding NEC.[2] And on October 3, 2024 the FDA, CDC, and NIH summarized the findings from that report in a consensus statement [3], noting that preterm infant formula is "part of the standard of care" for preterm infants when milk is not available or insufficient, and that there is "**no conclusive evidence that preterm infant formula causes NEC**."[4] The consensus statement further references that available evidence "supports the hypothesis that it is the absence of human milk — rather than the exposure to formula — that is associated with an increase in the risk of NEC."[5]

Despite this scientific evidence, unfortunately two recent lawsuits resulting in verdicts of $60 million against one manufacturer, and $495 million against another, have galvanized nearly 1,000 similar legal actions against makers of these specialized formulas for preterm infants, raising widespread alarm from doctors who fear that the lawsuits could jeopardize the formulas' availability or inappropriately influence medical decisions.

The downstream effects of current product litigation are dire. Currently, only two companies make cow-based preterm infant formulas in the United States and they could decide to exit the market. Should that happen, many experts believe the absence of these products would put the health and safety of preterm infants at risk.

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[1] *AAP Statement in Response to NEC Lawsuit Verdicts,* July 27, 2024, https://www.aap.org/en/news-room/news-releases/aap/2024/aap-statement-in-response-to-nec-lawsuit-verdicts/?_ga=2.230279455.2087012245.1725386030-143319405.1725386030

[2] The NEC Working Group of Council, a subgroup of NICHD's National Advisory Child Health and Human Development Council (NACHHD), was created in response to a U.S. Department of Health and Human Services request to evaluate the current state of the science on enteral nutrition and NEC in preterm infants. *Necrotizing Enterocolitis (NEC) Working Group of Council,* September 16, 2024, https://www nichd.nih.gov/sites/default/files/inline-files/2024.09.16_NEC_WG_report_FINAL.pdf

[3] FDA, CDC, NIH Consensus Statement on Recent Advisory Council Report on Premature Infants and Necrotizing Enterocolitis | HHS.gov; press release, October 3, 2024.

[4] *Ibid.*

[5] NEC Working Group of Council / NACHHD NEC Report to Secretary, Department of Health and Human Services, September 16, 2024, https://www nichd nih.gov/sites/default/files/inline-files/2024.09.16_NEC_WG_report_FINAL.pdf

H.R. 2300 aims to avert another infant formula crisis in the U.S. by providing a limited, narrowly tailored two-year federal preemption of state civil actions against preterm infant formula manufactures. During this time period, **H.R. 2300** also directs the FDA to conduct a study on the current preterm infant formula market and to make recommendations to Congress on possible regulatory frameworks to stem the tide of lawsuits that could destroy the availability of preterm infant formula and human milk fortifiers.

In doing so, the legislation would:

1. Ensure that doctors have all possible nutritional tools as they care for premature babies, and would protect the supply of preterm infant formula that is desperately needed to sustain the lives of preterm babies.
2. Give FDA an opportunity to develop a comprehensive approach to preterm formula, that would account for health and safety concerns through sound science.
3. Ensure that medical decisions are made in doctor's offices, not in courtrooms, and temporarily preclude unfounded lawsuits against providers and manufacturers of preterm infant formula.
4. Strengthen and solidify the supply chain of preterm infant formula while FDA studies the issue, and works with Congress on a pathway forward.

There are numerous clear precedents where Congress has stepped in to prevent litigation threatening the viability of industries, by preempting state liability and regulatory actions.

- In 2020 Congress passed the Families First Coronavirus Response Act which contained a provision to provide manufacturers of N95 respiratory face masks liability immunity when selling certain masks to healthcare workers [6], in response to a severe shortage of respiratory protective equipment during the COVID public health emergency.[7]
- The FY 2024 omnibus appropriations law stated that any food product labeled "healthy" during the period between the effective date and the compliance date of the FDA's Healthy Rule shall not be subject to state law requirements.[8] The FY 2018 omnibus appropriations law also contained language stating that no partially hydrogenated oil or food containing it shall be deemed unsafe prior to the compliance date of the FDA's order.[9]
- In 2007, Congress passed the Credit and Debit Card Receipt Clarification Act,[10] which amended FCRA to provide four and a half years' retroactive immunity from liability for all then-pending Fair and Accurate Credit Transactions Act (FACTA) expiration dates. This resulted in the dismissal of many FACTA class actions.

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[6] P.L. 116-127; Division F, SEC. 6005.

[7] https://www.washingtonpost.com/business/2020/03/19/change-us-law-will-make-millions-more-masks-available-doctors-nurses-white-house-says/

[8] Consolidated Appropriations Act, 2024 (P.L. 118-42); Division B, Title VII, SEC. 745.

[9] Consolidated Appropriations Act, 2018 (P.L. 115-141); Division A, Title VII, SEC. 738.

[10] P.L. 110-241

April 28, 2026

The Honorable Brett Guthrie
Chairman
House Energy and Commerce Committee
2125 Rayburn House Office Building
Washington, D.C. 20515

The Honorable Morgan Griffith
Chairman, Health Subcommittee
House Energy and Commerce Committee
2125 Rayburn House Office Building
Washington, D.C. 20515

The Honorable Frank Pallone
Ranking Member
House Energy and Commerce Committee
2323 Rayburn House Office Building
Washington, D.C. 20515

The Honorable Diana DeGette
Ranking Member, Health Subcommittee
House Energy and Commerce Committee
2323 Rayburn House Office Building
Washington, D.C. 20515

Re: AAAF Statement for the Record for House Energy and Commerce Health Subcommittee Legislative Hearing - "Healthier America: Legislative Proposals on the Regulation and Oversight of Food" on Wednesday, April 29, 2026

On behalf of the Alpha-gal Alliance Action Fund (AAAF)—a nonprofit dedicated to advancing policy solutions that improve the lives of people with alpha-gal syndrome, the Alpha-gal Foundation, Alpha Gal Encouragers, and the International FPIES Association, thank you for your continued support and for holding this important hearing on legislation focused on regulation and oversight of food.

AAAF and our partner organizations are supportive of the Alpha-gal Allergen Inclusion Act, H.R. 1178, which modernizes federal allergen labeling law by amending the Federal Food, Drug, and Cosmetic Act to add alpha-gal to the definition of "major food allergen". This is needed to protect individuals affected by alpha-gal syndrome—a uniquely severe, rapidly growing tick-associated allergy that affects at least half a million Americans and remains the only top-ten food allergy not yet formally recognized as a major food allergen.

Background

Alpha-gal syndrome is an emerging, tick bite-associated allergy to the carbohydrate galactose-α-1,3-galactose, also known as alpha-gal.[1] This sugar is found in most mammals, some red algae, and in products derived from them.[1,2] AGS is caused by tick bites, most commonly from the lone star tick, whose populations are exploding and whose geographic range is

[1] Commins SP. Diagnosis & management of alpha-gal syndrome: lessons from 2,500 patients. *Expert Rev Clin Immunol*. 2020;16(7):667-677. doi:10.1080/1744666X.2020.1782745

[2] Tobacman JK. The common food additive carrageenan and the alpha-gal epitope. *J Allergy Clin Immunol*. 2015;136(6):1708-1709. doi:10.1016/j.jaci.2015.08.048 increase

expanding.[1,3,4] Individuals with AGS can experience severe and sometimes life-threatening reactions to a wide range of exposures, including foods, medical products, and other products made from mammals or containing mammal-derived ingredients or the red algae derivative carrageenan.[1]

The FASTER Act established evidence of prevalence and severity of allergic reactions as the scientific criteria for defining a food or food ingredient as a "major food allergen."[5] By these criteria, alpha-gal clearly warrants inclusion.

Prevalence

The Centers for Disease Control and Prevention (CDC) has identified AGS as a growing threat to public health.[6] When it was first described in 2009, only 24 cases of AGS had been identified. Since then, the number of AGS cases has continued to grow exponentially. In 2023, the CDC estimated that up to 450,000 Americans were affected, with approximately 15,000 new cases annually.[5] This data is now outdated. Lack of nationwide surveillance impedes our understanding of the current prevalence of AGS. However, emerging data from new state-level surveillance, only initiated in 2025, offer some insight. For example, provisional data from Virginia and Kentucky now suggest an estimated 25,000 and 18,000 suspected annual cases, respectively. Together, the total of annual suspected cases in these two states alone far exceeds the CDC's earlier estimate *for the whole nation*.[7,8,9]

Moreover, new data from a study of 3,000 military recruits suggest that in some regions, including large areas of the South, Midwest, and East Coast, three percent or more of the population is affected.[10,11] Even using the earlier CDC estimate, AGS is the tenth most common food allergy in the United States and by far the most common allergen not disclosed on food labels.[5,12,13]

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[3] Raghavan RK, Peterson AT, Cobos ME, Ganta R, Foley D. Current and Future Distribution of the Lone Star Tick, Amblyomma americanum (L.) (Acari: Ixodidae) in North America. *PLoS One*. 2019;14(1):e0209082. doi:10.1371/journal.pone.0209082

[4] Springer YP, Jarnevich CS, Barnett DT, Monaghan AJ, Eisen RJ. Modeling the present and future geographic distribution of the lone star tick, Amblyomma americanum (Ixodida: Ixodidae), in the continental United States. Am J Trop Med Hyg. 2015;93(4):875-890.

[5] FASTER Act. PLAW-117publ11.pdf.Accessed April 26, 2026. https://www.congress.gov/bill/117th-congress/senate-bill/578

[6] Thompson JM, Carpenter A, Kersh GJ, Wachs T, Commins SP, Salzer JS. Geographic distribution of suspected alpha-gal syndrome cases - United States, January 2017-December 2022. *MMWR Morb Mortal Wkly Rep*. 2023;72(30):815-820. doi:10.15585/mmwr.mm7230a2

[7] Virginia Department of Health, personal communication, February 22, 2026

[8] Kentucky Department for Public Health, personal communication, March 17, 2026

[9] Goldstein J. It Begins as a Tick Bite and Can Be Devastating. And It's Spreading. *The New York Times*. https://www.nytimes.com/2026/03/25/nyregion/alpha-gal-meat-allergy-deaths.html. March 25, 2026. Accessed April 26, 2026.

[10] Ailsworth SM, Susi A, Workman LJ, et al. Alpha-gal IgE prevalence patterns in the United States: An investigation of 3,000 military recruits. *J Allergy Clin Immunol Pract*. 2024;12(1):175-184.e5. doi:10.1016/j.jaip.2023.10.046

[11] Richards N, Keshavarz B, Workman L, Patel J, Platts-Mills T, Wilson J. Prevalence of α-gal IgE and mammalian meat allergy in a COVID-19 vaccine employee cohort. *J Allergy Clin Immunol*. 2022;149(2):AB207. doi:10.1016/j.jaci.2021.12.680

[12] Mysterious meat allergy passed by ticks may affect hundreds of thousands in US, CDC estimates. *CNN*. Published online July 27, 2023. Accessed March 27, 2024. https://www.cnn.com/2023/07/27/health/meat-allergy-alpha-gal-cdc/index.html

[13] Human Foods Program. Guidance for FDA Staff and Interested Parties: Evaluating the Public Health Importance of Food Allergens Other Than the Major Food Allergens Listed in the Federal Food, Drug, and Cosmetic Act. U.S. Food and Drug

Severity

Between 60 and 75 percent of individuals with AGS experience life-threatening, anaphylactic reactions, a higher proportion than observed for any other food allergy, even peanut allergy.[12,14,15] In some adult and adolescent populations, alpha-gal accounts for approximately one-third of all anaphylactic reactions, exceeding the total of all other food allergies combined.[16] Thirty to forty percent of individuals experience cardiac symptoms during reactions.[17] Hospitalization is common, and a number of fatalities have been reported.[18,19,20]

Beyond these Congressionally mandated scientific criteria, additional factors further support including alpha-gal as a major food allergen, including disproportionate risk of exposure and significant equity considerations.

Risk of exposure

The risk of exposure to alpha-gal is uniquely high compared to other food allergens because it is both pervasive in foods and effectively invisible under current labeling practices. Most consumers do not realize that familiar ingredients like gelatin, collagen, and vitamin D3 are mammal-derived. Other mammalian ingredients are disguised as “natural flavors” or listed under technical names such as mono- and diglycerides, glycerin, and stearic acid.[21,22,23] Some ingredients can be derived from either plants or mammals. Currently, labels do not indicate which, leaving consumers to guess. Common processing aids, including gelatin and carrageenan, are categorized as “incidental additives,” which are not required to be disclosed on labels.

Administration. January 6, 2025. Accessed December 23, 2025. https://www.fda.gov/regulatory-information/search-fda-guidance-documents/guidance-fda-staff-and-interested-parties-evaluating-public-health-importance-food-allergens-other

[14] Wilson JM, Schuyler AJ, Workman L, et al. Investigation into the α-Gal Syndrome: Characteristics of 261 Children and Adults Reporting Red Meat Allergy. *J Allergy Clin Immunol Pract*. 2019;7(7):2348-2358.e4. doi:10.1016/j.jaip.2019.03.031

[15] Binder AM, Cherry-Brown D, Biggerstaff BJ, et al. Clinical and laboratory features of patients diagnosed with alpha-gal syndrome - 2010-2019. *Allergy*. Published online September 30, 2022. doi:10.1111/all.15539

[16] Pattana k D, Lieberman P, Lieberman J, Pongdee T, Keene AT. The changing face of anaphylaxis in adults and adolescents. *Ann Allergy Asthma Immunol*. 2018;121(5):594-597. doi:10.1016/j.anai.2018.07.017

[17] Stony Brook Southampton Hospital. Meat Allergy Triggered by a Tick Bite with Erin McGintee, MD. March 26, 2015. Accessed March 23, 2025. https://www.youtube.com/watch?v=hj96Vvr1WhQ

[18] Platts-Mills TAE, Workman LJ, Richards NE, Wilson JM, McFeely EM. Implications of a fatal anaphylactic reaction occurring 4 hours after eating beef in a young man with IgE antibodies to galactose-α-1,3-galactose. *J Allergy Clin Immunol Pract*. 2025;0(0). doi:10.1016/j.jaip.2025.09.039

[19] Forbes C. *Inquest: Jeremy Webb*.; 2026. https://coroners.nsw.gov.au/documents/findings/2026/Inquest_into_the_death_of_Jeremy_Webb.pdf

[20] Pointreau Y, Commins SP, Calais G, Watier H, Platts-Mills TAE. Fatal infusion reactions to cetuximab: role of immunoglobulin e-mediated anaphylaxis. *J Clin Oncol*. 2012;30(3):334; author reply 335. doi:10.1200/JCO.2011.38.4701

[21] Ockerman HW, Hansen CL. *Animal By-Product Processing & Utilization*. CRC Press; 1999. doi:10.1201/9781482293920

[22] Proctor R, Thomsen L. *Veganissimo A to Z: A Comprehensive Guide to Identifying and Avoiding Ingredients of Animal Origin in Everyday Products*. Experiment; 2013.

[23] Meindertsma C, Others. Pig 05049: 1: 1. Published online 2007. https://digitalcommons.risd.edu/specialcollections_artistsbooks/378/

This lack of transparency makes it difficult for individuals with AGS to identify safe foods and places them at disproportionate risk of accidental exposure compared to those with allergies to more readily identifiable ingredients. The standard of care for food allergies is strict avoidance of the allergen, yet this is not reliably achievable under current labeling requirements.[1]

Equity

AGS also presents critical equity concerns, disproportionately impacting communities that are rural, lower-income, and less likely to have access to health care. AGS prevalence can be up to 20 times higher in rural populations, where tick exposure is more common, than in urban populations.[9,24] Individuals in rural communities live farther from emergency and specialty care, have reduced access to healthcare, are less likely to have health insurance, and often have lower levels of income and educational attainment.[25,26,27,28] They often live in food deserts where food options are limited. Regions most affected by AGS are among those with the highest poverty rates in the country. These disparities compound the health burden of AGS and underscore the alpha-gal community's need for access to safe food options.

Conclusion

The Alpha-gal Allergen Inclusion Act would help meet the urgent need to easily identify unsafe food for those with AGS by requiring labeling in plain language on packaged foods in the same way that the other top allergens – milk, egg, peanut, tree nuts, wheat, soy, fish, shellfish, and sesame are already labeled. This solution is supported by prior expert and federal recommendations. In his 2020 publication on the diagnosis and management of alpha-gal syndrome, AGS expert Scott Commins, MD, PhD, identified inadequate food product labeling as a significant barrier to successful management of AGS.[1] In its 2020 and 2022 reports to Congress, the Congressionally mandated Tick-Borne Disease Working Group also called for disclosure of alpha-gal on the labels of food products.[29]

In summary, the prevalence, severity, disproportionate risk of exposure, and inequitable impact of alpha-gal syndrome demonstrate that alpha-gal more than meets the established criteria for

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[24] Villalta D, Pantarotto L, Da Re M, et al. High prevalence of sIgE to Galactose-α-1,3-galactose in rural pre-Alps area: a cross-sectional study. *Clin Exp Allergy*. 2016;46(2):377-380. doi:10.1111/cea.12655

[25] U.S. Government Accountability Office. Why Health Care Is Harder to Access in Rural America. Accessed December 20, 2024. https://www.gao.gov/blog/why-health-care-harder-access-rural-america

[26] Farrigan T. USDA ERS - Rural Poverty & Well-Being. Accessed December 20, 2024. https://www.ers.usda.gov/topics/rural-economy-population/rural-poverty-well-being

[27] Farrigan T. USDA ERS - Rural Poverty & Well-Being. Accessed December 20, 2024. https://www.ers.usda.gov/topics/rural-economy-population/rural-poverty-well-being

[28] Landrigan PJ, Etzel RA. *Textbook of Children's Environmental Health*. (Landrigan PJ, Etzel RA, eds.). Oxford University Press; 2013. doi:10.1093/med/9780199929573.001.0001

[29] tbdwg-2022-report-to-congress.pdf. https://www.hhs.gov/sites/default/files/tbdwg-2022-report-to-congress.pdf

designation as a major food allergen. Moreover, the Alpha-gal Allergen Inclusion Act is consistent with both expert and federal recommendations.

The Alpha-gal Allergen Inclusion Act represents a necessary and appropriate step to improve food safety and protect public health. Clear and consistent labeling will help prevent allergic reactions, reduce health care costs, and improve quality of life for hundreds of thousands of Americans.

AAAF is here as a resource and looks forward to continuing to work with the Committee. Thank you for your consideration of this statement. Please reach out to me at Sharon@alphagalaction.org if you have any questions or need additional information.

Sincerely,

Sharon Forsyth, Co-founder and Executive Director
Alpha-gal Alliance Action Fund

Debbie Nichols and Candice Matthis, Co-founders
Alpha-gal Foundation

Jennifer Burton, Founder
Alpha Gal Encouragers

Fallon Schultz, MSW, LCSW, CAM Founder & CEO
International FPIES Association

April 29, 2026

The Honorable Chairman Morgan Griffith
The Honorable Ranking Member Dian

Committee on Energy and Commerce
U.S. House of Representatives

2125 Rayburn House Office Building
Washington, D.C. 20515

Dear Chairman Griffith, Ranking Member DeGette, and Members of the Committee:

I am writing to thank you and the Committee for your leadership in holding this critical hearing on the future of food policy. By way of introduction, Ancera is the world's first food defense company that provides critical information to producers and consumers regarding the safety of their food. I am pleased to share Ancera's view on two of these bills being discussed today.

H.R. 8430: Federal and State Food Safety Information Sharing Act

Ancera supports efforts to improve food safety data sharing between state agencies and FDA. Today, food safety data is fragmented across labs, agencies, and jurisdictions. Critical signals often arrive too late or live in systems that do not communicate with each other, creating what regulators have described as a historic blind spot.

Ancera is a food protection company at the frontier of integrating automated diagnostics and data science into food safety operations. We have built an integrated food defense, safety, plant, and animal health platform that combines fully automated robotic laboratories, novel diagnostics, and a predictive data analytics engine. Our containerized, deployable labs operate with zero human touches and produce real-time, standardized data that can be shared seamlessly across jurisdictions. Our platform currently operates across the poultry, ready-to-eat, and animal health sectors, where we have monitored over 500 million birds and run 20+ proprietary models across epidemiology, risk forecasting, and production analytics. We are now expanding this infrastructure into produce and government food protection programs, where the need for real-time, interoperable data is equally urgent.

As Congress considers how to modernize information sharing between federal and state food safety programs, we encourage the Committee to consider the role that real-time, interoperable data infrastructure can play in making this vision actionable. The challenge is not just policy. It is also physical and digital infrastructure. Ancera is building both.

H.R. 8431: Third-Party Certification and Inspection Modernization Act

Ancera supports efforts to modernize third-party certification and inspection for food safety. The current model relies heavily on manual processes, external lab dependencies, and sample transit times that introduce delays and reduce the value of testing data.

As technologists at the frontier of leading industry work in food safety diagnostics and automation, we have built an autonomous laboratory platform that provides fully automated, on-site testing for key foodborne pathogens with complete telemetry and real-time sample tracking throughout. Every assay, every result, and every chain-of-custody step is digitally captured, creating an auditable, tamper-resistant record. This technology is already deployed across the poultry, ready-to-eat, and animal health sectors, with expansion underway into produce and government food defense infrastructure.

As the Committee considers modernizing how third-party certification and inspection operates, we encourage consideration of how autonomous, deployable laboratory infrastructure can raise the standard for speed, accuracy, transparency, and accountability in food safety testing.

Best,

Arjun Ganesan, CEO
ancera

CENTER FOR Science IN THE Public Interest
Your Food and Health Watchdog

April 29, 2026

The Honorable Robert Latta
Chair
House Committee on Energy and Commerce, Subcommittee on Health
U.S. House of Representatives

The Honorable Diana DeGette
Ranking Member
House Committee on Energy and Commerce, Subcommittee on Health
U.S. House of Representatives

The Honorable Brett Guthrie
Chair
House Committee on Energy and Commerce
U.S. House of Representatives

The Honorable Frank Pallone
Ranking Member
House Committee on Energy and Commerce
U.S. House of Representatives

Dear Chairs Guthrie and Latta, and Ranking Members Pallone and DeGette,

The Center for Science in the Public Interest (CSPI) is an independent consumer advocacy organization with a 50-year track record of working for food safety, nutrition, and health. We support evidence-based and community-informed policies that are grounded in what is best for people's health—without industry influence—including increasing equitable access to nutritious food, enhancing the transparency of food labels, and ensuring that our food is safe. We submit this statement for the record in response to the House Energy and Commerce Committee, Subcommittee on Health's hearing titled "Healthier America: Legislative Proposals on the Regulation and Oversight of Food."

Americans from across the political spectrum are united in a shared understanding that it is a core responsibility of government to ensure access to safe and healthy food.

Recent polling data highlights alignment on this point. A poll by Pew Charitable trusts conducted in October 2025 found that about 5 in 6 US adults want government and business to do more to ensure chemical safety and increase transparency around the use of chemicals.[1] Similarly, a poll this year of voters in House and Senate Battleground states by IMPACT Research found that

[1] McPartland, J. *Americans Are Concerned About Harmful Chemicals in Food, Water and Everyday Products*. The Pew Charitable Trusts. February 26, 2026. https://www.pew.org/en/research-and-analysis/articles/2026/02/26/americans-are-concerned-about-harmful-chemicals-in-food-water-and-everyday-products. Accessed April 28, 2026.

"ensuring our food is safe" was a top priority, approaching support for lowering health care costs and higher than "making food more affordable."[2]

Despite widespread support for a healthier food system, the U.S. Food and Drug Administration (FDA), the White House, and this Congress, have fallen short in protecting our food. FDA often delays responding to emerging food safety concerns for years or decades. For example, the agency banned Red 3 from cosmetics in 1990, yet delayed banning its use in food for over three decades, acting only last year, in response to a petition by CSPI and legislative activity in California.[3]

Worse still, many of the substances used in food have actually never been assessed for safety by FDA, entering the food supply instead through the so-called "Generally Recognized as Safe" or "GRAS" exception that allows companies to introduce new substances and new uses of substances in foods without FDA premarket review. For example, FDA has not reviewed the practice of adding high levels of caffeine to beverages like energy drinks (above the levels approved for cola-type beverages) or determined it to be safe. Caffeine is known to be harmful at extremely high doses, a potentially deadly risk that has led FDA to ban the sale of certain pure or highly concentrated caffeine products as dietary supplements.[4]

Aware of these failures at the federal level, frustrated voters are justifiably turning to state legislatures for change. In 2023, the state of California acted to ban four dangerous additives including Red 3, and California now joins several states in considering proposals to close the GRAS loophole,[5,6] one of which passed the New York State legislature just last week.[7]

Across the country, states and localities are providing meaningful solutions that FDA has failed to deliver, creating requirements for heavy metal testing[8] and standards for lead, cadmium, and

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[2] Toufanian, M. *Food for Thought: Special Battleground Report on Food and Health.* Navigator Research. March 23, 2026. https://navigatorresearch.org/food-for-thought-special-battleground-report-on-food-and-health/. Accessed April 28, 2026.

[3] 90 Federal Register 4628. Color Additive Petition From Center for Science in the Public Interest, et al.; Request To Revoke Color Additive Listing for Use of FD&C Red No. 3 in Food and Ingested Drugs.

[4] Food and Drug Administration. *Pure and Highly Concentrated Caffeine*. https://www fda.gov/food/information-select-dietary-supplement-ingredients-and-other-substances/pure-and-highly-concentrated-caffeine. Accessed April 28, 2026.

[5] Center for Science in the Public Interest. NY & CA lawmakers demand state government protect families' health, pass food transparency reform. March 20, 2026. https://www.cspi.org/press-release/ny-ca-lawmakers-demand-state-government-protect-families-health-pass-food. Accessed April 29, 2026.

[6] Verdant Law. *GRAS Reform Update: Where Do Things Stand?* April 2, 2026. https://www.verdantlaw.com/gras-reform-update-where-do-things-stand/. Accessed April 29, 2026.

[7] Jensen, J. *New York passes sweeping food chemical reform bill.* Center for Science in the Public Interest. April 21, 2026. https://www.cspi.org/statement/new-york-passes-sweeping-food-chemical-reform-bill. Accessed April 29, 2026.

[8] Covington & Burling LLP. *Virginia becomes third state to mandate baby food heavy metal testing, raising the compliance bar for manufacturers*. January 15, 2026. https://www.cov.com/en/news-and-insights/media-

arsenic in spices,[9] restricting the sale of harmful supplements to children,[10] and requiring allergen[11] and nutrition[12] menu disclosures.

Big food companies could have prioritized safety by agreeing to meaningful federal reforms. They have not. Instead, they continue to oppose strong federal food chemical reform,[13] while also blocking standards in the states.[14] Last October, major food companies including Coca Cola, PepsiCo, Kraft, Nestle, and General Mills launched a multimillion dollar lobbying effort misleadingly dubbed "Americans for Ingredient Transparency," which aims at broadly preempting state food safety laws in favor of weak federal standards.[15]

Members of Congress should be extremely wary of any bill that promises "national uniformity" by broadly removing states' power to create labeling and safety standards for food. Unfortunately, a bill before this committee today, the FRESH Act, contains provisions that would do just that, broadly preempting state law and replacing it with a weak federal standard that forces FDA to rubber stamp GRAS safety decisions made in secret by industry-funded panels.

The bill's preemption language is sweeping in scope, threatening all state protections "related to the use, labeling, sale, or marketing" of food or dietary supplements. This will obliterate recent state progress and trample the rights of consumers.

And by covering ingredients and contaminants without restriction and targeting all state law, irrespective of when it was created (excluding laws passed by referendum), the provision also

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mentions/2026/01/virginia-becomes-third-state-to-mandate-baby-food-heavy-metal-testing-raising-the-compliance-bar-for-manufacturers. Accessed April 28, 2026.

[9] New York State Department of Agriculture and Markets. *Heavy Metals in Spices.* https://agriculture.ny.gov/system/files/documents/2022/11/heavymetalspresentation.pdf. Accessed April 28, 2026.

[10] Robinson, D. *Lohud: NY bans sale of diet pills, weight-loss supplements to kids. Why law was passed.* October 26, 2023. https://www.nysenate.gov/newsroom/articles/2023/shelley-b-mayer/lohud-ny-bans-sale-diet-pills-weight-loss-supplements-kids. Accessed April 28, 2026.

[11] Asthma and Allergy Foundation of America. *AAFA Bill to Require Allergen Labeling in California Restaurants Becomes Law.* October 13, 2025. https://aafa.org/aafa-bill-to-require-allergen-labeling-in-california-restaurants-becomes-law/. Accessed April 28, 2026.

[12] Center for Science in the Public Interest. *New York City's "Sweet Truth Act" takes effect, marking a public health milestone.* October 7, 2025. https://www.cspi.org/press-release/new-york-citys-sweet-truth-act-takes-effect-marking-public-health-milestone. Accessed April 28, 2026.

[13] Office of Management and Budget. *OMB GRAS Proposed Rule Meeting_Industry Group Letter*. December 16, 2025. https://www.reginfo.gov/public/do/viewEO12866Meeting?viewRule=true&rin=0910-AJ02&meetingId=1219123&acronym=0910-HHS/FDA. Accessed April 28, 2026.

[14] Witley, S. *Food Industry Says State Ingredient Laws Will Mean Higher Costs.* Bloomberg Law. April 2, 2026. https://news.bloomberglaw.com/health-law-and-business/food-industry-says-state-ingredient-laws-will-mean-higher-costs. Accessed April 28, 2026.

[15] Malkan, S. *Americans for Ingredient Transparency: Product defense for unhealthy ultra-processed foods.* U.S. Right to Know. October 30, 2025. https://usrtk.org/ultra-processed-foods/americans-for-ingredient-transparency/. Accessed April 28, 2026.

has the potential to threaten longstanding consumer protection authorities held by a state that are not "identical" to a federal requirement. Congress should ensure this provision does not result in the preemption of crucial state regulations. States are the primary food safety regulators in many areas with FDA playing a limited role, including regulation of restaurants and retailers,[16] shellfish,[17] and milk.[18] And states are the primary regulators of cottage food producers and other small businesses, which are exempt from many federal safety requirements.[19] State food regulation also includes core food permitting and inspection requirements, fees from which fund state food safety programs.[20]

Another bill, the Dietary Supplement Regulatory Uniformity Act (Rep. Langworthy), would accomplish similar sweeping preemption specific to dietary supplements, wiping out many state protections, including a recent Virginia restriction on the sale of kratom, a dangerous ingredient that mimics opiates.[21]

We urge members of the committee to reject the FRESH Act and Dietary Supplement Regulatory Uniformity Act, as well as any bill that promises "national uniformity" in the form of broadly sweeping away state power to regulate food or dietary supplements.

State legislatures would be less active in passing new laws if FDA were more effective in its work. Therefore, rather than focus on removing state protections, we urge this committee to turn with renewed energy to solving the problems with our federal system that have driven frustrated consumers to turn to the states for action.

Many of those solutions are before this committee today. The remaining statement will address the many policies that CSPI has reviewed and endorsed as effective and meaningful reforms, as well as a few we oppose because they undermine, rather than advance consumer protections.

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[16] Food and Drug Administration. *State Retail and Food Service Codes and Regulations by State*. https://www.fda.gov/food/fda-food-code/state-retail-and-food-service-codes-and-regulations-state. Accessed April 28, 2026.
[17] Food and Drug Administration. *National Shellfish Sanitation Program (NSSP).* https://www.fda.gov/food/federal-state-local-tribal-and-territorial-cooperative-human-food-programs/national-shellfish-sanitation-program-nssp. Accessed April 28, 2026.
[18] Food and Drug Administration. *Pasteurized Milk Ordinance Centennial*. https://www fda.gov/food/milk-guidance-documents-regulatory-information/pasteurized-milk-ordinance-centennial/. Accessed April 28, 2026.
[19] Food and Drug Administration. *Small Business Under the PC Human Food Rule.* https://www.fda.gov/media/117785/download. Accessed April 28, 2026.
[20] For example, Chapter 500 of the Florida Statutes, prevents food establishments from operating without a permit. 570 Fla. Sta. §12. Food permits; building permits. Fees from permitting go into the Florida Department of Agriculture and Consumer Services (FDACS)'s General Inspection Trust Fund, which helps pay for the state's inspection program. 570 Fla. Sta. §20. General Inspection Trust Fund.
[21] Virginia Department of Health. *Kratom.* https://www.vdh.virginia.gov/environmental-health/public-health-toxicology/kratom/. Accessed April 28, 2026.

This statement contains five sections: food additives, food labeling, dietary supplements, infant formula safety, and improving FDA efficiency.

Section 1: Keep Harmful Additives Out of Our Food

As noted above, harmful food chemicals can enter our food supply by using the "Generally Recognized as Safe" (GRAS) loophole, which allows food manufacturers to bypass the typical FDA approval process for chemicals and avoid submitting safety information to FDA. FDA does not require companies to notify the agency before using these new chemicals in our food, let alone require companies to get FDA approval.[22]

In addition, FDA is not obligated to reassess the safety of chemicals after they enter the market. In comparison, in the European Union, all additives approved before 2009 were mandated to be reassessed for safety.[23] CSPI has long called on FDA to ramp up its reassessment efforts and be more proactive in ensuring that substances approved decades ago for use in food are safe according to modern scientific evidence and practices.

To address these issues, Congress must oppose preemption efforts, close the GRAS loophole by requiring independent premarket review for food chemicals, as well as reassessment of food additives and safety standards for contaminants.

We support:

- **H.R. 4958, Grocery Reform and Safety (GRAS) Act (Rep. Pallone).** This bill would require companies to notify and submit safety information to FDA when intending to introduce a new food additive through the GRAS pathway. FDA would be required to make the notice publicly available, review the safety information, and open a public comment period. The bill would also require FDA to conduct regular food chemical reassessments and would authorize the collection of user fees for FDA to carry out this work. This would be a landmark step towards fixing the GRAS loophole and preventing harmful chemicals from entering our food supply.
- **H.R. 4306, Food Chemical Reassessment Act of 2025 (Rep. Schakowsky).** This bill would require FDA to regularly reassess the safety of certain additives already in our food supply. Congress should support this bill to ensure that unsafe additives are removed from the market.
- **H.R. 2615, Stephen Hacala Poppy Seed Safety Act (Reps. Womack and DeLauro).** This bill would require FDA to establish a maximum level of opiate contamination of poppy seeds and require FDA to prohibit the sale of non-compliant products. Poppy seeds

[22] Center for Science in the Public Interest. *GRAS loophole: How do new substances enter the food supply?* March 13, 2026. https://www.cspi.org/GRAS-loophole. Accessed April 28, 2026.
[23] European Food Safety Authority. *Food Additives.* https://www.efsa.europa.eu/en/topics/topic/food-additives. Accessed April 28, 2026.

can become contaminated with opiates during harvest, and thorough washing and processing are needed to reduce the opiate content of the seeds to safe levels. Contaminated poppy seeds have caused at least 20 non-fatal overdoses and 19 deaths. Consumption can lead to blood levels of opiates high enough to trigger positive drug tests, a phenomenon that has lead to mothers being separated from their newborn children.[24] This bill would help prevent future harm from contaminated poppy seeds.

We oppose:

- **H.R. ____, [FDA Review and Evaluation for Safe, Healthy and Affordable Foods Act of 2026] (Rep. Cammack).** As described in the introduction to this statement, this bill would broadly block state food safety policies while weakening current FDA authority over premarket safety review for substances used in foods. The bill contains industry-backed preemption provisions that would broadly wipe out state progress on food safety protection, including new bans on harmful chemicals, requirements for heavy metal testing, restrictions on the sale of harmful dietary supplements to children, and new allergen and nutrition menu disclosures. This extreme preemption language would hurt consumers but would serve as a major win for big food companies, which last year launched a multimillion dollar effort to broadly preempt state safety and labeling laws. At the same time, the bill would have FDA rubber stamp safety decisions made by industry-paid panels, benefitting food corporations instead of families.
- **H.R. 7291, GRAS Oversight and Transparency Act (Rep. Lawler).** This bill would create a board to review secret GRAS determinations made prior to the year 2000. While we support post-market review of such grandfathered GRAS determinations, the bill creates a board review process that is inefficient and improperly delegates safety recommendations to individuals outside FDA's Human Foods Program.

Section 2: Require Transparent Food Labels

Food labels are valuable tools for conveying information to consumers to help us make safer, healthier, and more informed food choices. Front-of-pack nutrition labels can help consumers choose products with less added sugar, sodium, and saturated fat. Caffeine labels can help consumers avoid drinking dangerously high levels of caffeine.

We support:

- **H.R. 4725, Transparency, Readability, Understandability, Truth, and Helpfulness (TRUTH) in Labeling Act of 2025 (Rep. Schakowsky)**. This bill would direct FDA to require front-of-package nutrition labels (FOPNL) on foods and beverages that clearly highlight when products are high in added sugars, sodium, or saturated fat. Each of these

[24] Center for Science in the Public Interest. *Contaminated Poppy Seeds: FDA*. January 31, 2025. https://www.cspi.org/case/contaminated-poppy-seeds-fda. Accessed April 28, 2026.

nutrients is overconsumed in the U.S. and linked to increased risk of conditions such as hypertension, type 2 diabetes, and cardiovascular disease.[25] FOPNL highlighting added sugars, sodium, and saturated fat can help counteract the selective claims that manufacturers choose to highlight on the front labels (*e.g.,* All natural! Low fat! High fiber!) to give consumers a more honest snapshot of the food. Dozens of countries have already adopted FOPNL to empower consumers to make healthier choices and prompt food manufacturers and retailers to offer healthier foods. Countries with nutrient warning labels have seen impressive reductions in purchases of unhealthy foods. Thirty-six public health and consumer organizations have endorsed this legislation.[26]

- **H.R. 4987, Food Date Labeling Act of 2025 (Reps. Pingree and Newhouse)**. This bill would create a consistent and standardized labeling mechanism for on-package date labels. Labeling will continue to be voluntary. However, any manufacturer that chooses to label their product will need to use "USE By" to indicate the date until which the product is safe and "BEST If Used By" to indicate optimal freshness and quality. The lack of a federal date labeling standard has led to a patchwork of state laws that is confusing for consumers and industry alike. This confusion leads to food waste throughout the supply chain accounting for approximately 3.5 million tons of food waste, costing approximately $20 billion dollars in 2024.[27] Meanwhile, this legislation has no cost to the government. This bill has widespread support with over 30 major food manufacturers and retailers endorsing.[28]
- **H.R. 8385, Food Labeling Modernization Act of 2026 (Rep. Pallone).** This comprehensive bill would align labeling regulations with the latest nutrition science and advance national public health priorities through policies aimed at encouraging reformulation, countering misleading claims, improving transparency, and providing label information to consumers who grocery shop online.
- **H.R. 2511, Sarah Katz Caffeine Safety Act (Reps. Menendez and Smith-NJ).** This bill would require clear labeling of caffeinated foods, beverages, and supplements. Restaurant menu items with at least 150 milligrams of caffeine would have to include a "high caffeine" warning next to the item's name. Caffeinated foods and dietary supplements would also be labeled with the amount of caffeine per serving, whether the caffeine is natural or added, and a statement that the recommended daily limit is 400 mg of caffeine. This bill would help consumers avoid accidental caffeine overconsumption.

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[25] Center for Science in the Public Interest. *Fact sheet: TRUTH in Labeling Act of 2025.* July 29, 2025. https://www.cspi.org/resource/fact-sheet-truth-labeling-act-2025. Accessed April 28, 2026.
[26] Center for Science in the Public Interest. *Sign-on letter in support of the TRUTH in Labeling Act of 2025*. November 3, 2025. https://www.cspi.org/resource/sign-letter-support-truth-labeling-act-2025. Accessed April 28, 2026.
[27] ReFED. *Insights Engine.* https://insights-engine.refed.org/food-waste-monitor?break_by=cause&indicator=tons-surplus&view=detail&year=2024. Accessed April 28, 2026.
[28] Zero Food Waste Coalition. *Widespread Indsutry Support for the Food Date Labeling Act of 2025.* https://zerofoodwastecoalition.org/news/widespread-industry-support-for-the-food-date-labeling-act-of-2025/. Accessed April 28, 2026.

- **H.R. 5882, No Tricks on Treats Act of 2025 (Reps. Jacobs and Luna).** This bill would require front-of-package disclosure of the presence of synthetic dyes, artificial or natural flavoring, and non-nutritive sweeteners in foods. The bill promotes transparency and its disclosures would help parents select healthy and safe foods for their children. Fourteen public health and consumer organizations have endorsed the No Tricks on Treats Act.[29]
- **H.R. 8412, No False Formula Act (Rep. Jacobs).** This bill would stop companies from marketing sugary toddler drinks as healthy for kids. A consensus statement from the Academy of Nutrition and Dietetics, the American Academy of Pediatric Dentistry, the American Academy of Pediatrics, and the American Heart Association concluded that for children over 12 months old, toddler milks and transition formulas are not recommended because they offer no unique nutritional value beyond what would be obtained through a nutritionally adequate diet, and may contribute added sugars to a child's diet.[30] Misleading marketing of toddler formulas poses a risk to young children's health. This legislation is aligned with the actions requested by 17 public health organizations and 13 nutrition experts in a 2020 Citizen Petition to FDA calling on the agency to address the misleading marketing of toddler formula.[31]

We oppose:

- **H.R. 1394, Codifying Useful Regulatory Definitions (CURD) Act (Reps. Steil and Costa).** This bill would allow the use of artificial food additives in "natural cheese," a move that will protect companies seeking to use the term "natural" on products that contain artificial colors and other ingredients which do not align with consumers' expectations regarding the types of ingredients permitted in "natural" products.[32] No product labeled "natural" should contain synthetic food dyes, artificial flavors, or any other artificial additives.
- **H.R. 8414, Defending Against Imitations and Replacements of Yogurt, Milk, and Cheese to Promote Regular Intake of Dairy Everyday (DAIRY PRIDE) Act (Rep. Joyce).** This bill would prohibit plant-based products from being labeled with the terms "milk," "cheese," and "yogurt." There is no need for a bill to prevent products from being given names like "almond milk" or "vegan cheese," as Americans who choose to buy these products do so *because* they are seeking alternatives to dairy foods. Consumers are

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[29] Congresswoman Sara Jacobs. *Rep. Sara Jacobs and Rep. Anna Paulina Luna Introduce the Bipartisan No Tricks on Treats Act*. October 31, 2025. https://sarajacobs.house.gov/news/press-releases/rep-sara-jacobs-and-rep-anna-paulina-luna-introduce-the-bipartisan-no-tricks-on-treats-act. Accessed April 28, 2026.

[30] Healthy Eating Research. *Healthy Beverage Consumption in Early Childhood.* September 2019. https://healthyeatingresearch.org/wp-content/uploads/2019/09/HER-HealthyBeverage-ConsensusStatement.pdf. Accessed April 28, 2026.

[31] Public Health Advocacy Institute. Citizen Petition. July 29, 2020. https://www.regulations.gov/document/FDA-2020-P-1718-0001. Accessed April 28, 2026.

[32] Center for Science in the Public Interest. *CSPI Letter to Members of Congress in Opposition to "CURD Act."* https://www.cspi.org/resource/cspi-letter-members-congress-opposition-%E2%80%9Ccurd-act%E2%80%9D. Accessed April 28, 2026.

thus unlikely to mistake them for products made from the lacteal secretions of animals. The DAIRY PRIDE Act would not help consumers and could unfairly disadvantage producers of plant-based dairy alternatives that many enjoy.

Section 3: Ensure the Safety of Dietary Supplements

An estimated average of 23,000 emergency room visits per year are related to dietary supplements.[33] Researchers have found that many supplements' ingredients contain undisclosed pharmaceuticals or are present at levels that differ from their labels.[34] FDA's insufficient resources and statutory authorities have led to a flood of dangerous and fraudulent dietary supplements.[35] Many supplement manufacturers prey on consumers' fears of illness and desires to be healthy to sell products that incorporate dangerous ingredients, contain undeclared adulterants, make unsubstantiated claims, or make illegal disease claims.[36,37]

We support:

- **H.R. 8370, Dietary Supplement Listing Act of 2026 (Rep. Dexter).** In 2021, supplement sales reached almost $60 billion with 95,000 products.[38] Because dietary supplement companies can introduce new dietary ingredients through the GRAS pathway and new products without ever informing FDA, the agency has no way to prevent dangerous dietary supplements from coming to market.[39] FDA does not have a comprehensive inventory of the supplement products currently on the market and is largely unable to adequately identify and take appropriate enforcement action against unsafe and fraudulent products. This bill would require supplement companies to provide basic information about supplement products to FDA and for that information to be publicly available—a key first step to protect consumers.

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[33] Geller A, et al. Emergency Department Visits for Adverse Events Related to Dietary Supplements. *N Engl J Med 2015;*373:1531-1540. https://www nejm.org/doi/full/10.1056/nejmsa1504267

[34] Tucker J, et al. Unapproved Pharmaceutical Ingredients Included in Dietary Supplements Associated With US Food and Drug Administration Warnings. *JAMA Netw Open*. Oct 2018;1(6):e183337. https://pmc.ncbi nlm nih.gov/articles/PMC6324457/

[35] U.S. Senator Dick Durbin of Illinois, *Blumenthal Request Information on FDA's Proposed Changes to the Office of Dietary Supplement Programs.* August 24, 2023. https://www.durbin.senate.gov/newsroom/press-releases/durbin-blumenthal-request-information-on-fdas-proposed-changes-to-the-office-of-dietary-supplement-programs. Accessed April 28, 2026.

[36] Food and Drug Administration. *Unproven Infertility Supplements*. May 26, 2021. https://www.fda.gov/consumers/health-fraud-scams/unproven-infertility-supplements. Accessed April 28, 2026. FDA. *Tianeptine*. May 8, 2028. https://www fda.gov/consumers/health-fraud-scams/tianeptine.

[37] FDA. *Don't Be a Victim (You could lose so much more than weight)*. January 1, 2018. https://www.fda.gov/consumers/health-fraud-scams/dont-be-victim-you-could-lose-so-much-more-weight. Accessed April 28, 2026.

[38] Firfer, H. *Supplement sales soar in the US, but experts warn of safety gaps in oversight.* Scripps News. December 23, 2025. https://www.scrippsnews.com/health/supplement-sales-soar-in-the-us-but-experts-warn-of-safety-gaps-in-oversight. Accessed April 28, 2026.

[39] FDA. *FDA 101: Dietary Supplements*. June 2, 2022. https://www fda.gov/consumers/consumer-updates/fda-101-dietary-supplements. Accessed April 28, 2026.

We oppose:

- **H.R. 7366, Dietary Supplement Regulatory Uniformity Act (Rep. Langworthy).** As noted above, this bill would preempt any state protection that differs from federal dietary supplement requirements. Such sweeping preemption will be damaging because states often take action to fill the gaps in FDA authority and resources. New York has banned the sale of weight-loss and muscle-building supplements to minors.[40] California has required testing of prenatal supplements for certain heavy metals.[41] And Virginia recently banned the sale of kratom, a dietary supplement that mimics opioids. Without these state-level protections, children, pregnant individuals, and other consumers will be put at risk by gaps in FDA oversight.

Section 4: Ensure the Safety of Infant Formula

Outbreaks caused by infant formula are especially devastating for families. In 2022, a pathogen known as *Cronobacter sakazakii* infected an infant formula manufacturing facility, causing a nationwide shortage after a recall had to be issued.[42] In 2026, another pathogen known as *Clostridium botulinum* affected at least 48 infants across the country.[43] These outbreaks are preventable with the right legislation.

We support:

- **H.R. 2472, Improving Newborns' Food and Nutrition Testing Safety (INFANTS) Act of 2025 (Rep. Sykes).** This bill would require companies to conduct regular testing of infant formula for heavy metal contaminants such as arsenic and lead, require companies to report positive test results for pathogens, and require environmental monitoring for potential exposure to pathogens such as *Cronobacter* or *Salmonella*.
- **H.R. 7867, Infant Formula Safety Modernization Act of 2026 (Reps. DeLauro and Van Drew).** This bill would expand the list of pathogens that infant formula companies must test for, require environmental monitoring for pathogens, and require reporting of positive test results to FDA.

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[40] Khan, M. *Selling weight-loss and muscle-building supplements to minors in New York is now illegal*. AP News. April 25, 2024. https://apnews.com/article/new-york-law-dietary-supplements-weight-loss-77ca3e0fdc4b291636e3768ffb5c9b25. Accessed April 29, 2026.

[41] Jose, J. *CA legislature passes bill to protect against toxic heavy metals in prenatal vitamins*. Center for Science in the Public Interest. September 17, 2025. https://www.cspi.org/statement/ca-legislature-passes-bill-protect-against-toxic-heavy-metals-prenatal-vitamins. Accessed April 29, 2026.

[42] Centers for Disease Control and Prevention. *Cronobacter Outbreak Linked to Powdered Infant Formula | Cronobacter Infection.* September 29, 2025. https://www.cdc.gov/cronobacter/outbreaks/formula-2022/index.html. Accessed April 29, 2026.

[43] Centers for Disease Control and Prevention. *Investigation Update: Infant Botulism Outbreak*. March 4, 2026. https://www.cdc.gov/botulism/outbreaks-investigations/infant-formula-nov-2025/investigation html. Accessed April 29, 2026.

Section 5: Improve FDA efficiency, information sharing, and transparency

There are an estimated 48 million cases of foodborne illness in the US annually, resulting in 128,000 hospitalizations and 3,000 deaths.[44] And chronic disease attributable to diet is a leading cause of preventable illness. Yet FDA often must comply with onerous requirements that slow response to outbreaks, communication with state partners, obtaining necessary expert advice, and conducting regulatory research, ultimately impeding efforts to reduce illnesses attributable to food. Congress should pass legislation to help improve FDA operations and effectively respond to outbreaks, food safety issues, and other emerging threats.

We support:

- **H.R. 8430, Federal and State Food Safety Information Sharing Act (Reps. Ross and Rulli).** This bill would give FDA the ability to share information with state and local agencies, creating a more streamlined and efficient response to foodborne illness outbreaks. The change would allow public health authorities to work collaboratively to take swift action needed to prevent foodborne illnesses.
- **H.R. 8432, To provide the Food and Drug Administration needed authorities to carry out its regulatory mission with respect to human foods, to provide additional resources and authorities with respect to human foods research, and for other purposes (Rep. DeGette).** This commonsense bill will support FDA operations and promote transparency by restoring the FDA Advisory Committee for Human Foods, establish a research grant program for critical areas, and streamline regulatory research by exempting FDA research from the Paperwork Reduction Act. It would also require better recordkeeping for processed foods, as well as public disclosure on a government website of ingredients not declared on the label (including flavors, colors, spices, and incidental additives).

Thank you for considering these ways to help families have safe and healthy food. If you have any questions, please contact Rhea Jayaswal at rjayaswal@cspi.org.

Sincerely,

Sarah Sorscher
Director of Regulatory Affairs
Center for Science in the Public Interest

Rhea Jayaswal
Senior Policy Associate, Legislative Affairs
Center for Science in the Public Interest

[44] Food and Drug Administration. *What You Need to Know about Foodborne Illnesses.* February 17, 2022. https://www.fda.gov/food/consumers/what-you-need-know-about-foodborne-illnesses. Accessed April 29, 2026.

04/29/2026

Healthier America: Legislative Proposals to Improve Public Health

Statement from Representative Rosa DeLauro (CT03)

Thank you to Chairman Griffith and Ranking Member DeGette for holding this hearing on *Legislative Proposals on the Regulation and Oversight of Food.* I am grateful for your inclusion of my bipartisan legislation, the Infant Formula Safety Modernization Act, in this hearing and for providing me with the opportunity to submit a statement for support of H.R. 7867.

In 2022, the U.S. experienced a severe shortage of infant formula following Abbott Nutrition's Sturgis, Michigan plant closing due to safety concerns and a product recall due to *Cronobacter sakazakii* contamination. At the time, Abbott's Sturgis plant was producing roughly 40 percent of the formula in the country. This outbreak – and the resulting scarcity of formula - exemplified how desperately reform was needed and how concentrated the infant formula market is in the United States. Thankfully, Congress acted in the wake of this outbreak, but it is clear that so much more needs to be done.

The recent outbreak of ByHeart infant formula due to contamination caused by *Clostridium botulinum* has again highlighted the need for additional reform. This outbreak sickened at least 51 infants with infant botulism across 19 states. A

one-year-old Portland baby is still battling infant botulism after drinking contaminated ByHeart baby formula last November. He has been hospitalized twice and is scheduled for surgery in early May to get a permanent feeding tube placed. Babies should not be getting this sick from infant formula in the United States of America.

About 75 percent of U.S. infants consume formula by six months of age. We must do more to protect the safety of infant formula in our country. The Infant Formula Safety Modernization Act would bring infant formula regulation into the 21st century. It would require Food and Drug Administration (FDA) to develop a list of pathogens and microorganisms that infant formula manufactures must test for in both formula manufacturing facilities and finished infant formula product. Currently, infant formula manufactures are only required to test for Cronobacter and Salmonella.

It would also require *Clostridium botulinum* to be included in that required testing. Before the recent ByHeart formula outbreak, *Clostridium botulinum* was rarely considered a risk in formula. There was no historical precedent or widespread concern that infant formula could cause an infant botulism outbreak. This requirement is in line with FDA's current investigation sampling dairy ingredients and analyzing different *Clostridium botulinum* strains to evaluate the hazard level of *Clostridium botulinum* in the supply chain.

This legislation would standardize environmental testing - the practice of monitoring the production environment (not the food itself) to detect potential sources of contamination before they reach the food product – in infant formula facilities. Environmental testing is not currently required by law in infant formula facilities, despite how important this testing is to prevent contamination of the final product. It would also instruct the FDA to specify the frequency of testing while acknowledging that additional testing must consider the design of the manufacturing facility, nature of the operation, and other considerations. There is no one-size fits all solution, but without minimum standards, companies are left to self-regulate at the expense of our most vulnerable.

This legislation also includes very important reporting requirements to allow Congress to fulfill its oversight duty of FDA's regulatory responsibility of infant formula. Infant formula manufacturers would be required to notify FDA of any positive test in infant formula, even if it has not left the facility. Under current law, infant formula manufacturers are not required to notify FDA if formula has been adulterated, if that formula has not left the infant formula facility.

When the FDA inspects a facility, they classify a potential compliance issue as Official Action Indicated, Voluntary Action Indicated, or No Action Indicated. Official Action Indicated means the FDA found violations that require corrective action. This bill would require FDA to notify Congress of any "Official Action

Indicated" compliance issue during an inspection of an infant formula facility. Frequently, after food safety outbreaks, there seems to be a pattern of food safety violations highlighted in inspection reports. Due to the concerns about a potential disruption to the nation's formula supply, if the FDA issues this classification, FDA should be required to notify Congress to ensure Congress can maintain proper oversight of the corrective actions.

Lastly, this bill ensures compliance and consistency for all infant formula manufacturers that sell formula in the United States, whether based domestically or abroad. All infant formula companies should adhere to the same standards if the formula is sold in the U.S. for our infants.

Multiple crises year after year make clear that the current system is not working. Too often, our food safety reform actions are reactive. This legislation gives us the opportunity to be proactive and is also in line with Administration efforts to improve formula safety through Operation Stork Speed. My Infant Formula Safety Modernization Act would close critical gaps to prevent the next outbreak before it occurs. I want to thank Chairman Guthrie, Ranking Member DeGette, and Ranking Member Pallone for bringing this bill forward today, and I urge the Committee to markup this critical legislation as soon as possible. I am also deeply grateful to the cosponsors of this legislation: Sanford Bishop Jr., Andre Carson, Steve Cohen, Madeleine Dean, Adelita Grijalva, Eleanor Holmes Norton,

Sara Jacobs, Raja Krishnamoorthi, Seth Magaziner, Grace Meng, Jimmy Panetta, Chris Pappas, Ayanna Pressley, Mike Quigley, Deborah Ross, Jan Schakowsky, Shri Thanedar, Rashida Tlaib, Jeff Van Drew, Nikema Williams, and Frederica Wilson for their support in making infant formula safer in this country.

April 27, 2026

RE: Energy and Commerce Subcommittee on Health's Hearing entitled Healthier America: Legislative Proposals on the Regulation and Oversight of Food

Dear Chair Guthrie, Ranking Member Pallone, Chair Griffith, Ranking Member DeGette, and Members of the Committee,

I'm writing in support of the Food Date Labeling Act (H.R. 4987) and to urge your committee to proceed to a markup of the Food Date Labeling Act so that we can move forward and pass the bill into law. Millions of people will benefit.

Why The Food Date Labeling Act Matters

Many Americans are unknowingly throwing away perfectly good food, mistaking various date labels like "Sell by" and "Use by" as safety warnings. Currently, there is no cohesive federal standard for these labels, resulting in over 50 different phrases that create confusion. This is especially concerning as food prices soar and families are forced to waste money and resources unnecessarily.

By supporting this well-crafted legislation, we can reduce would-be food waste, save families money, and lessen the environmental impact caused by excessive food disposal. Together, we can create clarity and protect our planet while helping hard-working Americans thrive.

At Food Recovery Network we see firsthand the impact that recovering surplus food can have on communities across the country. With nearly 25 million pounds of recovered food from our efforts, we have plenty of experience knowing what is safe to donate, but not everyone has 15 years of experience. Simplifying the language opens up the possibilities for more consistent donations and less waste - it's a powerful beginning to systemic far reaching change.

To summarize:

The Food Date Labeling Act (FDLA) offers a common-sense solution:

- Standardize Labeling: Establishes a clear, two-label system: “BEST If Used By” to indicate quality, and “USE By” to indicate safety.
- Reduce Waste: By clarifying that the "Best if Used By" date is about quality—not safety—consumers can confidently eat, freeze, or donate food past that date, saving an estimated $1.23 billion annually.
- Boost Food Donations: The bill removes barriers to donating food past its quality date that is still perfectly good to eat.
- The budget score for this legislation is zero, meaning to enact, we are not asking for federal dollars, and industry leaders are ready to adopt this legislation.

Again, I urge you to support your constituents' wallets, the environment, and food bank efforts, and proceed to a markup of the Food Date Labeling Act to inevitably pass the bill into law.

Sincerely,

Regina Harmon, CEO
Food Recovery Network
www.foodrecoverynetwork.org

GLOBAL COLD CHAIN ALLIANCE®

House Energy & Commerce Subcommittee on Health
Healthier America: Legislative Proposals on the Regulation and Oversight of Food
April 29, 2026

Submitted by Global Cold Chain Alliance

Chairman, Ranking Member, and Members of the House Energy & Commerce Subcommittee on Health, the Global Cold Chain Alliance (GCCA) appreciates the opportunity to provide testimony, and we respectfully request that you support the bipartisan Food Date Labeling Act (H.R. 4987) in the upcoming hearing: "Healthier America: Legislative Proposals on the Regulation and Oversight of Food".

GCCA is a worldwide organization whose members include refrigerated warehouses, transportation providers, and logistics firms, as well as suppliers of equipment and technologies. Our mission is to strengthen the global food system by promoting best practices, innovation, and collaboration among businesses that ensure food remains safe from farm to table. We represent the interests of companies dedicated to preserving the quality, safety, and integrity of perishable foods through temperature-controlled logistics and storage.

GCCA members support standardized food date labeling, aiming to help GCCA members and consumers make informed choices while reducing unnecessary food waste. Confusing labels result in edible items being discarded, increased insecurity, environmental concerns, and challenges for cold chain logistics. To combat preventable food loss, GCCA companies employ technologies like real-time temperature tracking and inventory systems, and work closely with stakeholders to enhance storage methods, prolong shelf life, and facilitate the efficient distribution of surplus food. In spite of these efforts, when date labeling concerns cause food to be sent to landfills, GCCA members are the ones required to dump and destroy the product. Standardizing date labels will make it easier for GCCA members to facilitate the donation of palettes, and in some cases truckloads, of discarded food from cold storage to food banks that would otherwise go to waste.

The Food Date Labeling Act's clear guidelines are expected to simplify and improve food donations. These efforts highlight the importance of addressing food waste and demonstrate how date labels can significantly affect outcomes.

- **Businesses and the Supply Chain:** Date label confusion drives more than $19.2 billion in annual losses and over 3.5 million tons of unnecessary food waste, undermining efficiency across production, cold storage, transportation, and distribution.[1]
- **Retailers:** Standardized date labels could save retailers approximately $253 million per year by reducing premature product removal, improving inventory management, and increasing confidence in donating safe food.[1]
- **Consumers:** Consumers waste an estimated $1.3 billion annually due to confusion over food date labels, adding to the average $762 per person spent each year on uneaten food, at a time when grocery prices remain elevated.[1]
- **Families:** Nearly one in seven U.S. households experienced food insecurity in 2024, yet confusion over food date labels contributes to millions of tons of safe, edible food being discarded each year instead of consumed or donated and clearer labels help families safely stretch food budgets and improve access.[1]

[1] ReFED. (2026). *Progress on the Plate: 2026 ReFED U.S. Food Waste Report*. https://refed.org/uploads/2026-food-waste-report-design-final-1.pdf?=ver1

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GLOBAL COLD CHAIN ALLIANCE®

The Food Date Labeling Act presents a practical, bipartisan opportunity to reduce food waste and strengthen the efficiency of the U.S. food system by establishing clear, voluntary, and uniform date labeling standards nationwide. By clearly distinguishing between quality-based dates such as “BEST If Used By” and safety-based “USE By” dates, the legislation would improve consumer understanding while reinforcing confidence in the safety and integrity of food products, especially refrigerated and frozen foods. This clear guidance will also facilitate greater food donations, promote sustainability throughout the supply chain, and minimize unnecessary food waste.

We urge Congress to enact the Food Date Labeling Act of 2025, which will improve consumer understanding, protect public health, and support the vital work of cold chain companies committed to reducing food waste. Thank you for your attention and for considering the perspectives of the Global Cold Chain Alliance.

Sincerely,

Sara Stickler
President & CEO
Global Cold Chain Alliance

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Environmental Defense Fund

BROKEN GRAS

HOW A COMMON-SENSE LEGAL DESIGNATION WAS CO-OPTED TO LET UNSAFE INGREDIENTS INTO OUR FOOD.

At least 1,000 ingredients in food products on our grocery store shelves have never been checked for safety by FDA. The reason for this lies in the misuse of a little-known legal designation called GRAS–or Generally Recognized as Safe.

WHAT IS GRAS AND WHAT DOES IT DO?

Generally Recognized as Safe (GRAS) is a designation Congress created for a small number of commonly used food ingredients which would not need pre-market safety approval by the Food and Drug Administration (FDA). These substances had been routinely used for a long time and were found to be safe through their history of common use in food. Examples include oils, vinegar, baking soda and common spices.

Unfortunately, the universe of substances designated as GRAS has grown far beyond what Congress originally intended. Today, almost all new food substances that enter the market are designated as GRAS.

Current law requires manufacturers to demonstrate that a new food ingredient meets FDA's safety standard of "reasonable certainty of no harm" before it can be released on the market. However, FDA interprets the law in a way that allows companies to independently—and often secretly—determine the safety of substances.

THE GRAS DESIGNATION PROCESS IS RIDDLED WITH CONFLICTS OF INTEREST

A substance is eligible for GRAS classification if there is "common knowledge throughout the scientific community knowledgeable about the safety of substances directly or indirectly added to food that there is reasonable certainty that the substance is not harmful under the conditions of its intended use." In other words, the substance must be widely recognized by experts as safe to use in food—essentially, commonly accepted as safe.

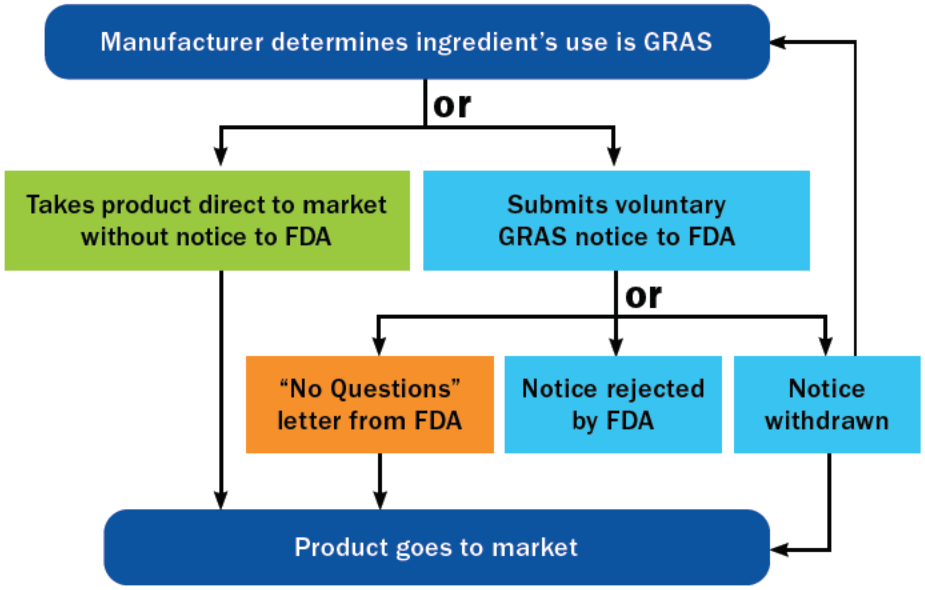
Companies often rely on their own employees, a panel of hired experts or advice from hired consultants to help them classify a substance as GRAS. Given their financial ties to the company, these reviewers are hardly independent. This results in a process plagued with bias and conflicts of interest. To make matters worse, manufacturers are not even required to notify FDA when they deem an ingredient as GRAS before taking it to market.

The Legal Definition of GRAS:

"generally recognized, among experts qualified by scientific training and experience to evaluate its safety, as having been adequately shown through scientific procedures...to be safe under the conditions of its intended use" (21 CFR 170.30).[1]

[1] https://uscode.house.gov/view.xhtml?req=(title:21%20section:321%20edition:prelim)

A GRAS SUBSTANCE'S PATH TO MARKET



THE CURRENT GRAS SYSTEM PUTS AMERICANS' HEALTH AT RISK

The current GRAS designation process allows companies to avoid FDA review, with real-life impacts on Americans' health. Harmful substances that have been falsely declared GRAS, such as tara flour, have caused illness and even death.

The voluntary GRAS notification system provides poor or often no visibility into the chemicals in our food, making it ineffective at protecting our health. Records indicate that manufacturers have notified FDA of fewer than half of the chemicals that they market as GRAS. Even if a company notifies FDA of a GRAS determination and FDA later raises questions about whether the determination complies with regulations, the manufacturer can withdraw its request for review and still claim the product is GRAS.

REFORMING GRAS

A comprehensive fix to GRAS will require legislation from Congress. In the meantime, FDA has options to ensure a more rigorous GRAS determination process that better protects Americans' health.

WHAT FDA CAN DO NOW

- **Use existing authority to remove GRAS designations from ingredients it deems unsafe** and take them off the market. FDA can also notify manufacturers, importers, distributors and retailers that the substance is no longer GRAS.
- **Enforce the requirement that companies base GRAS designations on publicly available data.** Although this won't curtail companies' ability to self-declare substances as GRAS, it will require those who do to be transparent in citing their evidence.
- **Enforce the requirement that GRAS safety assessments consider vital health information** such as a substance's dietary sources, potential cancer risks and the cumulative health effects of similar substances.
- **Prevent companies from withdrawing GRAS notices by notifying them when they fail to comply with GRAS criteria** and requiring them to revise and resubmit their data for review.

A COMPREHENSIVE FIX: WHAT CONGRESS CAN DO

- Congress can make GRAS more health protective by updating the law to require all GRAS determinations to be independently reviewed and approved by FDA before an ingredient is allowed on the market.
- Congress can also improve transparency by revising the law to require public disclosure of all safety data supporting GRAS determinations.

FOOD LAW and POLICY CLINIC
HARVARD LAW SCHOOL

April 29, 2026

The Leadership of the House Energy and Commerce, Health Subcommittee
2125 Rayburn House Building
Washington, D.C. 20515

Statement for the Record

Healthier America: Legislative Proposals on the Regulation and Oversight of Food

Dear Chair Guthrie, Ranking Member Pallone, Chair Griffith, Ranking Member DeGette, and Members of the Committee,

On behalf of the Harvard Law School Food Law and Policy Clinic (FLPC), thank you for the opportunity to submit this statement for the record regarding the Food Date Labeling Act of 2025 (H.R. 4987), a bill that would simplify and standardize food date labeling in the U.S. FLPC is an experiential learning program focused on supporting partner organizations with legal and policy technical assistance while providing students the opportunity to engage in substantive food law and policy work on behalf of these partners. Our food loss and waste portfolio includes legal and policy research and technical assistance to nonprofits, social enterprises, and industry; advising federal, state, and local governments; supporting food banks and food recovery organizations; and providing comparative global research on food waste policies across more than 25 countries. Our cutting-edge legal and policy research, informed by our ongoing work with and for industry partners, food recovery organizations, educational institutions, and government representatives at all levels, establishes FLPC as a global leader in the field of food waste and recovery. With more than a decade of experience working on a broad set of food loss and waste issues, we are uniquely positioned to identify barriers and to provide data-driven recommendations and guidance.

Nearly one in seven American households—and nearly one in five households with children—struggles with food insecurity.[1] At the same time, an estimated 30–40% of the U.S. food supply goes unsold or uneaten each year, representing hundreds of billions of dollars in lost value for

[1] MATTHEW P. RABBITT ET AL., USDA ECON. RSCH. SERV., HOUSEHOLD FOOD SECURITY IN THE UNITED STATES IN 2024 at 8–9 (2025), https://search nal.usda.gov/discovery/delivery/01NAL_INST:MAIN/12575824500007426.

households, businesses, and government.[2] One of the largest causes of this waste is food date labels: in 2024, an estimated 3.5 million tons of food in the U.S. was discarded specifically because of concerns related to date labels.[3]

The issues with food date labels are two-fold—they are both inconsistent and confusing. Food date labels in the United States are inconsistent because they are not standardized (except for infant formula[4]). In the absence of federal law, states have established varying state-level date labeling laws. These states have widely differing date label requirements and standards, ranging from some with minimal label requirements to others that require date labels on a large portion of their food supply.[5] In fact, no two states with date labeling requirements have the same policy.[6] In addition to requiring date labels on some or all food products, many states also have regulations in place that needlessly prohibit or restrict the sale or donation of any past-date food products, irrespective of the fact that current food date labels do not actually reflect any potential food safety risks.

Food date labels are also confusing, as the majority of stakeholders do not realize that most dates are used on foods as an indicator of quality or freshness. Our research has found that the variety of date label phrases in use across the food supply, such as "use by," "sell by," "expires on," "freshest by," and labels without any phrases accompanying the date, routinely confuse consumers and businesses, causing them to discard food products prematurely. Representative surveys that we have coauthored found that a majority of U.S. consumers discard food due to date labels, and that this issue is getting worse. In 2016, we found that 84% of consumers at least occasionally discard food based on food date labels, and that about one-third of them always do so;[7] in 2025, our follow-up survey found that the number of U.S. consumers who discard food based on the label at least occasionally rose to 88%, and 43% of consumers always did so.[8] At the same time, only about half of our survey respondents correctly identified the differences

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[2] *Why Should We Care About Food Waste?*, U.S. DEP'T OF AGRIC., https://www.usda.gov/about-food/food-safety/food-loss-and-waste/why-should-we-care-about-food-waste; *Food Waste: The Problem*, REFED, https://refed.org/food-waste/the-problem/#what_is_food_waste.

[3] *Food Waste Monitor*, REFED INSIGHTS ENGINE, https://insights-engine refed.org/food-waste-monitor?break_by=cause&indicator=tons-surplus&view=detail&year=2024 (displaying surplus food generated in tons according to cause of surplus).

[4] Infant Formula Act of 1980, 21 U.S.C. § 350a; 21 C.F.R. § 107.20 (2026).

[5] EMILY BROAD LEIB ET AL., HARVARD L. SCH. FOOD L. & POL'Y CLINIC (FLPC) & NAT. RES. DEF. COUNCIL, THE DATING GAME: HOW CONFUSING DATE LABELS LEAD TO FOOD WASTE IN AMERICA 12–15 (2013), https://www nrdc.org/sites/default/files/dating-game-report.pdf.

[6] FLPC, DATE LABELS: THE CASE FOR FEDERAL REGULATION 3 (2019), https://chlpi.org/wp-content/uploads/2013/12/date-labels-issue-brief_June-2019.pdf ; *see also* EMILY BROAD LEIB ET AL., *supra* note 5.

[7] Roni Neff et al., *Misunderstood food date labels and reported food discards: A survey of U.S. consumer attitudes and behaviors*, 86 WASTE MGMT. 123 (2019), https://doi.org/10.1016/j.wasman.2019.01.023.

[8] RONI NEFF ET AL., CONSUMER PERCEPTIONS OF FOOD DATE LABELS: 2025 NATIONAL SURVEY 3 (2025), https://chlpi.org/resources/consumer-perceptions-of-food-date-labels-2025-national-survey (this study was led by researchers from Johns Hopkins Bloomberg School of Public Health, Harvard Law School Food Law and Policy Clinic, and ReFED).

between quality-based and safety-based labels, meaning many respondents were relying on date labels without understanding what they really mean.[9]

In a review that we conducted of the comments submitted to USDA and FDA's joint Request for Information on Food Date Labeling in 2025, we confirmed that this issue impacts not only consumers but also stakeholders across the food supply chain. For example, businesses and trade associations submitted comments stating that the current system of state-by-state date labeling requirements makes supply chain management costly and challenging.[10] Food recovery organizations must also spend considerable time, effort, energy, and money training workers on how to handle food products with different date labels, who must then in-turn educate clients and end-users about the food products they are receiving.[11]

Current food date label phrases can also create health risks. Some consumers not only misunderstand food date labels but completely disregard them, believing that date labels are too varied and therefore should not be trusted to provide actual information about food safety.[12] This is especially dangerous when consumers ignore actual safety-based date labels on the small handful of food products that can increase in health risks after the date, such as deli meats or food products in reduced oxygen packaging.[13] Our recent survey results found that older adults are most likely to ignore date labeling and instead trust sensory information—even for foods like deli meats that may carry health risks without visually appearing so—which puts them at a greater risk of foodborne illness.[14]

The myriad issues caused by confusing and inconsistent food date labeling can be solved by standardizing date labels at the federal level.[15] Standardization should include defining one standard quality-based date label phrase and one standard safety-based date label phrase, prohibiting the use of any other date label phrases, allowing the sale or donation of food products

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[9] *Id.* at 4–5.
[10] AKIF KHAN ET AL., FLPC, CHECKING IN ON FOOD DATE LABELING: A SUMMARY OF KEY THEMES FROM RESPONSES TO USDA-FSIS AND FDA'S JOINT REQUEST FOR INFORMATION 4–6 (2025), https://chlpi.org/wp-content/uploads/2025/11/FLPC-Food-Date-Labeling-RFI-Responses-Review.pdf.
[11] EMILY BROAD LEIB ET AL., *supra* note 5, at 22.
[12] *See* AKIF KHAN ET AL., *supra* note 10, at 4–5; *see also* Debasmita Patra et al., *Understanding and addressing food waste from confusion in date labeling using a stakeholders' survey*, J. AGRIC. & FOOD RSCH., June 2022, at 1, 3 (available at https://doi.org/10.1016/j.jafr.2022.100295).
[13] CTR. FOR FOOD SAFETY & APPLIED NUTRITION & FOOD SAFETY & INSPECTION SERV., QUANTITATIVE ASSESSMENT OF RELATIVE RISK TO PUBLIC HEALTH FROM FOODBORNE LISTERIA MONOCYTOGENES AMONG SELECTED CATEGORIES OF READY-TO-EAT FOODS (2003), https://www.fda.gov/media/77947/download; U.S. FOOD & DRUG ADMIN., FOOD CODE: 2022 RECOMMENDATIONS OF THE UNITED STATES PUBLIC HEALTH SERVICE FOOD AND DRUG ADMINISTRATION Annex 3 – 143 (2023), https://www.fda.gov/media/164194/download?attachment; U.S. FOOD & DRUG ADMIN., ADOPTION OF THE FDA FOOD CODE BY STATE AND TERRITORIAL AGENCIES RESPONSIBLE FOR THE OVERSIGHT OF RESTAURANTS AND/OR RETAIL FOOD STORES 4 (2023), https://www.fda.gov/media/107543/download?attachment.
[14] RONI NEFF ET AL., *supra* note 8, at 6.
[15] FLPC, *supra* note 6, at 8–9.

past their quality date, and providing education on this new standardized system.[16] Stakeholders across the food system agree that federal standardization would save them money, streamline inventory management, reduce food waste and its harmful effects, and support food security and access for American households.[17]

The Food Date Labeling Act of 2025 (H.R. 4987) would achieve these aims. First, the bill sets and defines one quality-based label ("BEST If Used By") and one safety-based label ("USE By").[18] The bill clarifies that if a date label is used on a food product, it has to be one of those standard date labels.[19] Next, the bill explicitly allows the sale or donation of food products that are past their quality date.[20] Finally, the bill directs USDA and FDA to work together to educate consumers on the meaning of food date labels.[21] These provisions establish a clear, consistent, and understandable date label system for both consumers and businesses.

Thank you for your attention to this issue and for the opportunity to submit this statement for the record. We would welcome the opportunity to provide any additional information or technical assistance that may be helpful as you consider legislative or oversight action.

Sincerely,

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[16] *Id.* at 9–10.
[17] AKIF KHAN ET AL., *supra* note 10, at 6–8.
[18] Food Date Labeling Act of 2025, H.R. 4987, 119th Cong. (2025), §§ 2(2)–(3), 3(a)–(b).
[19] *Id.* §§ 3(a)(1), (b)(1), 4.
[20] *Id.* § 3(e)(3)(B).
[21] *Id.* §§ 2(1), 3(d).

April 27, 2026

To: Chair Guthrie, Ranking Member Pallone, Chair Griffith, Ranking Member DeGette, and Members of the Energy and Commerce Subcommittee

From: Hunger Network of Greater Cleveland

In Reference to: Subcommittee Hearing *Healthier America: Legislative Proposals on the Regulation and Oversight of Food*.

In Support of: Food Date Labeling Act (H.R. 4987)

Dear Chair Guthrie, Ranking Member Pallone, Chair Griffith, Ranking Member DeGette and Members:

Hunger Network of Greater Cleveland respectfully urge the committee to proceed to a markup of the Food Date Labeling Act and pass the bill into law.

Hunger Network launched Food Rescue in January of 2018 to divert fresh food from going to waste by redirecting it to people facing food insecurity. With over 50 years of service, we realized that we could do a better job of serving our community by preventing good food from entering the waste stream and instead getting it to people who face food insecurity. We have rescued over 8 million pounds of food since then, more than 80% of which was fresh food. Confusing date labels have unnecessarily restricted the amount of food we can pick up and creates opportunities for food loss once we deliver food.

In 2024, Americans wasted over 70 million tons of food[1] – or approximately $30.5 billion worth of food[2] – due to date label confusion. ***Standardizing date labels will reduce food waste and its associated costs across the supply chain.***

During the first Trump Administration, critical steps were taken to reduce food waste by launching the Winning at Reducing Food Waste Initiative in 2018 (now known as the Federal

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[1] Insights Engine Food Waste Monitor – Surplus Food Tons, REFED, https://insights-engine.refed.org/food-waste-monitor?view=overview&year=2024 (last visited April 27, 2026) (demonstrating total surplus food by cause in 2024) (values on the website may differ slightly as the website shows live data).

[2] Insights Engine Food Waste Monitor – Surplus Food Dollars, REFED, https://insights-engine.refed.org/food-waste-monitor?break_by=cause&indicator=us-dollars-surplus&view=detail&year=2023 (last visited Jan. 15, 2025) (demonstrating dollar value of surplus food by cause in 2023) (values on the website may differ slightly as the website shows live data).

Interagency Collaboration to Reduce Food Loss and Waste), releasing the Winning on Reducing Food Waste Strategy in 2019,[3] and implementing food loss and waste policies that were authorized for the first time in the 2018 Farm Bill. In 2024, USDA, FDA, and EPA built on those successes by publishing the National Strategy for Reducing Food Loss and Waste and Recycling Organics.[4] We now have the opportunity to build off that momentum by addressing date labels by passing the Food Date Labeling Act (H.R. 4987), a measure supported by farming, retail, manufacturing, consumer and nonprofit sectors.

The current system that exists for date labels, a state-by-state patchwork of regulation, is unnecessarily complicated for industry and confusing for consumers. This leads businesses and individuals to throw away food that they think is unsafe, when in many cases the food is still safe and edible. We see this firsthand as food donors are reluctant to donate and nonprofits are concerned about accepting items that have an expired date on them.

Research shows that many consumers incorrectly believe that date labels indicate the date after which food is no longer safe to eat, but in reality, date labels are most often a manufacturer's estimate of a product's optimal quality.[5] On the other hand, some foods do have an increased food safety risk based on time and storage conditions, and those foods should be accurately and consistently labeled with a standard discard date to enable consumers to make safe food handling decisions. A streamlined date label system will make it easier for consumers to understand when their food is safe to eat.

Guidance alone will not remedy the date label issue. In previous educational resources, the FDA and USDA have encouraged industry to use the term "Best if Used By" to indicate the peak

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[3] Winning on Reducing Food Waste: FY 2019-2020 Federal Interagency Strategy, Environmental Protection Agency (April 2019), https://19january2021snapshot.epa.gov/sites/static/files/2019-08/documents/interagency_strategy_on_re ducing_food_waste_final.pdf.

[4] National Strategy For Reducing Food Loss and Waste, The White House (June 2024), https://www.usda.gov/sites/default/files/documents/NATIONAL-STRATEGY-FOR-REDUCING-FOOD-LOS S-AND-WASTE-AND-RECYCLING-ORGANICS.pdf.

[5] Roni Neff et al., Misunderstood food date labels and reported food discards: A survey of U.S. consumer attitudes and behaviors, 86 Waste Management 123-132 (March 2019) (available at: https://www.sciencedirect.com/science/article/abs/pii/S0956053X19300194); see also Debasmita Patra et al., Understanding and addressing food waste from confusion in date labeling using a stakeholders' survey, 8 Journal of Agriculture and Food Research 100295 (June 2022) (available at: https://www.sciencedirect.com/science/article/pii/S266615432200028X).

quality of a food product.[6] However, evidence shows that many companies are not consistently using this standard phrase. USDA guidance also states that the term "Use-By" is not a safety date, but rather a quality date.[7] This guidance conflicts with industry's Voluntary Product Code Dating Initiative stewarded by the Consumer Brands Association (CBA) and the Food Marketing Institute (FMI), which uses the term "BEST If Used By" as a quality date and "USE By" as a safety date.[8] No amount of date label guidance can remedy the fact that date labels have inconsistent meanings across manufacturers, geographic locations, and food products due to a lack of federal standardization – indeed, due to the lack of federal standards, many states require date label terms on certain foods that conflict with the Voluntary Product Code Dating Initiative.

Many food pantries are prohibited from taking dairy products on or close to their sell by date, despite the fact that the date is intended to mean consumers have time to use the product after purchase. This means that perfectly good milk and dairy products are being thrown away instead of being donated to organizations serving food insecure families and individuals. We see this first hand on a regular basis.

Even when food is donated consumers often mistakenly assume that date label phrases communicate safety information, rather than quality information and are likely to throw it away if it makes it to their household.[9] Farmers, manufacturers, households, and businesses across the country spend over $381 billion every year to grow, process, transport, and dispose of food that is never eaten.[10] Date label standardization would save both American households and

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[6] See e.g., Food Product Dating, USDA Food Safety and Inspection Service, https://www.fsis.usda.gov/food-safety/safe-food-handling-and-preparation/food-safety-basics/food-product -dating (last visited Jan. 13, 2025); see also Frank Yiannas, Letter to Food Industry, U.S. Food and Drug Admin. (May 23, 2019), https://www.fda.gov/media/125114/download.

[7] Food Product Dating, USDA Food Safety and Inspection Service, https://www.fsis.usda.gov/food-safety/safe-food-handling-and-preparation/food-safety-basics/food-product -dating (last visited Jan. 13, 2025).

[8] Grocery Manufacturers Association and Food Marketing Institute, *FMI – GMA Product Code Dating Initiative*, https://www.fmi.org/docs/default-source/Industry-Topics-Doc/fact-sheet-product-code-dating-initiative. pdf?sfvrsn=59de6c6e_2 (last visited Jan. 15, 2025).

[9] Roni Neff et al., Misunderstood food date labels and reported food discards: A survey of U.S. consumer attitudes and behaviors, 86 Waste Management 123-132 (March 2019) (available at: https://www.sciencedirect.com/science/article/abs/pii/S0956053X19300194); see also Debasmita Patra et al., Understanding and addressing food waste from confusion in date labeling using a stakeholders' survey, 8 Journal of Agriculture and Food Research 100295 (June 2022) (available at: https://www.sciencedirect.com/science/article/pii/S266615432200028X).

[10] ReFED, Food Waste, https://refed.org/food-waste/the-problem?gclid=CjwKCAjwjOunBhB4EiwA94JWsIt9IrOOXyYulbmmqJzKIA StYy8lgeIwRRTlcoGAb4EGjzbryFjEIxoCLUcQAvD_BwE (last visited April 27, 2026) (under Economy,

businesses money. Standardizing date labels would have a net financial benefit of $1.9 billion per year, the large majority of which would be savings to consumers.[11]

We respectfully request that the Administration improve and streamline date labels across the United States by limiting the date phrases that can be used on food and clarifying their meaning for industry and consumers. Defining standard labels provides clarity on when food is past the recommended quality date for consumption versus when the food is unsafe to eat. Food manufacturers and producers will also find it easier to distribute food more broadly as they won't have to worry about complying with multiple regulations in different states.

Federal date label practices should have food product manufacturers choose one of two standard date label phrases if they choose to include a date label on their product, one to indicate product quality or one to indicate product safety. Having one dedicated phrase to convey product quality and one dedicated phrase to convey product safety would ensure date labels have a consistent meaning across food products, food manufacturers, and geographic locations. These terms should match the standard labels that industry itself has used in its Voluntary Product Code Dating Initiative (stewarded by the Food Industry Association (FMI) and Consumer Brands Association) and would bring the United States in line with other countries, which generally require standard date label terms that distinguish between safety and quality.

Thank you for your consideration of these comments and recommendations.

Sincerely,

Julie M. Johnson
CEO
Hunger Network Food Rescue

displaying food waste data from 2024); Insights Engine Food Waste Monitor, ReFED, https://insights-engine.refed.org/food-waste-monitor?break_by=destination&indicator=us-dollars-surplus&view=detail&year=2023, (last visited January 8, 2025) (displaying the dollar amount of surplus food generated by all sectors) (values on the website may differ slightly as the website shows live data).

[11] Standardized Date Labels, ReFED, https://insights-engine.refed.org/solution-database/standardized-date-labels (last visited April 27 2026) (values on the website may differ slightly as the website shows live data).

April 29, 2026

Statement for the Record

House Energy & Commerce Health Subcommittee Hearing

Healthier America: Legislative Proposals on the Regulation and Oversight of Food

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The Institute of Food Technologists (IFT) is thankful for the opportunity to provide comments on the House Energy & Commerce Health Subcommittee hearing titled, "Healthier America: Legislative Proposals on the Regulation and Oversight of Food". For more than 80 years, IFT has brought together a diverse community of scientists, technologists, and professionals working in academia, industry, and government to ensure that our food supply is safe, nutritious, sustainable, and accessible. Our members span disciplines including chemistry, microbiology, engineering, nutrition, and data science – all fields that converge to support a modern, resilient food system.

IFT welcomes the growing interest among policymakers in strengthening the nation's food system and improving healthfulness across the nation. To that end, **IFT commends the Health Subcommittee for holding this important discussion of strong legislative proposals to improve the health of American consumers, families, and children.** This renewed focus presents a critical opportunity: to ensure that food science expertise is meaningfully integrated into policy development and implementation.

This new focus on a Healthier America necessitates strong investments in interdisciplinary food science research. Whether addressing microbial risks, improving nutrient retention, studying food additive safety, exploring formulary or processing health impacts, reducing food waste, or advancing new technologies such as precision fermentation, food scientists play a central role in delivering outcomes that directly impact consumers. As such, **the inclusion of food science perspectives is not optional; it is essential to effective policymaking.**

A strong example of this interdisciplinary approach can be seen in the work surrounding H.R. 8432, introduced by Congresswoman Diana DeGette (CO-01). IFT strongly supports the establishment of a Human Foods Innovation Account to accelerate essential research activities within the Food and Drug Administration (FDA). We also support the concept of an Advisory Committee on Human Foods, though Sec. 3(c) should be revised to ensure that statute directs the Committee to have members with specific expertise in food science and production, not solely nutrition, food safety, etc.

Additionally, removing barriers to expedite information sharing and adoption of traceability best practices as they support food safety and public health, is another example of the critical importance of food science, safety and traceability. **The effort to improve information sharing between federal and state authorities to protect public health, as seen in H.R. 8430, The**

Federal and State Food Safety Information Sharing Act, introduced by Congresswoman Deborah Ross (NC-02) and Congressman Michael Rulli (OH-06), is a needed step in supporting the application of traceability best practices across agencies. IFT is home to the Global Food Traceability Center (GFTC) and committed to supporting interoperable traceability standards to improve food safety and public health.

Equally important as the bills highlighted is the broader context in which this and the legislation before this hearing today have emerged. IFT and food scientists across the country welcome the renewed national focus on building a healthier America. The challenge of delivering safe, nutritious, and affordable food at scale is solvable, but only through sustained collaboration with Congress, the Administration, and other key partners.

IFT stands ready to serve as a trusted resource to policymakers, regulators, and stakeholders. Our members bring deep technical expertise and real-world experience across the entire food system – from production and processing to safety, nutrition, and innovation. We are committed to advancing evidence-based, practical solutions that protect public health while supporting a dynamic and resilient food sector. Meaningful progress will require strong partnerships across government, academia, and industry.

In closing, we commend the growing attention to food policy and its central role in the nation's well-being. We encourage policymakers to build on this momentum by fully integrating food science expertise into policy development and implementation. By leveraging the insights of food scientists, we can strengthen the food system, enhance public trust, and deliver healthier outcomes for all Americans.

Sincerely,

Anna Rosales

Anna Rosales, RD
Vice President – Science & Policy
Institute of Food Technologists

VIEWPOINT

Food Ingredients, State Actions, and Federal Preemption

Jennifer L. Pomeranz, JD, MPH; Emily M. Broad Leib, JD; Dariush Mozaffarian, MD, DrPH

The US Food and Drug Administration (FDA) has authority over food and beverage safety. However, its narrow interpretation of authority, resource constraints, risk aversion, and culture of appeasing the food industry[1] have limited or delayed actions to address ingredients with evidence of harm.[2] The FDA has failed both to prevent harmful ingredients from entering the food supply (premarket) and remove them once evidence of harm arises (post market).[2] To fill this gap, states are taking action, starting with California's 2023 ban of 4 additives, followed in 2025 by 30 states proposing or passing ingredient warnings or bans.[3,4] In response, the food industry is lobbying for express federal preemption (when the federal government limits or removes the authority of states to enact laws on a topic) "because they don't want to have rules in 50 different markets."[5] We review the relevant history, legal authorities, and contemporary issues with implications for food safety and health.

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Federal Food Safety Legislation

The rise in public attention on food safety mirrors events a century ago, when harmful ingredients, such as formaldehyde in milk and Borax in meat, led to the 1906 Pure Food and Drug Act prohibiting misbranded and adulterated food and requiring limited ingredient disclosures. When industry adapted with new technologies, additives, and adulterants, Congress enacted the 1938 Food, Drug, and Cosmetic Act, providing the FDA additional authority to standardize ingredients, identities, labeling, and disclosures. Congress delineated further regulatory requirements in the 1958 Food Additives Amendment for food additives and generally recognized as safe (GRAS) substances, the 1990 Nutrition Labeling and Education Act (NLEA) for labeling, and the 2011 Food Safety Modernization Act for foodborne illness. In all these actions, Congress set national thresholds for food safety, without preempting—and often explicitly preserving—state authority.

Gaps in Oversight

For decades, industry's ingredient innovations greatly outstripped the FDA's resources for review.[1] Combined with an aversion to challenging industry, the FDA has largely failed to implement its pre- and postmarket authority.[1,2]

Premarket, the Food Additives Amendment categorizes ingredients as food additives—presumed unsafe until proven otherwise based on FDA review, public notice and comment, and regulation for use—or GRAS substances, exempt from these requirements. However, neither the Food Additives Amendment nor FDA define which ingredients fall into each category. Consequently, although GRAS was intended to exempt household ingredients like spices from FDA review, today, 99% of new compounds enter food through this GRAS loophole[3]—without FDA oversight, knowledge or review of safety data, public disclosure, or transparent labeling.[2]

Post market, the FDA can revoke authorization for any ingredient based on evidence of harm. However, lacking a well-resourced, systematic, or comprehensive framework for this, the FDA recurrently fails to identify or promptly remove harmful compounds.[2] For example, even after significant evidence of harm was established, the FDA took decades to revoke the GRAS status of partially hydrogenated oils (containing trans fats linked to heart disease) and revoke authorization for red dye No. 3 (carcinogenic in animal studies) and brominated vegetable oil (linked to neurological disorders)—the latter 2 only after California's 2023 law.[2]

Federal Preemption

States possess considerable authority under their police power—a historical power each state holds to protect public health, safety, and welfare. Congress regulates interstate commerce but recognizes the importance of preserving state food safety authority by not preempting state law.[6] For example, the Food Safety Modernization Act expressly preserves broad state and local control. Similarly, the NLEA permits state labeling laws to address a "particular need for information" not met by federal requirements, with Congress specifying that the NLEA should not be construed to preempt "any state or local" labeling requirements "for a warning concerning the safety" of food or food "component[s]."[7]

Outside of express preemption, federal preemption can be found if the federal government fully occupies a field, leaving little to no room for state action (field preemption), such as nuclear safety, or if compliance with both federal and state laws would be impossible (conflict preemption), as in aviation because airplanes cannot comply with conflicting federal and state laws as they cross state lines. Food safety meets neither criterion.

State Food Safety Laws

The federal government has never occupied the field of food safety because state governments have jointly governed for more than a century. Further, because federal food safety statutes establish nationwide baselines and expressly preserve state authority, states regularly adopt additional—not conflicting—safeguards to address local risks and priorities. Examples include state-specific pesticide residue limits, contaminant thresholds, toxin prohibitions, produce sanitation rules, and retail protections, such as restaurant grading and menu labeling.

The food industry now claims that it would be "impossible" to comply with both federal and state food safety laws.[5] For example, state ingredient bans may require product reformulation to match each state's laws or the development of different products for different states. Such compliance could impose logistical and economic

burdens for industry to navigate regulations, reconfigure supply chains, and manage inventories. However, food companies already comply with variable ingredient regulations across different markets; for example, removing ingredients to match bans in Canada, Mexico, and Europe while including these ingredients in US food. Thus, such burdens are not prohibitive.

Even if burden could be shown, Congress must consider the FDA's lack of capacity for national oversight. The agency's history of failure to prevent harmful substances from entering food premarket and slow, if any, action to remove ingredients once risks are evident undermine arguments that federal oversight is sufficient or that state regulation could be safely displaced. Recently, the FDA announced plans to close the GRAS loophole and strengthen postmarket review but continues to lack personnel, analytic capacity, frameworks, and resources to do so, with thousands of ingredients with unknown safety already in food. The FDA's food-related activities further rely on administration priorities and annual congressional appropriations—with a long history of underinvestment—making them uniquely vulnerable to fluctuating priorities.

State laws around school procurement and ingredient warnings present even weaker grounds or precedent for preemption. State and local governments are the primary regulators of safety, nutrition, and food standards in food service establishments, schools, hospitals, and government buildings. This reflects the state's traditional police power to address local health concerns. For example, New York City banned trans fat in restaurants years before the FDA revoked its GRAS status.

Likewise, ingredient safety warnings, such as Texas' law to warn of the inclusion of ingredients "not recommended for human consumption" in other countries,[4] fall squarely under state authority, reflecting their well-recognized prerogative to inform consumers and mitigate risks.[6] The NLEA expressly allows states to require safety warnings and manufacturers have long complied; for example, using state-specific package stickers for California's warning requirement for ingredients linked to cancer, birth defects, or reproductive harms.

Policy Implications

Express federal preemption of state food safety laws would be unprecedented, contrary to the shared federal-state power to protect public health and safety, and reverse decades of complementary food safety activities. Preemption of local ingredient standards and safety warnings is not warranted. Preemption of ingredient bans would require demonstration of significant burdens on interstate commerce to necessitate congressional intervention; however, industry's existing compliance with varying international laws suggests this would be difficult to establish. Moreover, preemption would not be appropriate until the FDA has established a track record of successful pre- and postmarket regulation of food ingredients, with consistency across administrations. This will require new agency regulations, a meaningful shift in its culture, increased appropriations and/or user fees, and an executive branch committed to sustained, comprehensive food oversight. Historical precedents provide little assurance that these necessary conditions will materialize in concert and enable the FDA to deliver the effective, comprehensive oversight that federal preemption of food safety would require. Congress and the FDA should continue to advance public health by establishing and enforcing national standards while preserving states' authority to adopt further protections.

ARTICLE INFORMATION

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La SOUPE CINCINNATI

Bridging the gap between food waste and food insecurity

April 28, 2026

The Honorable Brett Guthrie
Chair, House Energy and Commerce Committee
United States House of Representatives
Washington, DC 20515

Re: Support for Markup of the Food Date Labeling Act

Dear Chair Guthrie, Ranking Member Pallone, Chair Griffith, Ranking Member DeGette, and Members of the House Energy and Commerce Committee,

On behalf of La Soupe, a Cincinnati and Northern Kentucky based nonprofit dedicated to bridging the gap between food waste and hunger, I write in strong support of the Food Date Labeling Act (H.R.4987) and urge the Committee to move it forward in markup in the Energy and Commerce Subcommittee on Health's Hearing entitled *Healthier America: Legislative Proposals on the Regulation and Oversight of Food*. This commonsense, bipartisan legislation would standardize food date labels nationwide, prevent the needless disposal of safe, wholesome food, and meaningfully reduce food costs and increase access for families.

La Soupe works at the intersection of food waste and food security in Greater Cincinnati, partnering each week with grocers, distributors, and farms across the region. Through that work, we see firsthand how confusing and inconsistent date labels can be. For example, "sell by," "best by," "enjoy by," and dozens of other variations cause households to throw away perfectly safe food they have already paid for. Research from ReFED and the Harvard Food Law and Policy Clinic estimates that label confusion alone drives roughly seven percent of consumer food waste, costing American families billions of dollars every year.

The Food Date Labeling Act offers a clear, evidence-based fix. By establishing a uniform two-label system: "Best If Used By" for quality and "Use By" for the narrow set of products with genuine safety concerns, the bill puts money back in the pockets of American families. The average household of four currently throws away an estimated $1,500 in food each year, and label confusion is one of the largest preventable drivers of that loss. Clear, consistent labels mean consumers stop discarding safe, wholesome food they have already paid for.

Equally important, this bill cuts red tape for businesses. Today, food manufacturers, distributors, and retailers must navigate a fragmented patchwork of state date-labeling laws with conflicting requirements, prohibited phrases, and inconsistent rules on the sale or donation of past-date products. That complexity raises compliance costs, complicates interstate commerce, and ultimately gets passed through to consumers at the checkout. A single, preemptive federal standard replaces dozens of competing state regimes with one predictable rule, lowering costs across the supply chain while giving every shopper in America the same clear information.

We respectfully urge the Committee to advance the Food Date Labeling Act through markup without delay and pass the bill into law. Thank you for your leadership on this critical issue. Please do not hesitate to contact me if La Soupe can serve as a resource as the bill moves forward.

Sincerely,

Emmy Schroder

Emmy Schroder
Executive Director
La Soupe Cincinnati
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NYU SCHOOL OF GLOBAL PUBLIC HEALTH

Jennifer L. Pomeranz, JD, MPH
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April 29, 2026

Re: Subcommittee on Health Hearing: Healthier America: Legislative Proposals on the Regulation and Oversight of Food

Dear Chair Brett Guthrie, Chair Griffith, Ranking Member Frank Pallone, Jr., and Ranking Member Diana DeGette,

Thank you for the opportunity to comment on the bills being considered at the Hearing on Healthier America: Legislative Proposals on the Regulation and Oversight of Food on April 29, 2026. I am an Associate Professor at New York University's School of Global Public Health and also served on the ad hoc Committee of the National Academies of Sciences, Engineering, and Medicine, on the Challenges in Supply, Market Competition, and Regulation of Infant Formula in the United States. I have engaged in extensive research on the issues under consideration and am an expert in this space.

I am writing regarding Congress's recent efforts to address major gaps in food safety and transparency. There are many gaps in the U.S. Food and Drug Administration (FDA)'s oversight, resources and authority to protect Americans from unsafe ingredients and products. Given FDA's lack of certain authorities, historical lack of action even when it has the authority, and lack of resources, Congressional intervention is warranted to do the following, each addressed in turn below:

1. Close the GRAS loophole

2. Increase Transparency for All Ingredients

3. Define Food Additives and GRAS Substances

4. Address Conflicts of Interest in Safety Data

5. Engage in Robust, Frequent and Prompt Post-Market Review

6. Provide Resources to the FDA: User Fees

7. Oppose Preemption of State Activities

8. Pass Food Labeling Transparency Requirements

9. Require Testing and Notification to Protect the Infant Formula Supply and Infant and Toddler Foods

10. Implement User Fees for New Infant Formula Submission

11. Ensure the safety of infant and toddler food

1. Close the GRAS loophole

The Food Additives Amendment of 1958 divided ingredients into food additives and "generally recognized as safe" (GRAS) substances. GRAS was intended to include common ingredients such as salt, pepper, vinegar and spices, but has not been used in this way for decades. Whereas new food additives require submission of a public petition and safety data to the FDA to promulgate a regulation for safe use, for new GRAS substances, FDA determined that FDA's pre-market review is voluntary. As such, chemical manufacturers and food companies add chemical compounds to food based on internal, unpublished research, without FDA knowledge or oversight or public notification — termed "self-GRAS."[1] An estimated 99% of new chemical ingredients have entered the US food supply through this "GRAS loophole."[2] As a result, the FDA and the public are unaware of these ingredients and there is no way to verify that they are safe. Congress must close this GRAS loophole and require pre-market submission to FDA of both food additives and GRAS ingredients, as prescribed by H. R. 4958 — 119th Congress (2025-2026) (hereinafter H. R. 4958).

2. Increase Transparency for All Ingredients

It is equally important that pre-market submission of ingredients remains public for food additives and becomes transparent for GRAS substances. Congress should require FDA to maintain an accurate and complete list of all ingredients in the food supply and make this publicly available. This currently does not exist. This information should be placed in a searchable public database to ensure transparency.

3. Define Food Additives and GRAS Substances

Congress also needs to define food additives and GRAS substances if it maintains separate regulatory pathways for each. The Food Additives Amendment of 1958 circularly defines food additives as substances that are not GRAS, without specifying which ingredients fall into each category.[3] As such, FDA currently also allows industry to for themselves whether a new ingredient should be categorized as a food additive or GRAS. The two ingredient-types must be distinguished and defined if separate pre-market pathways are going to be maintained. An alternative would be to recognize that all new ingredients are food additives in need of regulatory oversight and streamline all new ingredient petitions to the food additive pathway.

4. Address Conflicts of Interest in Safety Data

Severely missing from the Food Drug and Cosmetic Act is a requirement that the safety data be generated by independent science and independent scientists. Neltner et al. found that 100% of the GRAS notifications voluntarily submitted to the FDA between 1997 and 2012 were decided

[1] Pomeranz JL, Broad Leib EM, Mozaffarian D. Regulation of Added Substances in the Food Supply by the Food and Drug Administration Human Foods Program. Am J Public Health. 2024;114(10):1061-1070. doi:10.2105/AJPH.2024.307755

[2] Benesh M, Maffini M. Secret GRAS: How 100+ food chemicals bypassed government safety review. EWG. March 3, 2026. https://www.ewg.org/research/secret-gras-how-100-food-chemicals-bypassed-government-safety-review

[3] 21 USC § 321(s)

by people with conflicts of interest.[4] Further, the Southern District of New York found there were "legitimate concerns" over "conflicts of interest that may arise during GRAS determinations," but there is "nothing within the statutory scheme" to require FDA to avoid such conflicts.[5] As such, Congress must act. I support the goal of H. R. 4958's section allowing FDA to object to the use of a proposed GRAS substance if the data submitted is generated by people with conflicts of interest in addition to criteria about lacking appropriate supporting data.

The White House was correct that research "should empower Americans through transparency and open-source data, and should avoid or eliminate conflicts of interest that skew outcomes and perpetuate distrust."[6] As such, it is important to address industry conflicts of interest in safety data for food ingredients.

5. Engage in Robust, Frequent and Prompt Post-Market Review

It is equally important for FDA to regularly and consistently conduct post-market review of ingredients already in the food supply. The FDA has post-market authority to review the safety of all ingredients in the food supply; however, it lacks a formal, comprehensive, or well-resourced post-market review process.[7] This is especially concerning for self-GRAS ingredients, as these substances have never been evaluated by the FDA. Equally concerning, is that when the FDA does act, it often takes decades to remove substances even when the evidence is clear that they are no longer safe. This was the case for partially hydrogenated vegetable oil (industrial trans fats linked to heart disease) and brominated vegetable oil (linked to nervous system damage).

H. R. 4958 requires a minimum of 10 substances a year – this could be increased. Under President Nixon concerns arose about the safety of cyclamate salts in the food supply. President Nixon directed the FDA to review the safety of ingredients and FDA worked with an independent scientific organization to conduct a safety review of 422 substances from 1972 to 1982.[8] Congress can require the FDA to similarly work with the National Academies of Sciences, Engineering, and Medicine to conduct a comprehensive review of the ingredients. Of course, this will only work if Congress simultaneously requires the disclosure of all self-GRAS ingredients to the FDA and/or on a public database. FDA cannot review the safety of ingredients about which it does not know.

[4] Neltner TG, Alger HM, O'Reilly JT, Krimsky S, Bero LA, Maffini MV. Conflicts of interest in approvals of additives to food determined to be generally recognized as safe: out of balance. JAMA Intern Med. 2013;173(22):2032-2036. doi:10.1001/jamainternmed.2013.10559
[5] Ctr. for Food Safety v. Becerra, 565 F. Supp. 3d 519, 532 (S.D.N.Y. 2021).
[6] The White House. ESTABLISHING THE PRESIDENT'S MAKE AMERICA HEALTHY AGAIN COMMISSION. The White House. February 13, 2025. https://www.whitehouse.gov/presidential-actions/2025/02/establishing-the-presidents-make-america-healthy-again-commission/
[7] Pomeranz JL, Broad Leib EM, Mozaffarian D. Regulation of Added Substances in the Food Supply by the Food and Drug Administration Human Foods Program. Am J Public Health. 2024;114(10):1061-1070. doi:10.2105/AJPH.2024.307755
[8] Id.

Further, when other countries such as the United Kingdom or the European Union or even states such as California and West Virginia ban ingredients or require safety warnings for certain ingredients, this should trigger an immediate post-market review of the ingredients by the FDA.

6. Provide Resources to the FDA: User Fees

A major barrier to FDA oversight is that it historically lacks resources to engage in all of the food-related activities that it is authorized and required to do.[9] Congress has granted FDA the authority to collect user fees for its regulatory activities related to most of its other policy domains with the exception of food (and dietary supplements). FDA collects user fees for human and animal drugs, including prescriptions, over-the-counter and generic drugs, and medical devices and tobacco, among others.[10] FDA does not does not have the authority to collect user fees for its food-related activities except in very limited circumstances under the Food Safety Modernization Act.[11] Given its limited resources, FDA either abdicates responsibility for some of its oversight – like in the case of post-market ingredient review – or does not meet its statutory or regulatory timelines for premarket review of food and color additive petitions, proposed labeling claims, and new infant formula notifications, in a timely manner.[12]

User fees would provide stable resources to the FDA and allow companies to anticipate timelines and bring ingredients and products to market more efficiently.[13] There is a perception that user fees may fund a result (e.g., similar to a bribe); however, they fund the regulatory processes. As such, I support H.R. 4958's imposition of user fees. Registration fees, while potentially also warranted, would not provide the FDA the stable funding stream it needs to engage in its regulatory authority for food or fund the regulatory processes about which the nation is concerned.

Notably, the food industry has functioned for decades with less oversight by the FDA than warranted or authorized. FDA's lack of funding, risk-adverse culture and reluctance to take enforcement actions against food companies[14] is likely why there is already real or perceived industry-capture of the agency. These need to change and user fees can provide funding FDA desperately needs for its food-related activities.

Of note, even though the food industry opposed user fees when it was being debated in 2012, user fees ultimately help industry. For example, the generic drug industry initially opposed user

[9] Henney J, Diez-Gonzalez F, Jones J, Kowalcyk B, Kumanyika S, Taylor J. Operational evaluation of the FDA Human Foods Program: a report of the Human Foods Independent Expert Panel Reagan–Udall Foundation for the FDA. 2022. Available at: https://reaganudall.org/operational-evaluation-fdas-humanfoods-programs.
[10] Pomeranz JL, Cash SB, Broad Leib E, Mozaffarian D. Advancing The FDA's Human Foods Program Through Additional Authorities And User Fees. Health Aff (Millwood). 2025;44(4):458-466. doi:10.1377/hlthaff.2024.01342
[11] Id.
[12] Id.
[13] Id.
[14] Henney J, Diez-Gonzalez F, Jones J, Kowalcyk B, Kumanyika S, Taylor J. Operational evaluation of the FDA Human Foods Program: a report of the Human Foods Independent Expert Panel Reagan–Udall Foundation for the FDA. 2022. Available at: https://reaganudall.org/operational-evaluation-fdas-humanfoods-programs.

fees until they observed the predictability of review timelines for prescription drugs stemming from their payment of user fees.[15]

If Congress closes the GRAS loophole and requires pre-market review of both food additives and GRAS substances, user fees are an appropriate method to fund FDA's pre-market review. Of course, increased appropriations would be a welcome change for FDA but this varies from Congress to Congress and year to year and does not provide the same steady funding stream or an FDA-agreement to meet its statutory or regulatory deadlines.

7. Oppose Preemption of State Food Safety Laws

Preemption in the context of food safety is completely contrary to ensuring a safe food supply, unnecessary, and conflicts with our federalist framework and legal tradition.[16] The federal and state governments have jointly governed food safety for over a century. The current outpouring of bipartisan support for a safe food supply is reminiscent of concerns around unsafe ingredients (e.g., formaldehyde to preserve milk, borax to preserve meat) that led to the passage of the Pure Food and Drug Act of 1906. This Act was the first federal law to prohibit misbranded and adulterated food and set a federal floor for safe and transparent food. One thing it did not do is preempt states from taking further additional action above federal law to protect their citizens from these harms.

Ultimately, the Pure Food and Drug Act failed to protect consumers from adulterated foods because the food industry adapted and created new technologies in adulterants and additives that enabled companies to engage in unsafe practices that remained legal under the existing law.[17] As such, Congress replaced it with the current law, the Food Drug and Cosmetic Act of 1938 and the Food Additives Amendment of 1958 to address the safety of additives and GRAS ingredients in the food supply. Again, Congress did not preempt the states from addressing food safety under these laws.

Further the Food Safety Modernization Act of 1990— which provides comprehensive authority to FDA to prevent foodborne outbreaks—explicitly preserved broad state and local control regarding the safe production of food.[18] For labeling, Congress incorporated a limited preemption clause to ensure uniform national nutrient and ingredient labeling through the Nutrition Labeling and Education Act of 1990 but Congress carved out an express exemption for state laws "designed to address a particular need for information which need is not met by the [federal] requirements."[19] Congress included a rule of construction explaining that this preemption provision does not apply to "any state or local requirement respecting a statement in the labeling of food that provides for a warning concerning the safety of the food or component of the food."[20] Thus, safety warnings are not preempted.

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[15] Pomeranz JL, Cash SB, Broad Leib E, Mozaffarian D. Advancing The FDA's Human Foods Program Through Additional Authorities And User Fees. Health Aff (Millwood). 2025;44(4):458-466. doi:10.1377/hlthaff.2024.01342
[16] Pomeranz JL, Broad Leib EM, Mozaffarian D. Food Ingredients, State Actions, and Federal Preemption. JAMA. 2026;335(10):843-844. doi:10.1001/jama.2026.0366
[17] Id.
[18] Id.
[19] 21 U.S.C. § 343-1(b).
[20] Nutrition Labeling and Education Act, Pub L No. 101-535, §6(c)(2)-(3), 104 Stat 2353, 2364 (1990).

These state actions are vitally important in that they bring to light unsafe ingredients, prompt federal action and also protect the food supply for the entire nation; food companies will reformulate their products nationwide rather than create specific products for one state. Notably, **food companies have already removed many of the ingredients at issue** in the United States today **in other countries**, like those in Europe, the United Kingdom, Mexico and Canada, **while simultaneously exposing millions of Americans to these same harmful ingredients**. The industry is accustomed to operating under different legal systems and rules.

In addition to preemption being unprecedented, perhaps more importantly is that **FDA has practically zero no track record of protecting the public from unsafe ingredients**. It would be premature to remove state oversight and place all responsibility on the FDA. This leaves no recourse if the FDA fails to act. Not only does FDA lack a track record of protecting the public from the health harms, but FDA lacks a framework for pre- and post-market review – that even if addressed through the bills being discussed today, would take time for the FDA to get up to speed and for the public to see that FDA can handle this responsibility. Moreover, FDA needs resources and staff to review safety data for new submissions and existing ingredients in the food supply.

Thus, I absolutely oppose the preemption provision in H.R. ____, FDA Review and Evaluation for Safe, Healthy and Affordable Foods Act of 2026 (Rep. Cammack) as this is incredibly broad and preempt huge swaths of important state and local food safety, labeling, sanitation, public health, and contamination laws. There has never been national uniformity for these issues and the food industry has effectively and profitably functioned in the United States anyway.

Further, preemption is absolutely unwarranted for issues of state and local control such as safety, nutrition, food and safety standards for schools, food service establishments, hospitals, and government buildings. State and local governments are the primary regulators of such local concerns and this reflects the state's traditional police power to address public health and safety.[21]

A better solution would be to have state actions trigger immediate FDA review of the ingredient and the safety data (including conflicts of interest) and give FDA the opportunity to promulgate national standards. Thus, Congress can also pass a requirement that if the states ban or warn about an ingredient it triggers this immediate ingredient review by the FDA which must review the safety data in a prompt manner.

8. Pass Food Labeling Transparency Requirements

I support H.R. 8385 - Food Labeling Modernization Act of 2026 119th Congress (2025-2026) (hereinafter H.R. 8385) with additions. For too long FDA has allowed confusing and misleading statement and claims on food products. These most notably include references to whole grain (when the product is primarily comprised of refined grains), references to fruit (when the product contains little to no actual fruit content), and potentially unsubstantiated structure function

[21] Pomeranz JL, Broad Leib EM, Mozaffarian D. Food Ingredients, State Actions, and Federal Preemption. JAMA. 2026;335(10):843-844. doi:10.1001/jama.2026.0366

claims.[22] Moreover, the disqualifying nutrient list to be able to make a health claim or qualified health claim is both outdated and needs to apply to all nutrition- and health-related claims. Thus, total fat and dietary cholesterol should be removed and added sugar should be included;[23] moreover, this should apply to nutrient content claims and structure/function claims. All of these issues are addressed in H.R. 8385 which I support.

Further, nutrient content claims are permitted for ultra-processed foods that are simply fortified with vitamins and minerals. Congress may consider strengthening FDA's fortification policy which currently states that it is not appropriate to fortify "certain foods, such as fresh produce; meat, poultry, or fish products; sugars; or snack foods such as candies and carbonated beverages,"[24] but this is rarely enforced and could be expanded.

Additionally, food labels are currently not transparent when it comes to the amount of caffeine in a product or the presence of nonnutritive sweeteners. H.R. 8385 correctly addresses the caffeine issue. Notably, there is an outstanding need for manufacturers to likewise disclose the addition of nonnutritive sweeteners in a way that consumers can understand. Currently the only way for a consumer to identify the addition of low- and no-calorie sweeteners is to know the chemical term and find it on the ingredient list.[25] This is especially an issue for children's health and parents' ability to care for their children.

The most commonly consumed drinks by children are fruit-drinks, where nonnutritive sweeteners are frequently added but this is not understood by caregivers.[26,27] There needs to be a clear disclosure in the ingredient list and a front-of-pack disclosure on the principal display panel that the product contains non-nutritive sweeteners as proposed in H.R. 5882 — 119th Congress (2025-2026). The FDA should test what term is understood most by consumers, e.g., diet sweeteners (used for soft drinks), nonnutritive sweeteners, or low-calorie sweeteners or no-calorie sweeteners, etc. The label should clearly state that it contains these sweeteners using the most widely understood term.

Moreover, FDA maintains the position that it does not have the authority to address structure/function claims even when they are false, misleading or deceptive; FDA also lacks the authority to request substantiation documents for structure/function claims. H.R. 8385 fixes these issues. FDA must be required to monitor structure/function claims and be given the authority to

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[22] Pomeranz JL, Lurie PG. Harnessing the Power of Food Labels for Public Health. Am J Prev Med. 2019;56(4):622-625. doi:10.1016/j.amepre.2018.11.014

[23] Mozaffarian D. Dietary and Policy Priorities for Cardiovascular Disease, Diabetes, and Obesity: A Comprehensive Review. Circulation. 2016;133(2):187-225. doi:10.1161/CIRCULATIONAHA.115.018585

[24] FDA. Questions and Answers on FDA's Fortification Policy Guidance for Industry. November 2015. https://www.fda.gov/media/94563/download

[25] Pomeranz JL, Harris JL. Children's Fruit "Juice" Drinks and FDA Regulations: Opportunities to Increase Transparency and Support Public Health. Am J Public Health. 2020;110(6):871-880. doi:10.2105/AJPH.2020.305621

[26] Harris JL, Pomeranz JL. Misperceptions about added sugar, non-nutritive sweeteners and juice in popular children's drinks: Experimental and cross-sectional study with U.S. parents of young children (1-5 years). Pediatr Obes. 2021;16(10):e12791. doi:10.1111/ijpo.12791

[27] Fleming-Milici F, Gershman H, Pomeranz J, Harris JL. Effects of a front-of-package disclosure on accuracy in assessing children's drink ingredients: two randomised controlled experiments with US caregivers of young children. Public Health Nutr. 2023;26(12):2790-2801. doi:10.1017/S1368980023001969

request substantiation documents. Currently, there are a wide range of structure/function claims with unknown evidence to support the claims. This gap must be addressed to support informed consumer decision-making and reduce deception and confusion for consumers.

9. Require Testing and Notification to Protect the Infant Formula Supply and Infant and Toddler Foods

I also support H. R. 7867 - Infant Formula Safety Modernization Act of 2026 — 119th Congress (2025-2026) (hereinafter H. R. 7867). Had the infant formula industry reported its own internal safety testing results showing contamination, it may have avoided infant death and disability. Thus, H. R. 7867's requirement that infant formula manufacturers must immediately submit to the FDA a written notification of any positive test result for a pathogen or microorganism is of utmost importance.

H.R. 2472 — 119th Congress (2025-2026) also provides similar and important protections for infant and toddler food and infant formula. The definition of infant and toddler food should be amended to include toddler drinks (also called toddler formula or milks). Moreover, many toddler food products are listed as for up to 36 months or 12+. In order to capture all relevant products, the definitions should be expanded to "12+" or 12-36 months to avoid the food industry's ability to bypass application to its products. It is also important to ensure that records are available to the FDA electronically and that FDA does not need to engage in a physical inspection of the premises in order to receive immediate notification of the testing results and applicable records.[28]

10. Implement User Fees for New Infant Formula Submission

User fees are directly applicable to infant formula. Infant formula companies could be required to pay user fees for FDA's review of new infant formula submissions. Currently, infant formula manufacturers must simply notify the FDA of a "new" infant formula (which includes major changes to existing formulas) ninety days before going to market.[29] Required review may be warranted. Either way, the FDA has consistently failed to meet the ninety-day statutory deadline, leaving infant formula manufacturers with challenges in planning their product development and market activities.[30] A user fee would provide FDA the money it needs to provide actual oversight for new infant formula products and the timelines the companies need to be able to bring new products to market.

11. Ensure the safety of infant and toddler food

I also support H.R. 8429 - Baby Food Safety Act of 2026. However, the definition of infant and toddler food should be amended. Many toddler food products are listed as for up to 36 months or 12+. In order to capture all relevant products, the definitions should be expanded to "12+" or 12-

[28] Schneeman BO, Anupindi RM, Cuff P, Delaney KM, editors. Challenges in supply, market competition, and regulation of infant formula in the United States. Washington (DC): National Academies Press; 2024.
[29] 21 USC § 350a.
[30] Schneeman BO, Anupindi RM, Cuff P, Delaney KM, editors. Challenges in supply, market competition, and regulation of infant formula in the United States. Washington (DC): National Academies Press; 2024.

36 months to avoid the food industry's ability to bypass application to its products. I also support the inclusion of all "food predominantly composed of a fruit or vegetable puree or juice" regardless of age, as fruit and vegetable pouches and similar products are widely consumed by children. It will be important to ensure that pouches that also include other ingredients, such as yogurt or oats, are not able to avoid application of these safety measures.

Thank you for your consideration of my comments. I have attached relevant academic research for your consideration. Please feel free to reach out to me with any questions.

Sincerely,

/jlp/

Jennifer L. Pomeranz

Michigan Sustainable Business Forum

April 27, 2026

Submitted to:

Chair Brett Guthrie — Ranking Member Frank Pallone

Chair Morgan Griffith — Ranking Member Diana DeGette

Members of the House Energy and Commerce Subcommittee on Health

RE: Statement for the Record - Hearing on "Healthier America: Legislative Proposals on the Regulation and Oversight of Food"

Support for the Food Date Labeling Act (H.R. 4987)

Dear Chair Gurthie, Ranking Member Pallone, Chair Griffith, Ranking Member DeGette, and Members of the Subcommittee:

On behalf of Michigan Sustainable Business Forum (MiSBF), we appreciate the opportunity to submit this statement for the record in support of the Food Date Labeling Act (H.R. 4987).

MiSBF is a statewide nonprofit organization that engages businesses, institutions, and community partners to advance practical, scalable sustainability solutions. A central focus of our work is reducing food loss and waste while strengthening systems that redirect surplus food to people in need. Through initiatives such as the Michigan Food System Waste Reduction Roadmap and our ongoing Double Food Donation campaign, we work closely with food businesses, food banks, food rescue organizations, and public agencies across Michigan.

Confusion around food date labels is one of the most persistent and solvable drivers of food waste in the United States. The current patchwork of labeling practices (inconsistent phrases such as "sell by", "best by", and "use by")[2] creates uncertainty for consumers and operational challenges for businesses and institutions. This confusion leads to the premature disposal of safe, wholesome food.

[1] ReFED: How Confusing Food Date Labels are Hitting Your Wallet: Five Things To Know About Food Date Labels, Consumer Behavior, and Policy

[2] Zero Food Waste Coalition: Widespread Industry Support for the Food Date Labeling Act of 2025

The FDA also estimates that confusion over date labeling accounts for approximately 20 percent of consumer food waste[3]. ReFED similarly identifies date label confusion as a major driver of household food waste and estimates that it contributes to millions of tons of wasted food annually, with significant costs to households and businesses[4].

This is not just a consumer education issue; it is a systems issue that affects supply chains, donation practices, and organizational decision making.

MiSBF's work with food donors and recovery organizations highlights how date labeling confusion directly limits the effectiveness of food rescue efforts. Food businesses often err on the side of caution, discarding items earlier than necessary due to unclear or inconsistent labels. Similarly, donation partners may decline items out of concern for compliance or perceived risk.

Standardizing date labels would increase confidence among food donors and recipients, improve consistency in food handling and donation practices, and unlock additional volumes of safe, nutritious food for redistribution. In Michigan, where we are working to significantly increase the amount of food donated into the charitable food system, addressing labeling confusion is a critical upstream intervention.

The Food Date Labeling Act represents a commonsense, bipartisan solution with wide-ranging benefits. Reducing unnecessary food disposal can lower costs for households and businesses, improve operational efficiency, and conserve the substantial land, water, and energy resources used to produce food. FDA estimates that 30 to 40 percent of food in the United States goes uneaten and notes that food waste has significant environmental and economic consequences.[5]

Importantly, standardized labeling also complements existing federal protections, such as the Bill Emerson Good Samaritan Food Donation Act, by reinforcing confidence in donation practices.

Through MiSBF's statewide initiatives, we engage hundreds of stakeholders across the food system, including businesses, institutions, and food recovery organizations. Our experience demonstrates that while education and outreach are essential, structural clarity (such as standardized labeling) is necessary to drive lasting change at scale.

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[3] U.S. FDA: How to Cut Food Waste and Maintain Food Safety
[4] ReFED: How Confusing Food Date Labels Are Hitting Your Wallet: Five Things to Know About Food Date Labels, Consumer Behavior, and Policy
[5] U.S. FDA: How to Cut Food Waste and Maintain Food Safety

The Food Date Labeling Act would provide that clarity, supporting both private sector efficiency and public-benefit outcomes.

For these reasons, Michigan Sustainable Business Forum respectfully urges the Committee to proceed to a markup of the Food Date Labeling Act and to advance this legislation toward passage.

We appreciate your leadership in addressing food system challenges through practical, evidence-based policy solutions and stand ready to support continued efforts to reduce food waste and strengthen food recovery systems.

Sincerely,

Daniel Schoonmaker
Executive Director
Michigan Sustainable Business Forum

April 28, 2026

To: Chair Guthrie, Ranking Member Pallone, Chair Griffith, Ranking Member DeGette, and Members of the Energy and Commerce Subcommittee

From: National Food Recovery Association

In Reference to: Subcommittee Hearing *Healthier America: Legislative Proposals on the Regulation and Oversight of Food*.

In Support of: Food Date Labeling Act (H.R. 4987)

Dear Chair Guthrie, Ranking Member Pallone, Chair Griffith, Ranking Member DeGette and Members:

The National Food Recovery Association (NFRA) respectfully urges the committee to proceed to a markup of the Food Date Labeling Act and pass the bill into law.

The NFRA, founded in 2023 with over 100 food recovery organization members, exists to advance the edible food recovery industry through collaborative, solutions-focused initiatives that identify and support best practices. Food Date Labeling impacts all of our member organizations, as confusion over date label meaning can prevent donors from donating close-to-date or past-date labeled food items, nonprofit distribution partners from accepting these food donations, and food insecure consumers from using safe, wholesome products. The result is that perfectly safe, fresh food, often just what food insecure individuals need to promote their overall health and well being, is wasted and sent to the landfill. Our members have rescued, conservatively, over 1.5 billion pounds of food in the last 10 years. That number could be increased significantly with date label clarity.

The Issue:

In 2024, Americans wasted over 70 million tons of food[1] – or approximately $30.5 billion worth of food[2] – due to date label confusion. ***Standardizing date labels will reduce food waste and its associated costs across the supply chain.***

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1 Insights Engine Food Waste Monitor – Surplus Food Tons, REFED, https://insights-engine.refed.org/food-waste-monitor?view=overview&year=2024 (last visited April 27, 2026) (demonstrating total surplus food by cause in 2024) (values on the website may differ slightly as the website shows live data).

2 Insights Engine Food Waste Monitor – Surplus Food Dollars, REFED, https://insights-engine.refed.org/food-waste-monitor?break_by=cause&indicator=us-dollars-surplus&view =detail&year=2023 (last visited Jan. 15, 2025) (demonstrating dollar value of surplus food by cause in 2023) (values on the website may differ slightly as the website shows live data).

During the first Trump Administration, critical steps were taken to reduce food waste by launching the Winning at Reducing Food Waste Initiative in 2018 (now known as the Federal Interagency Collaboration to Reduce Food Loss and Waste), releasing the Winning on Reducing Food Waste Strategy in 2019[3], and implementing food loss and waste policies that were authorized for the first time in the 2018 Farm Bill. In 2024, USDA, FDA, and EPA built on those successes by publishing the National Strategy for Reducing Food Loss and Waste and Recycling Organics.[4] We now have the opportunity to build on that momentum, addressing date labels by passing the Food Date Labeling Act (H.R. 4987), a measure supported by farming, retail, manufacturing, consumer and nonprofit sectors.

The current system that exists for date labels, a state-by-state patchwork of regulation, is unnecessarily complicated for industry and confusing for consumers. Harvard's Center for Health Law and Policy Innovation counted 47 different food date labels on food products[5]. This leads businesses and individuals to throw away food that they think is unsafe, when in many cases the food is still safe and edible. We see this firsthand as food donors are reluctant to donate and nonprofits are concerned about accepting items that have a past date label.

Research shows that many consumers incorrectly believe that date labels indicate the date after which food is no longer safe to eat, but in reality, date labels are most often a manufacturer's estimate of a product's optimal quality.[6] On the other hand, some foods do have an increased food safety risk based on time and storage conditions, and those foods should be accurately and consistently labeled with a standard discard date to enable consumers to make safe food handling decisions. A national, streamlined date label system will make it easier for consumers to understand when their food is safe to eat.

Guidance alone will not remedy the date label issue. In previous educational resources, the FDA and USDA have encouraged industry to use the term "Best if Used By" to indicate the peak

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3 Winning on Reducing Food Waste: FY 2019-2020 Federal Interagency Strategy, ENVIRONMENTAL PROTECTION AGENCY (April 2019), https://19january2021snapshot.epa.gov/sites/static/files/2019-08/documents/interagency_strategy_on_reducing_food_waste_final.pdf.

4 National Strategy For Reducing Food Loss and Waste, THE WHITE HOUSE (June 2024), https://www.usda.gov/sites/default/files/documents/NATIONAL-STRATEGY-FOR-REDUCING-FOOD-LOSS-AND-WASTE-AND-RECYCLING-ORGANICS.pdf.

5 Opinion: It's time to finally clear up food date label confusion for consumers, Frank Yianna (February 2024), https://chlpi.org/news-and-events/news-and-commentary/food-law-and-policy/opinion-its-time-to-finally-clear-up-food-date-label-confusion-for-consumers/

6 Roni Neff et al., Misunderstood food date labels and reported food discards: A survey of U.S. consumer attitudes and behaviors, 86 WASTE MANAGEMENT 123-132 (March 2019) (available at: https://www.sciencedirect.com/science/article/abs/pii/S0956053X19300194); see also Debasmita Patra et al., Understanding and addressing food waste from confusion in date labeling using a stakeholders' survey, 8 JOURNAL OF AGRICULTURE AND FOOD RESEARCH 100295 (June 2022) (available at: https://www.sciencedirect.com/science/article/pii/S266615432200028X).

This certifies that no goods or services were provided in exchange for the contribution indicated above.

National Food Recovery Association has filed for tax exempt status as described in Section 501(c)(3) of the Internal Revenue Code; EIN 41-2578081

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quality of a food product.[7] However, evidence shows that many companies are not consistently using this standard phrase. USDA guidance also states that the term “Use-By” is not a safety date, but rather a quality date.[8] This guidance conflicts with industry’s Voluntary Product Code Dating Initiative stewarded by the Consumer Brands Association (CBA) and the Food Marketing Institute (FMI), which uses the term “BEST If Used By” as a quality date and “USE By” as a safety date.[9] No amount of date label guidance can remedy the fact that date labels have inconsistent meanings across manufacturers, geographic locations, and food products due to a lack of federal standardization – indeed, due to the lack of federal standards, many states require date label terms on certain foods that conflict with the Voluntary Product Code Dating Initiative.

Many food pantries are prohibited from taking dairy products on or close to their sell by date, despite the fact that the date is intended to mean consumers have time to use the product after purchase. This means that perfectly good milk and dairy products are being thrown away instead of being donated to organizations serving food insecure families and individuals. We see this first hand on a regular basis.

Even when food is donated, consumers often mistakenly assume that date label phrases communicate safety information, rather than quality information and are likely to throw it away if it makes it to their household.[10] Farmers, manufacturers, households, and businesses across the country spend over $381 billion every year to grow, process, transport, and dispose of food that is never eaten.[10] Date label standardization would save both American households and businesses money, while allowing more surplus food to enter the emergency food system. Standardizing date labels would have a net financial benefit of $1.9 billion per year, the large majority of which would be savings to consumers.[11]

The Solution:

We respectfully request that the Administration improve and streamline date labels across the United States by limiting the date phrases that can be used on food and

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7 See e g., Food Product Dating, USDA FOOD SAFETY AND INSPECTION SERVICE,https://www.fsis usda.gov/food-safety/safe-food-handling-and-preparation/food-safety-basics/food-product -dating (last visited Jan. 13, 2025); see also Frank Yiannas, Letter to Food Industry, U.S. FOOD AND DRUG ADMIN. (May 23, 2019), https ://www.fda.gov/media/125114/download.

8 Food Product Dating, USDA FOOD SAFETY AND INSPECTION SERVICE, https://www.fsis.usda.gov/food-safety/safe-food-handling-and-preparation/food-safety-basics/food-product -dating (last visited Jan. 13, 2025).

9 Grocery Manufacturers Association and Food Marketing Institute, *FMI – GMA Product Code Dating Initiative*, https://www.fmi.org/docs/default-source/Industry-Topics-Doc/fact-sheet-product-code-dating-initiative. pdf?sfvrsn=59de6c6e_2 (last visited Jan. 15, 2025).

10 Roni Neff et al., Misunderstood food date labels and reported food discards: A survey of U.S. consumer attitudes and behaviors, 86 WASTE MANAGEMENT 123-132 (March 2019) (available at: https ://www.sciencedirect.com/science/article/abs/pii/S0956053X19300194); see also Debasmita Patra et al., Understanding and addressing food waste from confusion in date labeling using a stakeholders’ survey, 8 JOURNAL OF AGRICULTURE AND FOOD RESEARCH 100295 (June 2022) (available at: https://www sciencedirect.com/science/article/pii/S266615432200028X).

clarifying their meaning for industry and consumers. Defining standard labels provides clarity on when food is past the recommended quality date for consumption versus when the food is unsafe to eat. Food manufacturers and producers will also find it easier to distribute food more broadly as they won't have to worry about complying with multiple regulations in different states.

Federal date label practices should have food product manufacturers choose one of two standard date label phrases if they choose to include a date label on their product, one to indicate product quality or one to indicate product safety. Having one dedicated phrase to convey product quality and one dedicated phrase to convey product safety would ensure date labels have a consistent meaning across food products, food manufacturers, and geographic locations. These terms should match the standard labels that industry itself has used in its Voluntary Product Code Dating Initiative (stewarded by the Food Industry Association (FMI) and Consumer Brands Association) and would bring the United States in line with other countries, which generally require standard date label terms that distinguish between safety and quality.

Thank you for the consideration of these comments and recommendations.

Sincerely,

Jennifer England

Sammie Paul
Co-Chair

Jennifer England
Co-Chair

Audit trail

Details

FILE NAME	NFRA Statement to E&C in re FDLA HR 4987 - 4/28/26, 10:37 AM
STATUS	Signed
STATUS TIMESTAMP	2026/04/28 14:42:14 UTC

Activity

SENT	team@nationalfoodrecoveryassociation.org **sent** a signature request to: • Jennifer England (jenenglandpgh@gmail.com) • Sammie Paul (sammie@foodrecovery.org)	2026/04/28 14:37:36 UTC
SIGNED	**Signed** by Jennifer England (jenenglandpgh@gmail.com)	2026/04/28 14:38:55 UTC
SIGNED	**Signed** by Sammie Paul (sammie@foodrecovery.org)	2026/04/28 14:42:14 UTC
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Statement for the Record

House Energy & Commerce Subcommittee on Health
Healthier America: Legislative Proposals on the Regulation and Oversight of Food
April 29, 2026

Submitted by Natural Resources Defense Council

Chairman Griffith, Ranking Member DeGette, and Members of the Subcommittee:

On behalf of the Natural Resources Defense Council (NRDC), we appreciate the opportunity to submit this statement for the record regarding the Food Date Labeling Act (H.R. 4987). NRDC is a nonprofit organization with more than three million members and online activists working to protect public health, safeguard the environment, and ensure a more sustainable and affordable food system.

Confusing food date labels are a costly and unnecessary problem for American households. Across the United States, consumers routinely discard safe, edible food because of inconsistent and misleading date labels such as "sell by," "expires on," "enjoy by," and even a date without any words associated at all. These labels are largely unstandardized and, in most cases, do not indicate food safety. As a result, families are left to guess and, too often, they throw perfectly good food away.

This confusion has real economic consequences. At a time when grocery prices remain high and household budgets are stretched, food waste driven by date label confusion is effectively throwing money away. To give you a sense of the scale of the problem:

- **18.3 million American households** are estimated to be experiencing food insecurity.[1]
- **Up to 40% of food in the United States goes to waste**[2], often ending up in a landfill or incinerator.
- **Confusion over date labels** alone contributed to roughly **$20 billion in wasted food** in 2024.[3]

The problem is systemic, not individual.
Consumers are not wasting food because they are careless, but instead because they are responding rationally to unclear and inconsistent information. Research shows that many consumers incorrectly believe that date labels indicate the date after which food is no longer safe to eat;[4] however, date labels are most often a manufacturer's estimate of a product's optimal quality.

The current patchwork of voluntary industry practices and varying state requirements creates a marketplace where even the most careful shopper cannot reliably interpret what a date label means. This lack of standardization also creates inefficiencies for food manufacturers, retailers, and food recovery organizations.

The Food Date Labeling Act offers a simple, bipartisan solution.
The Food Date Labeling Act (FDLA) directly addresses consumer confusion by establishing a clear, uniform labeling system. Under the bill, food manufacturers who choose to use a date label would select between two standardized options:

- **"BEST If Used By"** to indicate the date after which a food product's quality may deteriorate, or
- **"USE By"** to indicate the date after which a food product should be discarded.

This common-sense approach removes guesswork for consumers and creates consistency across states and products. FDLA also directs the U.S. Department of Agriculture (USDA) and the Food and Drug Administration (FDA) to work together to educate consumers on the meaning of these labels ensuring they can be used confidently and correctly.

Standardization has widespread industry support.
This simplified and standardized labeling proposal is welcomed by food businesses and trade associations. Over 30 food industry supporters joined the Zero Food Waste Coalition and Consumer Brands Association's joint letter calling on Congress to pass the bipartisan FDLA, including Walmart, Amazon, Unilever, and FMI – The Food Industry Association.[5]

Fixing date labels has a high impact with zero-cost to taxpayers.
This legislation represents one of the most effective, no-cost actions Congress can take to reduce food waste. It does not create a complex new regulatory system or require federal spending; it would only require a relatively limited, one-time cost for food manufacturers to change the date label phrase or label design in the printer.[6]

We urge Congress to pass the bipartisan Food Date Labeling Act (H.R. 4987).
NRDC strongly supports the Food Date Labeling Act and urges Congress to pass this bipartisan legislation. At a moment when families are looking for practical ways to manage rising costs, this legislation represents a simple and common-sense opportunity to reduce food waste and help American families save money and improve their health.

Thank you for your attention to this important issue. We look forward to working with the Committee to advance effective, commonsense solutions.

Sincerely,

Yvette Cabrera

Yvette Cabrera
Director, Food Waste
Natural Resources Defense Council

Appendix: NRDC Research

NRDC research into household food waste undertaken in 2017 asked households in three U.S. cities – Denver, Nashville, and New York – about food purchasing, preparation, and disposal behaviors.[7] The research queried behaviors for specific types of food (meat, eggs, milk, fruits and vegetables, etc.) and showed that respondents varied in their attention to date labels, use of senses, and decisions to throw away food based on type of food. Respondents were most likely to pay attention to the date labels on milk and milk products. Respondents were also most likely to throw away past date milk products, milk, meat and fish, and eggs. The findings of this study indicate that consumers are wary of what date labels mean.

From 2016 to 2019, NRDC and the Ad Council ran the Save The Food public service advertising campaign. The primary assets questioned consumers' reliance on date labels with a series of images of food featuring the phrase "Best if used" in place of a food date label. As part of the campaign, we ran a continuous tracking survey of a nationally representative sample on people's perceptions and behaviors related to food waste. In 2019, the survey results indicated that households were more likely to participate in every other food waste reduction tactic suggested than they were to eat foods past their "best by" dates – 7% of respondents never ate foods after their "best by" dates, 14% rarely, 35% sometimes, 27% most of the time, 16% always. This shows consumers' confusion over labels and the need for better clarity and education. With two clearly defined food date labels, one indicating peak quality and one indicating the discard date, as the Food Date Labeling Act proposes, consumers will have more confidence in what the labels mean and when food is still able to be consumed.

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[1] Rabbitt, M. P., Reed-Jones, M., Hales, L. J., Suttles, S., & Burke, M. P. (2025). *Household food security in the United States in 2024* (Report No. ERR-358). U.S. Department of Agriculture, Economic Research Service. https://doi.org/10.32747/2025.9458834.ers

[2] U.S. Department of Agriculture, Food Waste FAQs, Accessed April 27, 2026, https://www.usda.gov/about-food/food-safety/food-loss-and-waste/food-waste-faqs.

[3] *Insights Engine Food Waste Monitor – Surplus Food Dollars*, ReFED, https://insights-engine.refed.org/food-waste-monitor?break_by=cause&indicator=us-dollars-surplus&view=detail&year=2024, last visited April 24, 2026 (demonstrating dollar value of surplus food by cause in 2024) (values on the website may differ slightly as the website shows live data).

[4] Roni Neff et al., *Misunderstood food date labels and reported food discards: A survey of U.S. consumer attitudes and behaviors*, 86 Waste Management 123-132 (March 2019), https://www.sciencedirect.com/science/article/abs/pii/S0956053X19300194; *see also* Debasmita Patra et al., *Understanding and addressing food waste from confusion in date labeling using a stakeholders' survey*, Journal of Agriculture and Food Research 100295 (June 2022), https://www.sciencedirect.com/science/article/pii/S266615432200028X.

[5] Zero Food Waste Coalition, *Widespread Industry Support for the Food Date Labeling Act of 2025*, Feb. 20, 2026, https://zerofoodwastecoalition.org/news/widespread-industry-support-for-the-food-date-labeling-act-of-2025/.

[6] By one estimate, the upfront and operating costs of nationally standardizing date labels would only require less than a combined $6 million of investment from private, public, and philanthropic funding. *Solutions Database: Standardized Date Labels*, *ReFED Insights Engine*, https://insights-engine refed.org/solution-database/standardized-date-labels (last visited April 27, 2026).

[7] Darby Hoover NRDC and Laura Moreno, *Estimating Quantities and Types of Food Waste at the City Level,* (Oct 2017), https://www nrdc.org/sites/default/files/food-waste-city-level-report.pdf.

PLANT BASED FOODS ASSOCIATION

Statement for the Record

U.S. House Energy and Commerce Subcommittee on Health
Hearing on "Healthier America: Legislative Proposals on the Regulation and Oversight of Food"

April 29, 2026

Submitted by the Plant Based Foods Association

Dear Chairman Guthrie, Chairman Griffith, Ranking Member Pallone, and Ranking Member DeGette:

The Plant Based Foods Association (PBFA) appreciates the opportunity to submit this statement for the record for the Subcommittee's April 29, 2026 hearing entitled *"Healthier America: Legislative Proposals on the Regulation and Oversight of Food."*

PBFA is the first and only trade association in the U.S. representing the plant-based food industry, which generates $8 billion in U.S. retail sales across more than 20 product categories. Our nearly 150 members are part of a rapidly growing sector of the U.S. economy, creating jobs, expanding markets for American farmers, and increasing consumer access to nutritious food options.

As the Subcommittee considers a broad set of legislative proposals – including measures related to food labeling, ingredient safety, and FDA oversight – PBFA urges policymakers to advance science-based, consumer-focused policies that promote transparency, innovation, and fair competition.

Opposition to Anti-Competitive Labeling Legislation

PBFA strongly opposes legislation under consideration at this hearing that would impose unnecessary and discriminatory labeling requirements and limitations on plant-based foods, including **H.R. 8414, the DAIRY PRIDE Act** and **H.R. 5832, the REAL Meats Act.**

These proposals are not supported by evidence of consumer confusion and instead seek to disadvantage a growing segment of the food industry. Such legislation would pick winners and losers in an already uneven market, stifle innovation, and limit the ability of consumers to make informed choices.

If a plant-based product's name misled consumers into thinking the product contained animal ingredients, this would *already* constitute misbranding under federal law.[1] Furthermore, courts have consistently rejected claims that the plant product names mislead consumers into thinking the products contain animal ingredients, ruling that even the "least sophisticated" consumers would not be confused and that **consumers choose plant-based foods specifically because they**

[1] 21 USC 343(a)(1) (prohibits false and misleading labels), 21 USC 343(g) (prohibits representing a product as a food that has a standard of identity, unless it conforms to that standard).

lack animal ingredients.[2] In fact, in draft guidance documents focused on labeling for plant-based alternatives, the FDA itself has concluded that consumers are not misled into thinking that plant-based alternatives contain animal ingredients.[3] **In short, consumers know exactly what they are buying and are choosing plant-based alternatives for a variety of reasons including environmental concerns, health, and taste.**

DAIRY PRIDE Act (H.R. 8414): This bill would prohibit interstate commerce of products using the market name of a dairy product (such as milk , yogurt , or cheese) unless the food "contains as a primary ingredient, or is derived from . . . the complete milking of one or more hooved mammals."

This legislation is unnecessary, burdensome, and unlikely to withstand constitutional scrutiny. The plant-based dairy market has grown significantly over the past decade[4] – an industry category that has skyrocketed due to consumer demand for food products that fit their dietary needs and values. In particular, lactose intolerance impacts about 30-50 million Americans[5], including 95% of Asians, 60 to 80% of African Americans, 80% to 100% of American Indians, and 50% to 80% of Hispanics.

As part of the growing recognition of the millions of Americans who cannot consume dairy milk, late last year the U.S. House approved legislation, which was enacted soon thereafter[6], that expands access to fortified plant-based milk alternatives in the National School Lunch Program. This new federal law is a huge step forward for ensuring that all students can fully participate in school meals and access the nutrition they need to learn and thrive. The DAIRY PRIDE Act would take us in exactly the opposite, wrong direction – delivering an anti-fair market attack on products that are providing consumer choice and key nutrients for millions of American consumers.

H.R. 5832, REAL Meats Act: This bill would prescribe burdensome, unnecessary labeling restrictions on plant-based meat alternatives (referred to as "analogue products"),

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[2] Ang v. WhiteWave Foods Co., 2013 WL 6492353 (N.D. Cal. Dec. 10, 2013); Gitson v. Trader Joe's Co., 2015 WL 9121232 (N.D. Cal. Dec. 1, 2015).

[3] FDA Labeling of Plant-Based Milk Alternatives and Voluntary Nutrient Statements: Guidance for Industry (February 2023) ("The comments and information we reviewed indicate that consumers, generally, do not mistake plant-based milk alternatives for milk.")

[4] Plant Based Foods Association 2024 State of the Marketplace Report (available at https://drive.google.com/file/d/1P3ycEVF46QqUp1mAB_M55ygEtWVR6qE7/view)

[5] Boston Children's Hospital, "What is Lactose Intolerance?" (available at https://www.childrenshospital.org/conditions-treatments/lactose-intolerance#:~:text=A%20lack%20of%20lactase%20can,Native%20Americans%20are%20lactose%20intolerant.)

[6] Plant Based Foods Association, "Policy Win: New Law Expands Student Access to Plant Based Milks" (available at https://plantbasedfoods.org/latest/senate-passes-legislation-increase-plant-based-milk-in-schools)

including a requirement that plant-based chicken, turkey, beef, and pork alternatives include the terms "analogue" or "imitation" immediately before the product name.

PBFA supports clear, consistent, and reasonable labeling policies that ensure consumers receive accurate, non-misleading information. Our industry's products are already labeled to include a **clear and conspicuous modifying term**—such as "plant-based," "vegan," "made from plants," or a specific plant source—in close proximity to a traditional meat or dairy term.

At very least, H.R. 5832 should be amended to: (a) expand the allowable modifiers in Section 2(2) to include "plant-based", "vegan", "made from plants" and other similar qualifiers, and (b) replace the requirement in Section 2(z)(1) and (2) that these qualifiers be listed immediately before the product name or traditional meat term and instead direct that these modifying terms be listed "in close proximity to" the traditional meat term or product name. Such an approach would reflect current marketplace practices and ensure that consumers are well-informed without imposing unnecessary burdens on manufacturers.

In short, H.R. 8414, H.R. 5832, and any other similar legislation would unfairly disadvantage the thriving plant-based foods industry while misleading consumers. For these reasons, PBFA urges you to reject these unnecessary, anti-competitive food labeling bills.

Considerations Regarding GRAS Reform and Related Legislation

The Subcommittee is also considering several bills related to FDA's oversight of food ingredients, including: **H.R. 4958, the Grocery Reform and Safety (GRAS) Act**; **H.R. 7291, the GRAS Oversight and Transparency Act**; and **H.R. 4306, the Food Chemical Reassessment Act of 2025**, among others.

PBFA supports efforts to strengthen food safety and ensure robust, science-based review of ingredients. However, reforms must be carefully designed to avoid unintended consequences.

In particular, PBFA urges the Subcommittee to:

- Mitigate regulatory risk for ingredients previously recognized as GRAS;
- Preserve reliance interests for ingredients that have received FDA "No Questions" letters; and
- Avoid duplicative or retroactive requirements that could disrupt supply chains and limit innovation.

A balanced approach is essential to maintaining both food safety and continued product development.

Conclusion

PBFA appreciates the Subcommittee's attention to strengthening FDA oversight and improving the safety and transparency of the U.S. food system.

We respectfully urge you to reject anti-competitive labeling legislation including H.R. 8414 (DAIRY PRIDE Act) and H.R. 5832 (REAL Meats Act), and to preserve regulatory certainty for ingredients already recognized as GRAS.

A modern food policy framework should empower consumers, promote fair competition, and support continued innovation across all sectors of the food industry. PBFA appreciates the opportunity to provide this statement for the record and looks forward to continued engagement with the Committee.

Regulation of Added Substances in the Food Supply by the Food and Drug Administration Human Foods Program

Jennifer L. Pomeranz, JD, MPH, Emily M. Broad Leib, JD, and Dariush Mozaffarian, MD, DrPH

See also Aaron, p. 968.

The US food supply is increasingly associated with diet-related diseases, toxicity, cancer, and other health harms. These public health concerns are partly attributable to a loophole in federal law.

The Food and Drug Administration (FDA) evaluates the premarket safety of ingredients regulated as food additives but allows the food industry to self-regulate and determine which substances to classify as generally recognized as safe (GRAS) based on undisclosed data and conclusions that the FDA never sees. Furthermore, the FDA lacks a formal approach for reviewing food additives and GRAS substances already found in the food supply. Substances in the food supply thus include innocuous ingredients (e.g., black pepper), those that are harmful at high levels (e.g., salt), those that are of questionable safety (e.g., potassium bromate), and those that are unknown to the FDA and the public.

A recent court decision codified these gaps in the FDA's current approach, leaving states to try to fill the regulatory void. The FDA and Congress should consider several policy options to ensure that the FDA is meeting its mission to ensure a safe food supply. (*Am J Public Health*. 2024;114(10):1061–1070. https://doi.org/10.2105/AJPH.2024.307755)

The Food and Drug Administration's (FDA's) mission includes protecting the "public health by ensuring that foods are safe, wholesome, sanitary, and properly labeled."[1] Yet concerns have been raised that, because of weak statutory requirements, the FDA's interpretation of its authorities, and lack of sufficient funding, the FDA's oversight for ingredients in our food supply is inadequate to ensure a safe and wholesome food supply.[2–4]

The Federal Food Drug and Cosmetics Act (FDCA) distinguishes between—but does not clearly define—substances that are considered food additives and those that are deemed generally recognized as safe (GRAS). Both categories include complex chemical substances, but their regulatory frameworks are quite different. Food additives are subject to FDA premarket review because they are presumed to be unsafe. Consequently, foods containing food additives are considered adulterated unless the use of the substance complies with an FDA regulation prescribing the conditions of safe use.[5] By contrast, GRAS substances are presumed to be safe and thus exempt from such requirements. This exemption allows the food industry to define a wide array of new substances as GRAS and introduce them into the food supply without FDA or public knowledge of their existence, use, or safety.

A stark example of the FDA's regulatory gap was seen in October 2023, when California banned 4 substances from being used as ingredients in food sold or manufactured in the state.[6] These substances are banned in Europe because of their association with an increased risk of cancer and other health, behavioral, developmental, and reproductive harms.[6] A month later, the FDA proposed revoking the approved food additive status for 1 of the 4 substances banned in California: brominated vegetable oil (BVO).[7] BVO was considered GRAS decades ago.[7] In 1970, the FDA determined that BVO was no longer GRAS and designated it as an approved food additive.[7] After this reclassification, BVO remained in food products such as Gatorade and Mountain Dew, while science mounted questioning its safety. It was not until California banned BVO that the FDA

announced it was taking action, leaving questions on how proactive the FDA is over ingredients already in the food supply.

Indeed, a 2021 court case, *Center for Food Safety v Becerra* (*Center for Food Safety*), highlighted that GRAS substances are not necessarily safe and that ingredients already in the food supply are not regularly reexamined for safety.[8] Although the FDA has clear authority to take postmarket action, the FDCA does not provide the FDA with a clear or well-resourced pathway to systematically review food additives or GRAS substances already in the food supply. As a result, foods contain ingredients that may be harmful in high doses (e.g., salt), are of questionable safety (e.g., nonnutritive sweeteners), or are unknown to the FDA or the public.

Concerns about ingredients in the US food supply have been increasing in recent years.[9] In 2022, at the FDA's request, the Reagan–Udall Foundation released a report noting the need for the FDA to adapt to a changing food supply, including increasing its oversight of the chemicals in food.[9] In response, the FDA announced a restructuring of its Human Foods Program to improve and coordinate its prevention and response activities. As part of these new efforts, in May 2023, the FDA announced that it was "embarking on a more modernized, systematic reassessment" of chemicals in the food supply "with a focus on postmarket review."[10] The proposed activities are crucial. However, the announcement raises questions about how the FDA will accomplish such an evaluation and, perhaps more critically, how ingredients make their way into the food supply in the first place and whether the FDA is aware of all of the ingredients that should be subject to this postmarket review.

We set forth the history of the GRAS notification and food additive approval processes and examine the decision and implications of *Center for Food Safety*, which solidified the FDA's anemic GRAS oversight. (Color additives are treated under a different framework, and we do not address them.) We conclude with recommendations for future action for the FDA to achieve its duty of ensuring a safe food supply.

FOOD ADDITIVES AND GRAS SUBSTANCES

Congress passed the Food Additives Amendment of 1958 to establish a rigorous statutory scheme for the FDA to review and approve food additives before they go to market.[11] An entity seeking to introduce a food additive into the food supply petitions the FDA requesting that the FDA promulgate a regulation prescribing the conditions under which the substance may safely be used.[2,11] The FDA evaluates the petition in light of scientific data to determine whether the data demonstrate that the food additive is safe—using the standard of "a reasonable certainty of no harm"—for the proposed conditions of use.[12] If the FDA believes it is safe, it publishes a draft regulation in the Federal Register for public notice and comment.[2,12] Consequently, for food additives, the FDA must go through a full regulatory process that requires a transparent demonstration of safety before approval.

By contrast, the Food Additives Amendment of 1958 carved out GRAS substances as those that are "generally recognized, among experts qualified by scientific training and experience to evaluate its safety, as having been adequately shown through scientific procedures" to be safe under the conditions of its intended use or, for a substance used in food before 1958, through experience based on common use in food (e.g., salt, pepper).[11] The separate designation for GRAS was designed to permit substances commonly used in food to remain in the food supply without the necessity of companies supplying evidence to prove safety and the FDA using its finite resources to review such data.[2] GRAS substances are thus explicitly exempted from food additive regulations and therefore the FDA's current premarket review process.

However, for the decade or so after passage of the Food Additives Amendment, the FDA exercised rigorous oversight over GRAS substances and published and updated a list of all existing and new substances considered GRAS in the Code of Federal Regulations.[13] But in 1972, the FDA began using a voluntary GRAS affirmation process in which manufacturers had the option to voluntarily submit a GRAS affirmation petition with data for FDA review.[2,13] When submitted, the FDA would publish a notice and request for comments and then issue its GRAS determination on the substance.[2] During this period, concerns arose about the safety of cyclamate salts, which were in the food supply. President Richard Nixon directed the FDA to review the safety of GRAS substances already in the food supply.[2] The FDA worked with an independent scientific organization to conduct a safety review of 422 substances from 1972 to 1982, but then the agency did not adopt the recommendations of the committee.[2]

In 1997 the FDA proposed a rule to replace the GRAS voluntary affirmation process with a voluntary notification process "whereby any person may notify the FDA of a determination that a

particular use of a substance is GRAS."[14] Although the rule was not formally finalized until 2016, the FDA has operated under this proposed rule since 1997 (Table 1 provides a timeline of relevant activities).

Under the GRAS notification rule, manufacturers have the choice of either engaging in "self-GRAS" or submitting a notification. Through self-GRAS, a company is supposed to determine through their own internal research that an ingredient is GRAS, and then they can market the food with the ingredient without any notification to—or oversight by—the FDA.[15] Alternatively, companies can go through the more onerous process of submitting a GRAS notification to the FDA describing the substance, the applicable conditions of use, and the basis for the GRAS determination (i.e., common use in food or scientific procedures) before using the ingredient. The company then waits for the FDA to issue either a "no question letter" stating that it does not question the company's GRAS decision—allowing the company to go to market with this letter—or an "insufficient basis" letter—meaning the FDA finds insufficient information to substantiate the GRAS claim, suggesting the company can submit additional data.[16] If a company submits a GRAS notification but then chooses to withdraw it, the FDA issues a "cease to evaluate" letter, and the company can still go to market with the substance.[2,3]

Thus, in practice, a strong impetus exists for the food industry to self-GRAS so it can manufacture and market food products with new substances without ever notifying the FDA of either its determination or the research underlying its determination that the substance is safe.[2,3,16] Moreover, if the food industry actually notifies the FDA that it considers a new substance to be GRAS, the FDA does not need to engage in its own research to confirm the industry's conclusions or the ingredient's safety.[16]

Another result of the self-GRAS allowance is that a company may self-GRAS an ingredient that otherwise should be considered a food additive subject to the FDA's premarket oversight. Therefore, numerous ingredients that should be appropriately regulated as food additives are likely in the food supply through the self-GRAS mechanism. Indeed, research published by Neltner et al. found that between 1990 and 2010, an estimated 1000 manufacturer ingredient-safety decisions were never reported to the FDA or the public.[17] An industry panel of experts (known as a "GRAS panel") determined an additional 2702 ingredients to be GRAS.[15] Since this review was completed back in 2011, there are likely numerous more ingredients in the food supply that have never been reviewed by the FDA and that are of unknown safety to the FDA and the public.

CENTER FOR FOOD SAFETY V BECERRA

After the FDA finalized its GRAS rule in 2016, nonprofit organizations sued the FDA, arguing that the rule violates the FDCA and that the agency abdicated its responsibility to ensure a safe food supply and unlawfully delegated its duties to the food industry through the self-GRAS mechanism.[8] In 2021, a federal district court upheld the FDA's final rule in *Center for Food Safety*, finding that the FDA did not unlawfully delegate its authority over food safety to private parties and that the rule does not violate the FDCA.[8]

According to the court, because the FDCA is "silent" on the question of whether GRAS notifications must be mandatory, the FDA's allowance for voluntary notification was a reasonable interpretation of the statute.[8] The court thus deferred to the FDA's interpretation of its authority under what is called the *Chevron* doctrine, which is when a court provides deference to an agency's interpretation of its own authority under an ambiguous statute.[8] The court reasoned that because the FDCA sets forth a rigorous scheme for food additive approvals—and GRAS substances were specifically exempt from that scheme—it was within the FDA's authority to adopt a voluntary notification system for GRAS substances.[8]

In terms of the self-GRAS determinations themselves, the court explained that self-GRAS conclusions must be based on "the same quantity and quality of scientific evidence as is required to obtain approval of a food additive," which is "based upon the application of generally available and accepted scientific data, information, or methods" or "common knowledge throughout the scientific community."[8] However, it found that this requirement does not translate into a need for self-GRAS determinations to be based on published studies, nor are companies required to publicly disclose the basis for their self-GRAS decisions.[8] The court highlighted that the FDA retains the postmarket power to disagree with manufacturers' self-GRAS determinations and bring enforcement actions.[8]

Yet, as the plaintiffs noted, the FDA's ability to bring postmarket enforcement is complicated by the voluntary GRAS notification process, which allows industry to add new substances to food without the FDA's knowledge. The FDA is thus hindered from using its

TABLE 1— Timeline of Key Actions Related to the US Food and Drug Administration's Generally Recognized as Safe and Food Additive Substances Regulations

Date	Action
1958	Congress passes the Food Additives Amendment of 1958, establishing the current framework for food substances that are GRAS or food additives
1961	FDA amends its regulations to include a list of food substances that are GRAS under certain conditions of use
1969	FDA removes cyclamate salts from its GRAS list as a result of safety questions
1969	President Nixon directs the FDA to make a critical evaluation of the safety of GRAS food substances
1970	FDA starts its critical review of the GRAS process and finds it to be resource intensive
1972	FDA conducts rulemaking to establish the affirmation process to affirm the GRAS status of substances that are subject to GRAS review
1977	FDA approves caffeine as a GRAS substance when used in cola-type beverages at 0.02%
1978	CSPI submits a citizen petition to the FDA requesting it to revoke the GRAS status of salt
1982	FDA holds "GRAS Safety Review of Sodium Chloride" and declines to regulate salt using its GRAS/food additive authority but announces its policy of encouraging food manufacturers to voluntarily reduce sodium in processed foods and notes that it is proposing a sodium-labeling regulation
1984	FDA proposes and finalizes labeling regulations to define terms such as "sodium free," "low sodium," and "reduced sodium," among other acts (effective July 1, 1986)
1990	Congress passes NLEA, which requires the disclosure of the nutrition facts label and ingredient list on packaged food
1993	FDA promulgates regulations to carry out the NLEA
1996	FDA promulgates a regulation affirming high fructose corn syrup is GRAS
1997	FDA proposes a rule to replace the GRAS affirmation process with a GRAS notification process and starts functioning under this proposed rule
2003	FDA promulgates a final rule requiring trans fatty acids be declared in the nutrition facts label of foods (effective January 1, 2006)
2004	CSPI submits a citizen petition to the FDA to revoke the GRAS status of PHOs and declare PHOs as food additives
2005	The IOM suggests limiting consumption of artificial trans fat to as low as possible
2005	CSPI submits a citizen petition to the FDA requesting it revoke the GRAS status of salt
2007	FDA holds a public hearing on CSPI's 2005 petition requesting it to revoke the GRAS status of salt
2009	Fred A. Kummerow, trans fat researcher, submits a citizen petition to the FDA requesting the FDA ban partially hydrogenated fat from the food supply
2010	The IOM issues a report on strategies to reduce sodium in the food supply, which includes a recommendation that the FDA use its GRAS regulatory authority to mandate limits on the amount of sodium allowed in food
2010	The US Government Accountability Office releases a report criticizing the FDA's 1997 proposed GRAS rule
2013	FDA makes a preliminary determination that the trans fats generated from PHOs are no longer GRAS
2013	CSPI submits a citizen petition to the FDA to ensure the safe use of "added sugars" using the FDA's authority over GRAS substances
2014	FDA promulgates a proposed rule to revise the nutrition facts label to include an "added sugar" disclosure among other updates
2015	FDA promulgates its final determination that PHOs are no longer GRAS
2016	FDA promulgates final rule updating the nutrition facts label to include "added sugar" among other updates (compliance set for 2018 for large manufacturers and 2019 for small manufacturers)
2016	FDA finalizes its 1997 GRAS notification rule
2017	Nonprofit consumer and environmental protection organizations file a lawsuit challenging the FDA's final GRAS notification rule
2018	FDA denied a petition by Grocery Manufacturers Association to allow PHOs as a food additive
2021	The US District Court for the Southern District of New York upholds the FDA's voluntary GRAS notification rule in *Center for Food Safety v Becerra*
2021	FDA establishes "Voluntary Sodium Reduction Goals," which provide voluntary sodium reduction targets
May 2022	US Senator Markey introduces the bill Ensuring Safe and Toxic-Free Foods Act of 2022 to address deficiencies in the FDA's GRAS notification procedure; bill fails to pass
July 2022	FDA Commissioner Robert Califf requests that the Reagan–Udall Foundation convene an independent expert panel to conduct a comprehensive evaluation of the FDA Human Foods Program to strengthen the FDA's food regulatory role
September 2022	The White House holds the Conference on Hunger, Nutrition, and Health
December 2022	The Reagan–Udall Foundation issues its report *Operational Evaluation of the FDA's Human Foods Program*

Continued

TABLE 1— Continued

Date	Action
December 2022	FDA issues guidance document "Best Practices for Convening a GRAS Panel"
January 2023	FDA announces the proposed restructuring of its Human Foods Program
October 2023	California bans 4 substances permitted to be in food by the FDA (red dye no. 3, potassium bromate, brominated vegetable oil, and propylparaben) from being used as an ingredient in food sold or manufactured in California
November 2023	FDA announces its proposal to revoke the approved food additive status of brominated vegetable oil
November 2023	US senators Edward J. Markey (D, MA) and Cory Booker (D, NJ) announce the introduction of the bill Ensuring Safe and Toxic-Free Foods Act of 2023
March 2024	FDA announcement that it would conduct postmarket review of 21 chemicals in the food supply

Note. CSPI = Center for Science in the Public Interest; FDA = US Food and Drug Administration; GRAS = generally recognized as safe; IOM = Institute of Medicine; NLEA = Nutrition Labeling and Education Act of 1990; PHO = partially hydrogenated vegetable oil.

postmarket authority for substances that are unknown to it. Finally, the court agreed that the plaintiffs' "legitimate concerns" about potential industry conflicts of interest "may be valid," but the FDCA was also silent on this issue, so the FDA was not required to address potential conflicts of interest for self-GRAS reviews.[8]

The plaintiffs also argued that the FDA's GRAS rule contravenes the FDCA's Delaney Clause. The Delaney Clause, incorporated into the FDCA by the Food Additives Amendment of 1958, explicitly requires the FDA to ban food additives that are found to cause or induce cancer in humans or animals.[18] The FDA successfully argued that "the Delaney Clause governs food additives, not GRAS" substances.[8] Although the court agreed that GRAS substances linked to cancer are exempt from the FDA's premarket review, the court noted that "inherent in the GRAS Rule are criteria that would likely prevent a carcinogenic substance from being deemed GRAS," because it would not be generally recognized as safe.[8] However, without required premarket notification, this may be difficult for the FDA to ensure in practice.

In assessing the reasonableness of the FDA's interpretation of the statute, the court noted approvingly that the number of GRAS notifications the FDA receives since amending its rule in 1997 had increased.[8] The court cited FDA data showing that under the previous voluntary affirmation process, the FDA received approximately 8 GRAS affirmation petitions per year between 1987 and 1996 but approximately 34 per year between 1997 and 2015.[8] However, these numbers are complicated by an obvious fact: the denominator of new substances added to the food supply each year is unknown. Moreover, as Neltner et al. found, only a small percentage of all GRAS substance determinations actually ever cross the FDA's desk.[17] Given the advances in food-processing technologies, it seems plausible that the increase in filings is explained by a growing number of new substances being developed each year.[8]

Lastly, the court agreed with the FDA that it could choose, as it did, to not require GRAS substance notification because a mandatory system would consume the FDA's resources.[8] Indeed, a more robust system would require Congress to dedicate additional resources to the FDA—something Congress has historically failed to do.[9] In conclusion, the court did not find that the FDA's GRAS rule supports the safety of the food supply but that the rule did not violate the FDCA despite the safety concerns raised by the plaintiffs.

IMPLICATIONS

Even before the FDA finalized its GRAS rule, it was aware of gaps in its oversight highlighted by the *Center for Food Safety* plaintiffs. In 2010, the US Government Accountability Office (GAO) released a report determining that the FDA's oversight process does not "ensure the safety" of new GRAS substances or those based on previous GRAS determinations.[19] The report recommended that the FDA strengthen its GRAS oversight, including by developing strategies to require companies to provide the FDA with basic information about GRAS substances and to minimize the potential for conflicts of interest in companies' self-GRAS determinations. The GAO also recommended that the FDA create a more systematic mechanism to review and reconsider existing GRAS determinations.[19] The FDA issued guidance documents clarifying its thinking on several issues in this report[20]; however, in 2016 the FDA chose to finalize its GRAS notification rule without modifying it in

accordance with GAO recommendations. Thus, the problems the GAO identified remain.[3]

As a result of the FDA's GRAS rule, and the supportive ruling in *Center for Food Safety*, the food industry is free to self-determine the GRAS status of a substance and add that substance to food products without notifying the FDA or the public. Although some food companies may choose to undertake the voluntary public notification process to obtain the "no question" letter from the FDA, a company that seeks to maintain confidentiality over its proprietary information (or does not wish to bring attention to a new substance it has added) will choose to self-GRAS.

The FDA has reminded companies that choose to self-GRAS that they must still have the data to support their safety decisions or they will be noncompliant. Even with such data, very real concerns about conflict of interest remain. Neltner et al. found that of the 451 GRAS notifications voluntarily submitted to the FDA between 1997 and 2012, 100% of them were decided by people with a conflict of interest, including employees of—or consulting firms selected by—the manufacturers themselves or by a GRAS panel with conflicts of interest.[21] A subsequent 2023 analysis of these GRAS panels found that food industry GRAS panels are made up of experts whose income is derived from GRAS panel participation.[22] The authors identified 7 people (all with financial conflicts of interest) who essentially determine the safety of GRAS ingredients in our food supply by serving on the majority of self-GRAS determination panels.[22]

The court in *Center for Food Safety* focused on the FDA's postmarket authority as a safeguard to self-GRAS. However, the FDA has revoked the GRAS status of substances very few times, likely in part because of the lack of a resourced and robust systematic process for the FDA to conduct a postmarket review of GRAS substances or food additives. For example, the FDA's inventory of postmarket determinations that the use of a substance is not GRAS includes only 14 substances for which GRAS status has been revoked.[23] Yet, this database is incomplete, as it excludes 4 examples of GRAS revocations mentioned in the FDA's 2015 Federal Register entry when it revoked the GRAS status of partially hydrogenated vegetable oils (PHOs).[24]

The FDA's treatment of PHOs exemplifies its ability to exercise postmarket authority over GRAS ingredients. Scientific literature on the health harms of industrially produced trans fat from PHOs began accumulating in the 1950s.[25] In the early 1990s, a seminal editorial identified a significant association between trans fat consumption and heart disease among more than 100 000 US women, and growing experimental evidence documented harmful effects of trans fat on blood cholesterol concentrations.[25] In 2005, the Institute of Medicine (IOM; now the National Academies of Sciences, Engineering, and Medicine) issued a report identifying the health harms of PHOs and recommending reduced consumption. Citizens' petitions were filed with the FDA in 2004 and 2009. Despite this strong evidence that there was no longer a consensus among qualified experts that PHOs were generally recognized as safe, the FDA did not alter the GRAS designation but merely required the disclosure of trans fat on the nutrition facts label, effective 2006.[26]

It was not until 2013 that the FDA proposed revoking the GRAS status of PHOs, a rule that was not finalized until 2015 and did not go into effect until 2018.[24] This example highlights the extensive weight of science and time required for the FDA to remove a previous GRAS designation from an industrially produced food ingredient, illustrating the barriers the FDA faces in its ability to exercise postmarket authority for a known substance even when there is clear information questioning its safety.

POSTMARKET REVIEW OF CHEMICALS IN FOOD

In March 2024, the FDA announced that it identified 21 chemicals in the food supply for which it would conduct postmarket review.[27] However, only a few of these chemicals are food ingredients. Moreover, this is only a small fraction of the thousands of food additives, GRAS-affirmed ingredients, and—especially concerning—self-GRAS ingredients now in the US food supply.

Notably, the FDA has not proposed to reevaluate or conduct postmarket review of common GRAS-designated substances that may be safe at low levels but unsafe when added at high levels. This is true even when the current GRAS approval is level specific. For example, in 1977, the FDA approved caffeine as a GRAS substance when used in cola-type beverages at 0.02%.[28] Currently, caffeine is added to energy drinks at levels far exceeding this GRAS tolerance level, with resulting hospitalizations and even deaths among children and adults.[28] Yet, the FDA has not acted on caffeine in energy drinks even though the FDA regulates the use of GRAS substances, meaning the FDA can set limits on the amount of caffeine in energy drinks.

Similarly, given the documented health harms of excess added salt and sugar in the food supply,[29] there is a

public health need for the FDA to conduct a postmarket review of the health implications of high levels of added salt and sugar. The Center for Science in the Public Interest unsuccessfully petitioned the FDA to revoke salt's GRAS status in 1978 and again in 2005.[30] In 2010, the IOM issued a report on strategies to reduce sodium in the US food supply that included a recommendation that the FDA use its food regulatory authority to mandate limits.[31] Ralston Aoki et al. suggested compelling strategies for the FDA to implement the IOM's sodium recommendations by classifying and regulating sodium as either GRAS or a food additive with safe harbor provisions or specific regulations for use.[32]

Instead of exercising its postmarket regulatory authority, the FDA has focused on labeling and voluntary targets for sodium.[32,33] The FDA's proposed voluntary sodium reduction goals provide carefully determined levels across 163 categories of commercially processed packaged and prepared foods, each based on amounts already present in multiple products in each category.[34] The FDA could use these evidence-based levels as the basis for a determination that foods that exceed these limits are no longer considered GRAS. In addition, evidence exists that current levels of salt added to certain products far exceed the amount reasonably acceptable under conditions of "good manufacturing practice."[35] Good manufacturing practices require that the "quantity of the substance added to food does not exceed the amount reasonably required to accomplish its intended physical, nutritive, or other technical effect in food."[35] This violation of good manufacturing practice has been empirically demonstrated by widely varying sodium contents of otherwise very similar food items.[34]

FUTURE DIRECTIONS

The FDA recognizes its authority to conduct postmarket review and reclassification of GRAS substances found to "produce not just cancer but any disease or disability"[24(p34654)] to regulate them as food additives. Yet, the sheer number of GRAS substances and food additives to be reviewed, combined with the lack of knowledge about the existence of self-GRAS ingredients, insufficient resources, and documented time delays for well-supported action, renders reliance on postmarket authority an ineffective and unreliable method for ensuring a safe food supply. The FDA is only starting to use its postmarket powers to review a tiny number of ingredients in the food supply, even though evidence of harm has been present for decades.

Our analysis indicates that a new framework is needed to assess the safety of GRAS substances and food additives. This could include (1) a new, mandatory premarket GRAS notification or public affirmation process aligned with continued use of the mandatory food additive premarket review process; (2) user fees for the FDA to be able to engage in robust premarket review of GRAS substances and food additives; (3) a new framework for regular, robust, and transparent postmarket FDA review of both GRAS substances and food additives currently in the food supply; and (4) additional resources allocated by Congress. Table 2 sets forth recommendations for action by Congress and the FDA to help achieve these goals.

In the background of these recommendations was the expectation that in June 2024, the US Supreme Court would overturn the *Chevron* doctrine—which it did. The *Chevron* doctrine provided judicial deference to agencies' interpretation of their own authorities. This may result in huge swaths of regulatory actions subject to judicial review without the benefit of such deference, rendering courts the final arbiter of whether Congress granted an agency the authority in question. Based on the issues we have identified, the FDA could still take the position of requiring premarket review of all GRAS substances—a position it mentioned it would consider during its 2016 rulemaking based on implicit authority it acknowledged possessing.[36,37] However, the court's finding in *Center for Food Safety* that the FDCA is "silent" on the FDA's premarket GRAS authorities and the FDA's position that it lacks express statutory authority to require companies to submit GRAS notices leaves questions on how courts would interpret a reverse in the FDA's position absent congressional action indicating that Congress disagrees with the FDA's position or the court's decision in *Center for Food Safety*.

Congressional action would shield the FDA from lawsuits by food industry entities claiming the FDA does not have authority for mandatory GRAS review. The growing evidence for the harms of ultraprocessed foods[38]—a category defined in particular by the presence of industrial compounds added for functional purposes—may provide additional impetus for both Congress and the FDA to act. Congress could revise the Food Additives Amendment of 1958 to require the FDA use a methodologically sound premarket approval or required notification process with transparent data based on publicly available research for GRAS substances. Separately, Congress should provide meaningful new resources to the FDA for both pre- and postmarket review efforts, coupled with a user fee program created by Congress, as it did for tobacco, or negotiated

TABLE 2— Recommendations to Strengthen the FDA's GRAS and Food Additive Processes to Protect the Food Supply

Recommendations	Suggested Actions[a]	Alternative Actions[b]
Appropriations	Congress should allocate sufficient appropriations to the FDA's Human Foods Program, especially to oversee the safety of ingredients in the US food supply.	Congress should increase appropriations specifically to support the FDA's current (and additional more robust) premarket authorities and postmarket review of substances in the food supply.
User fees	Congress should establish a user fee program for the FDA to complete premarket review of food additives. Congress should establish a user fee program for the FDA to complete premarket review of GRAS substances if or when authorities are changed to require mandatory premarket review for GRAS substances.	FDA should negotiate a user fee program to complete premarket review of food additives and—if authorities are changed to require mandatory premarket review for GRAS substances—GRAS substances. Industry will oppose the FDA-negotiated user fees unless they benefit industry, in this case by ensuring premarket review is more efficient and timely.
Premarket review food additives	FDA should maintain premarket review of food additives.	
Premarket review of GRAS substances	Congress should amend the Food Additives Amendment of 1958 to require a mandatory premarket GRAS review process whereby data are submitted to the FDA for review before a company can market the ingredient. This is consistent with the method proposed in the bill Ensuring Safe and Toxic-Free Foods Act of 2023.[39]	FDA should promulgate regulations requiring premarket review (through notification or affirmation) for GRAS substances. If the FDA does not do full premarket review, it should at least promulgate regulations to review substances premarket to determine whether they can go through GRAS designation or must go through food additive review.
Distinguishing food additives from GRAS substances	Congress should amend the Food Additives Amendment of 1958 to better define GRAS substances and more clearly distinguish between GRAS and food additives so that substances that should rightly be food additives are required to go through the approval process.	FDA should promulgate regulations to clarify the distinction between GRAS substances and food additives.
Conflict-free GRAS determinations	FDA should require all GRAS determinations and panels to be free from conflicts of interest and follow best practices for convening GRAS panels. This includes prohibiting people with industry-related conflicts of interest from serving as experts on GRAS review panels,[39] ensuring GRAS panel members have appropriate and balanced expertise,[40] requiring public data and information to form the basis of GRAS review, and limiting the data provided to a GRAS panel to public information (e.g., not allowing trade secret information).[39]	Congress should mandate that GRAS panels are conflict-free.
Robust and systematic postmarket review	FDA should create a robust and systematic postmarket review process to reevaluate substances previously determined to be GRAS and approved food additives, with scheduled rereview time frames (building substantially on the process it announced in March 2024). FDA should undertake these systematic reviews on a regular basis.	Congress should require the FDA to create a robust procedure to systematically and regularly review the safety of approved food additives, substances previously determined to be GRAS by industry, and substances that went through a previous FDA GRAS affirmation or notification process.
Prohibit harmful substances from receiving or maintaining a GRAS designation	FDA should act to prohibit substances that show evidence of carcinogenic, reproductive, developmental, or metabolic toxicity from receiving GRAS designation or maintaining GRAS designation if postmarket evidence of this arises.[39]	Congress could authorize the FDA to fine or otherwise penalize food manufacturers that self-GRAS and market a substance without sufficient premarket evidence to ensure absence of such harms.
Transparency	Congress should require the food industry to identify all GRAS substances they have determined are safe through the self-GRAS process. FDA should disclose a list of all known GRAS substances in the food supply on its Web site. FDA should also post a clear list or database of all substances for which GRAS status has been revoked or limited.	
Reevaluating GRAS substances associated with health harm at high levels of consumption	FDA should develop and implement a framework to reevaluate the GRAS status of current levels and uses of added caffeine, sodium, and sugar, which are associated with health harms at high levels. FDA should consider imposing limits as part of the good manufacturing practices required for use of those substances.	

Note. FDA = US Food and Drug Administration; GRAS = generally recognized as safe.
[a]Recommended actions are those that have the most evidence or for which the actor (Congress or the FDA) has the most authority to act on that issue.
[b]Alternative actions are those that should be implemented if the recommended action is not implemented.

by the FDA with food companies, as it did for drug regulation (Table 2).

In November 2023, Senators Edward J. Markey (D, MA) and Cory Booker (D, NJ) introduced the Ensuring Safe and Toxic-Free Foods Act, which would address some of the gaps left in the wake of the FDA's current interpretation of its regulatory authority over GRAS substances.[39] Key points in this bill include requiring FDA premarket review of GRAS substances, reducing conflicts of interest in GRAS panels,[40] improving the FDA's postmarket review to reevaluate substances already in the food supply, and prohibiting carcinogenic substances and substances with evidence of reproductive or developmental toxicity from receiving GRAS designation.[39]

Our analysis demonstrates the very real challenges of the FDA's current framework for evaluating and regulating substances added to food products. Several policy pathways are available for Congress and the FDA to rectify these challenges and provide resources to the FDA to protect public health in the United States with a robust framework to ensure the safety of our food supply. AJPH

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ANALYSIS

Advancing The FDA's Human Foods Program Through Additional Authorities And User Fees

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ABSTRACT **The Food and Drug Administration (FDA) lacks certain authorities and is persistently underresourced to fulfill its mission of protecting the public by ensuring that foods are safe, wholesome, sanitary, and properly labeled. Particularly concerning gaps exist in pre- and postmarket oversight of food ingredients that are often found in ultraprocessed foods. Numerous substances either have evidence of harm or are unknown to the FDA and the public. Additional authorities and resources are necessary. User fees have been successfully implemented to provide resources to the FDA for other programs under its purview. This legal and policy analysis evaluates the FDA's food-related authorities that would be amenable to a new user fee program. It reviews policy domains where new or enhanced user fees may be warranted. We find that a new comprehensive FDA user fee program for food may benefit industry and generate targeted new resources to strengthen the agency's oversight.**

The Food and Drug Administration (FDA) is persistently underresourced and lacks certain authorities to oversee the Human Foods Program, as recently documented in a report issued by the Reagan-Udall Foundation, an organization created by Congress to advance the FDA's mission.[1] The report identified several deficiencies in the FDA's authorities,[1] and acute concerns exist over the agency's inability to fulfill critical food safety activities related to its pre- and postmarket review of substances added to food.[2] These include food additives, color additives, and ingredients deemed "generally recognized as safe" (GRAS) by industry but that might not necessarily be safe.[2,3] Because of these gaps in the FDA's oversight, several states recently started to unilaterally ban specific food ingredients with evidence of health harms.[2] Yet numerous other substances in food have evidence of harm or, worse, are unknown to the FDA and the public.[2] The FDA also has insufficient resources (including funding and staff), which creates barriers to it exercising its existing authorities.[4] The sum effect is a food supply that is increasingly unsafe and unhealthy.[5,6]

The FDA primarily relies on congressional appropriations to fund its food-related activities. In 2024, the United States Supreme Court recognized that this annual process forces federal agencies "to regularly implore Congress to fund their operations for the next year."[7] In contrast, for other programs under the FDA's purview, the FDA's congressional appropriations are meaningfully supplemented or substituted with user fees. For instance, in 2022, user fees made up 66 percent of the $2.116 billion human drugs budget and 100 percent of the $680 million tobacco budget, compared with only about 1 percent of the $1.145 billion foods program budget.[1,8]

Fees are charges imposed by government on the regulated industry (for example, manufacturers and importers) to recoup costs associated with government regulatory activities or services that directly benefit the fee payer.[9] Fees may be structured as fee-for-service (such as color addi-

tive certification) or to support regulatory activities related to the program. For instance, over-the-counter drug user fees are pooled, and the FDA can use the money for authorized activities.[10]

Congress established all of the FDA's user fees, which cover the costs of various pre- and postmarket processes corresponding to FDA regulatory activities, such as the agency's registration of companies, review of applications, and reinspection, among others (online appendix exhibit 1).[11] Fees do not ensure a specific outcome for the payer (such as a positive FDA review) but, rather, fund the regulatory process.[12]

The FDA has explained that user fees facilitate "timely availability of innovative FDA-regulated products without compromising the agency's commitment to scientific integrity, public health, regulatory standards, patient safety, and transparency."[12] Frequently, industry entities initially oppose the imposition of user fees but then later support fees that establish efficient regulatory implementation for the industry (such as timely FDA review of drug applications).[13,14] In these cases, user fees have brought stability to programs and benefits to regulated entities, allowing companies to anticipate timelines and bring products to market more efficiently.

The FDA has the authority to collect limited food-specific user fees under the Food Safety Modernization Act of 2011. However, a food-related user fee program must be comprehensive to support the FDA's Human Foods Program and, as envisioned here, to support additional authorities that the agency needs to fulfill its food-related mission.[15] A more comprehensive user fee was proposed more than a decade ago, but it was ultimately not implemented partially because of industry opposition.[16] However, much has changed since then, on several fronts. First, hundreds of new substances of potential concern have been introduced into the food supply and are primarily added to ultraprocessed foods, which are associated with multiple chronic diseases[5] and now make up 57 percent of adult calories and 67 percent of youth calories in the US.[17] Second, new state bans on ingredients have highlighted the limits of the FDA's oversight and created regulatory inconsistency.[2] Third, public and congressional interest in a safer food supply is growing.[6,18,19] Fourth, new science has emerged on both harmful and beneficial food compounds.[20] Finally, new data indicate that the FDA does not meet both statutory and regulatory timelines set out for its review of premarket submissions, including food and color additive petitions, proposed labeling claims, and new infant formula notifications.[21,22]

This article reviews the deficiencies in the FDA's oversight over food that could be addressed with increased authorities and additional resources. Although we primarily focus on the FDA's pre- and postmarket authorities to address risks associated with chemicals in the food supply, the FDA both has and lacks additional authorities that are amenable to a user fee program, so we include these to ensure that a comprehensive user fee program is considered. Our article identifies current authorities for food-related user fees, with a direct comparison to over-the-counter drug fees; proposes mechanisms for a food-related user fee program; and presents outstanding questions for policy implementation and future research.

Food-Related Regulatory And Funding Deficiencies

An identifying feature of ultraprocessed foods is the inclusion of industrial ingredients not common in home cooking, including those classified as food additives, color additives, and GRAS substances. The FDA's oversight over these varies based on ingredient type, which determines the FDA's pre- and postmarket authorities (see appendix exhibit 2).[11] In addition, the agency has authority over infant formula and food labeling claims.

PREMARKET AUTHORITIES Under the 1958 Food Additives Amendment to the Federal Food, Drug, and Cosmetic Act of 1938, manufacturers are required to submit petitions to the FDA for the approval of food and color additives before introducing them into the food supply.[23,24] Under this process, the FDA reviews the premarket petition and promulgates a regulation laying out the conditions of safe use.[23,24] However, the agency does not have the resources to respond in a timely manner to such petitions and frequently does not meet its 180-day statutory deadline for a final decision.[21]

For new GRAS substances, notification to the FDA is voluntary.[2,3] Manufacturers may opt to submit a premarket GRAS notification to the FDA with evidence showing that the substance is generally recognized "among experts qualified by scientific training and experience" to be safe under the conditions of its intended use.[25] The agency either issues a "no question" letter stating that it does not question the company's conclusion that a substance is GRAS or an "insufficient basis" letter stating that it finds insufficient information to substantiate a GRAS claim.[2,3] In the latter case, the company can withdraw its notification and still go to market with the substance.[2,3] Alternatively, a manufacturer can determine for itself that a substance is GRAS

(termed "self-GRAS") and add the substance to food without any FDA notification or oversight.[2] Although companies are technically required to rely on "scientific procedures" for such a GRAS designation,[26] these can be internally held and based on "unpublished" data.[27]

The FDA has not promulgated regulations that define which substances should go through premarket food additive review and which can be designated as GRAS. Industry has leveraged this deficiency in regulatory clarity to use the self-GRAS pathway and add thousands of new compounds to food, many without FDA oversight or public knowledge. This has been termed the "GRAS loophole."[2] In addition, ingredients may be labeled generically (such as corn oil)[28] or broadly (such as spices, flavorings, and colorings), so they are not specifically identifiable on food labels.[29]

Industry entities may use the self-GRAS pathway for competitive reasons—for example, to protect trade secrets and prevent other entities from using the ingredient, or to increase speed of product development and market release, based on concerns that the FDA's public regulatory process may be slow and costly. Alternatively, they may have concerns that the science would not support a GRAS determination, meaning that the substance should be classified as a food additive subject to FDA regulation or prohibited from use altogether.

The FDA's position, which was upheld by a federal district court in 2021, is that it lacks express statutory authority to require premarket review or notification of GRAS ingredients.[30] However, some experts have concluded that the FDA has the authority to require premarket notification for GRAS substances and that the agency's interpretation to the contrary is not valid.[31] In 2024, the US Supreme Court overturned the Chevron doctrine, which directed courts to provide deference to agencies' reasonable interpretation of their own authorities.[32] Thus, judicial deference to this FDA interpretation is no longer required. Yet Congress could more explicitly require that the FDA engage in premarket review or notification of GRAS substances[18,19] and provide a revenue stream for efficient and timely premarket review of all ingredients.

Additional premarket food-related activities include the FDA responding to industry requests for it to promulgate regulations for health claims and issue letters of enforcement discretion for qualified health claims (see appendix exhibit 2 for definitions),[11] both of which take years for the FDA to finalize, potentially delaying industry innovation.[33] In addition, infant formula manufacturers must notify the FDA of a "new" infant formula (which includes major changes to existing formulas) at least ninety days before going to market.[34] However, the FDA has consistently failed to meet the ninety-day statutory deadline to respond, leaving infant formula manufacturers with challenges in planning their product development and market activities.[22]

POSTMARKET AUTHORITIES The FDA has postmarket authority to review all ingredients in the food supply to address safety concerns and ensure that food is not adulterated.[24,35–37] However, the agency has not comprehensively implemented this authority. The FDA recently proposed a process to engage in postmarket review on its limited budget,[38] which was criticized as vague and insufficient by stakeholders at a September 2024 public meeting. The lack of a formal, well-resourced postmarket review process is especially concerning for self-GRAS ingredients, as these substances have never been evaluated by the FDA.

When the FDA does act, it often takes decades to remove substances even when the evidence is clear that they are no longer "generally recognized" as safe. One example is the use of industrial trans fats from partially hydrogenated vegetable oils. Evidence of harm was identified in a seminal 1993 *Lancet* article,[39] followed by numerous scientific reports also demonstrating evidence of harm, including, among others, the 2000 Dietary Guidelines for Americans[40] and a 2005 Institute of Medicine report concluding that intake should be as low as possible.[41] In 2001, the Office of Management and Budget took the unprecedented step of prompting the FDA to act on the basis of the strength of the economic argument against partially hydrogenated vegetable oils.[42] Use of these oils was also banned by other countries, as well as in restaurants in the US by state and local jurisdictions.[43] In 2006, a scientific report calculated that 72,000–228,000 heart attacks in the US each year were associated with these oils.[44] Yet it was not until 2015 that the FDA revoked partially hydrogenated vegetable oils' GRAS status, with the final rule not taking effect until December 23, 2023.[45] This thirty-year timeline starkly demonstrates the inefficiencies and lack of timeliness of the FDA's postmarket review process.

Additional postmarket concerns became evident in 2023, when California banned ingredients with concerning evidence for harms, including red dye no. 3, potassium bromate, brominated vegetable oil, and propylparaben, all of which were previously banned in Europe.[2] One month after California's law was passed, the FDA revoked the approved food additive status, effective July 2024, for brominated vegetable oil, which is linked to nervous system damage.[46]

A new comprehensive FDA user fee program for food may provide benefits to industry and generate targeted new resources for appropriate oversight.

Yet this action occurred fifty-three years after the FDA determined that brominated vegetable oil was no longer GRAS. Instead of removing it from the food supply at that time, the agency designated it as an approved food additive, allowing it to remain in certain products.[2] Many additional examples exist, such as nonnutritive sweeteners implicated in metabolic risk.

Postmarket review is also critical for monitoring the appropriate dose of GRAS compounds. For example, caffeine is designated as GRAS "when used in cola-type beverages" at levels up to 0.02 percent by volume (about seventy milligrams per twelve ounces).[47] However, numerous marketed beverages have levels far exceeding this GRAS level, including energy drinks that have been linked to serious cardiac complications and death.[48] Yet the FDA has not used its postmarket authority to review the safety of caffeine doses used in these products.

The FDA has additional authority over "unapproved food and color additives" under the Food Safety Modernization Act. An unapproved food or color additive is a substance found in food that does not conform to an authorizing regulation and, in the case of an unapproved food additive, is found by the FDA to not be GRAS.[49] The Food Safety Modernization Act requires facilities that manufacture, process, pack, or hold food for US consumption to identify and evaluate known or reasonably foreseeable hazards associated with the facility.[50–52] A hazard is an "agent that has the potential to cause illness or injury,"[53] including "unapproved food and color additives."[51] Facilities must implement preventive controls, establish recall plans, and keep records of their hazard analyses in their food safety plans available for FDA review at inspection.[50] It is unclear the extent to which the FDA evaluates the use of hazardous unapproved food and color additives (such as cancer-causing dyes) during its inspections, pursuant to the law. However, this authority could ostensibly be a method for additional FDA oversight.

Beyond known compounds with evidence for harms, the self-GRAS process complicates postmarket review, contributing numerous compounds added to foods without public knowledge, let alone evidence to ensure their safety.[2]

The absence of sufficient resources and postmarket authorities also contributes to challenges in the timely implementation of the FDA's postmarket authority to review food labeling to address misbranded products. In addition, the agency's position is that it does not have the authority to regulate "structure/function" claims on food, which results in unsubstantiated structure/function claims on a wide range of food products.

User Fee Programs

The FDA assesses user fees under most of its programs, including human drugs (prescription, generic, and over-the-counter drugs), animal drugs, medical devices, and tobacco. Appendix exhibit 1 elaborates on the FDA's user fee programs.[11]

CURRENT FOOD-RELATED USER FEES At this time, the FDA has statutory authority to collect food-specific user fees through the Food Safety Modernization Act, as well as export and color certification fees under the Federal Food, Drug, and Cosmetic Act. The Food Safety Modernization Act's user fee program intends to recoup costs for reinspection of domestic food facilities, failure of a domestic facility or an importer to comply with a recall order, and voluntary third-party accreditation and importers programs. Yet even in these cases, the FDA does not collect all statutorily authorized user fees.

The Food Safety Modernization Act requires the FDA to publish proposed guidelines considering the fee burden on small business and use notice-and-comment rulemaking to adjust the fee schedule for small businesses.[54] The FDA stated that it will not issue invoices for reinspection or recall order fees until it publishes this small business guidance outlining the process to request a fee reduction.[55] The agency initiated this rulemaking in 2011 but has not finalized the guidance. Therefore, it has conducted reinspections but has not collected these fees, leaving behind an estimated $9 million in 2023 from reinspection fees alone (appendix exhibit 1).[11]

The FDA also collects user fees for color certification and requires certain color additives to undergo enhanced review (called "batch certification") based on the agency's determination that an additional "level of control" is necessary "to protect the public health."[56]

LESSONS FROM OTHER FDA USER FEE PROGRAMS The FDA's user fee programs provide resources to the agency to accomplish tasks that benefit the respective industries, such as enabling it to more expeditiously review applications, allowing companies to go to market more quickly. Based on such benefits, the pharmaceutical industry supported the Prescription Drug User Fee Act of 1992 because the fees were dedicated to accelerating the FDA's review of new drug applications and supplemented (instead of replacing) existing congressional appropriations.[13,57]

The generic drug industry initially opposed user fees until they observed the benefits of prescription drug user fees for predictability of review timelines and for leveling the playing field with foreign facilities.[57] The generic drug industry then negotiated user fees directly with the FDA, and after public input from stakeholders, the FDA and the industry jointly requested that Congress implement user fees.[14,58] After the passage of the Generic Drug User Fee Amendments in 2012, the median annual number of generic drugs approved by the FDA more than doubled.[58] Such benefits to industry could inform a user fee program for food and color additives, where there is currently a backlog of petitions.[21]

Enactment of the Over-the-Counter Monograph Drug User Fee Program in 2020 provides a useful lens to view the potential for Congress to grant the FDA additional premarket authority over GRAS ingredients and provide user fees to fund this activity. As established in 1972, the FDA's original over-the-counter drug monograph process required a three-phase public rulemaking culminating in a final regulation with conditions under which over-the-counter drugs were considered generally recognized as safe and effective.[59,60] However, the FDA lacked resources to support these over-the-counter drug monograph activities.[56] To streamline the over-the-counter drug process and provide appropriate resources to the agency, Congress passed the Over-the-Counter Monograph Drug User Fee Program. The program allows "companies to request changes to or propose new conditions of use for drugs that are [generally recognized as safe and effective] through the administrative order process rather than rulemaking,"[60] and it authorizes the FDA to collect user fees from qualifying manufacturers of over-the-counter monograph drugs and submitters of over-the-counter monograph order requests.[10] The FDA also agreed to adhere to specific timelines for conducting certain over-the-counter monograph activities.[60]

The program succeeded in being less burdensome, and it allows the FDA to issue administrative orders either on request or by its own initiative determining that a drug is or is not generally recognized as safe and effective, rather than through the more time-consuming notice-and-comment rulemaking.[59] In addition, the process provides for eighteen months of marketing exclusivity for certain monograph changes that are industry requested (such as a new active ingredient or new indication).[59] Further, the user fees themselves are authorized in five-year intervals, which provides Congress with an opportunity to adjust fees and address stakeholders issues at that time. These administrative efficiencies and marketing protections seem highly relevant for a user fee program for new food ingredients.

A voluntary user fee program in which a fee is required only when a company decides to participate may also be relevant for food, such as manufacturer requests for FDA review of proposed health claims and qualified health claims, for which new resources could accelerate current multiyear review timelines.

Potential New Food-Related Authorities And User Fees

An increase in resources could support the FDA in meeting statutory and regulatory deadlines in its premarket review of petitions and notifications and in creating a more efficient and effective regulatory process for its postmarket review of substances in the food supply. However, funding alone will not address the gaps in the agency's premarket oversight for GRAS ingredients. Even with increased postmarket funding, the agency would still be faced with the initial task of identifying an unknown number of self-GRAS ingredients already in the food supply before embarking on a safety review. Congress has consistently failed to increase appropriations to the extent needed to cover the FDA's food-related activities,[4] so a user fee program is highly relevant.[1] Appendix exhibit 3 sets forth proposed new authorities and food-related user fee funding mechanisms,[11] summarized in exhibit 1.

Any FDA user fee must be authorized through an act of Congress. The US Supreme Court issued two decisions in 2024 indicating that the FDA cannot unilaterally require user fees and that congressionally mandated user fees are constitutional. In the first decision, the Court found that a user fee assessed on the fishing industry by a federal agency was not authorized by Congress and that without such express statutory authority to impose fees, agencies such as the FDA may not be able to unilaterally impose them.[32] In the second decision, the Court upheld a fee-based funding scheme established by Congress.[7] The Court identified fee-based models dating back

EXHIBIT 1

Potential new Food and Drug Administration (FDA) user fees and authorities for food

Topics	Current authorities	Potential new authorities and funding needs, including user fees
Premarket authority: additives, claims, infant formula	The FDA has premarket authority to approve food additives, color additives, and health claims, and it exercises enforcement discretion for qualified health claims; infant formula manufacturers must submit a notification 90 days before going to market.	Congress could provide the FDA the authority to collect user fees to cover the cost of these premarket regulatory activities and services to speed up review times and provide industry with precise timelines to enable them to anticipate and plan for products' and claims' entrance to the market.
Premarket authority: generally recognized as safe (GRAS) substances	Industry has the option to self-GRAS or voluntarily submit a premarket notification to the FDA for GRAS review. The FDA lacks express authority to require industry to submit premarket GRAS petitions or notifications, but some experts conclude that the agency has implicit authority to require premarket GRAS submissions. User fees would not be beneficial if attached to the current voluntary GRAS notification, as it could further dissuade industry from submitting GRAS notifications.	Congress could direct the FDA to evaluate GRAS submissions pre-market. Congress should require GRAS determinations to be based on published (as opposed to unpublished) scientific data and direct the FDA to consider cumulative effects. The agency could issue guidance differentiating between food additives and GRAS substances, or Congress could require the agency to promulgate regulations clearly distinguishing between the two. Congress could require the FDA to conduct an initial determination as to whether a substance is GRAS or must go through food additive review or heightened GRAS review. Congress may consider penalties for failure to submit a food additive petition when the FDA discovers an unapproved food or color additive that industry self-designated as GRAS. Congress should fund any new premarket GRAS authority with user fees or additional appropriations.
Postmarket authority: ingredients in the food supply	The FDA has the postmarket authority to evaluate the safety of substances in the food supply (GRAS ingredients, food and color additives, food contact substances, and contaminants); however, it does not consistently or thoroughly use this authority.	Congress could create, or require the FDA to create, a formal robust consistent framework for postmarket review of all substances in food with user fees or appropriations to resource such a consistent and comprehensive review.
Food Safety Modernization Act (FSMA)	The FDA has the authority to review food safety plans, which include identification of unapproved food and color additives, issue recall orders, and reinspection of facilities to oversee compliance with hazard mitigation.	Congress could expand FSMA to require that the FDA be given access to all ingredient information and authority to inspect ingredients for unapproved food additives (including substances that the facility determined to be GRAS but should be subject to a food additive regulation) and color additives. The agency should explore how it could leverage FSMA to further identify and address unapproved food and color additives. The agency should finalize its small business guidance and assess statutorily permitted fees for reinspection and recall-order noncompliance.
Food labeling claims	All claims must be truthful and not misleading. Nutrient content claims and health claims must abide by FDA regulations and qualified health claims must abide by an FDA letter. The FDA issues warning letters to address inappropriate use of these claims. It issues guidance for structure/function claims for infant formula but does not regulate structure/function claims on food.	Congress could provide the FDA with additional authorities for structure/function claims on food, including the ability to regulate their use, and require companies to submit evidence to substantiate structure/function claims. Congress could allow user fees for the agency's premarket work on claims and include other claims if additional authorities are provided.
Food facility registration	Facilities engaged in manufacturing, processing, packing, or holding food for US consumption must register with the FDA biennially. No fees are assessed.	Congress could provide the FDA the authority to collect user fees for food facility registration. User fees would allow the agency to recoup the costs associated with registration of the 220,111 registered food facilities.

SOURCE Authors' analysis of existing laws, regulations, and FDA documents.

to the nation's First Congress and confirmed that Congress is able to set up a fee-based system for a defined set of regulatory activities, with the fee assessed on the entity that benefits from the agency's activities.[7]

User fees could at a minimum cover the FDA's current premarket activities, including food and color additive petitions, health claims, qualified health claims, and new infant formula notifications, to increase speed and provide industry

with secure timelines to go to market. However, the current GRAS loophole remains a concern and needs to be closed. Otherwise, user fees could further dissuade industry from submitting GRAS notifications and drive industry to pursue the self-GRAS pathway instead of submitting food additive petitions. At a minimum, the FDA should require premarket GRAS notification. Congress alternatively could provide the FDA with clearer and expanded premarket authority to review GRAS substances, including the ability to charge user fees. Such resources and expanded authority could be similar to the over-the-counter drug user fee program's administrative process and funding mechanism.

Congress or the FDA may alternatively consider, at a minimum, mandatory premarket review to determine whether a substance must go through the food additive approval process or an enhanced GRAS review. In addition, the FDA should consider how it might leverage the Food Safety Modernization Act to strengthen its oversight for unapproved food and color additives.

User fees or increased appropriations are also necessary to sufficiently resource the FDA's postmarket review of all ingredients already in the US food supply. Although the agency expressly has the authority to conduct such reviews, it has not used this authority consistently, comprehensively, or in a timely manner, partially because of funding constraints. In the absence of either user fees or a substantially increased budget from Congress, the industry will continue to police itself, as the FDA is unlikely to be able to engage in timely, robust pre- or postmarket oversight of substances added to foods, resulting in continuing decades-long delays in identifying, preventing, and removing unsafe substances from the food supply.

Several questions remain for policy implementation and future research. First, a common argument against user fees is that they increase the cost of products. This can be a political barrier in the context of food. In 2022, the Department of Health and Human Services (HHS) evaluated this question in the context of medical devices and prescription drugs and found that user fees make up less than 1 percent of expected revenue for both.[58] Its literature review "did not find any papers linking user fees to high prices of brand drugs."[58] HHS concluded that user fees are not likely "commonly a driving factor" in decisions about bringing products to market or the products' pricing.[58] However, this should be evaluated for food.

Second, the role of small business exceptions should be considered. These exist for several current FDA user fees (appendix exhibit 1),[11] although Congress rejected a small business exception under the Generic Drug User Fee Amendments because it would increase administrative costs and the majority of generic companies are small companies that benefit from reduced review time, certainty, and program efficiency.[61] Yet one study concluded that generic drug user fees are regressive and that new and small companies pay relatively large fees compared with large and established companies.[57] For food, stepped fee programs based on company revenues, with possible exemptions for the smallest facilities, could be implemented to alleviate similar concerns for a new user fee program.

Finally, the relevant political willpower for and industry opposition against food-related user fees remain unclear. FDA user fees for other sectors are often directly negotiated with industry trade groups. This may also be possible for the food sector, although its relative fragmentation across many trade groups may increase the complexity of such negotiations. During the 2012 implementation of the Food Safety Modernization Act, thirty food industry trade groups wrote to the FDA opposing user fees proposed for other purposes than discussed here.[16] Yet it seems feasible that certain companies and sectors within the food industry might welcome user fees to speed up regulatory processes and help create a more level playing field.

Conclusion

The FDA is severely underresourced to ensure the safety of the food supply and meet its public health mission. Congressional and public interest is growing to address the agency's insufficiencies in this regard. A new comprehensive FDA user fee program for food may provide benefits to industry and generate targeted new resources for appropriate oversight. ■

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CURRENT ISSUES

Harnessing the Power of Food Labels for Public Health

Jennifer L. Pomeranz, JD, MPH,[1] Peter G. Lurie, MD, MPH[2]

INTRODUCTION

Change is coming to food labeling. Rules that require calorie content on menus at chain restaurants, movie theaters, and similar venues went into effect in early May 2018. A revised Nutrition Facts label, including more prominent calorie listings, added sugars, and updated serving sizes, is already appearing on food packages and will be required by 2020 and 2021, depending on company size. Against this backdrop, the Food and Drug Administration (FDA) initiated a Nutrition Innovation Strategy in July 2018, under which the agency is seeking public comments on several strategies intended to modernize food labels.[1]

The FDA enforces a long list of regulations related to packaged food labels, including product names, standards of identity (which include various ingredient, compositional, and manufacturing standards), ingredient lists, allergen disclosure, and a range of guidelines for making certain claims. Nonetheless, very little of the front of the package is actually regulated, leaving manufacturers to use it primarily for marketing and promotional purposes.

Under the Nutrition Innovation Strategy, the FDA is seeking to update its rules in light of advances in food technology, nutritional science, fortification practices, and marketing trends.[2] Specifically, the agency is considering a "healthy" icon for food labels; revising the review process for qualified health claims (a subset of claims described in detail below), permitting new or enhanced claims or labeling statements to support production of more healthful foods and consumer choices; modernizing standards of identity to provide manufacturers more flexibility to develop healthier products, while ensuring consumers have accurate information; making ingredient information "more helpful to consumers"; and engaging in an educational campaign on the updated Nutrition Facts label.[1]

From a public health and consumer protection perspective, the current state of food labeling reveals many marketing trends, in particular, that provide cause for concern. Food aisles are filled with sugary cereals and baked desserts, like processed pastries, carrying claims that they are "good" or "excellent" sources of vitamins and minerals, as well as cereals, candy, and salty snacks touting healthful ingredients like whole grain, fruit, or kale, even though they contain miniscule amounts of these foods. Other products are marketed with misleading names and statements about their composition, likely confusing consumers. This article discusses issues with current food labels, highlighting marketing trends that are cause for concern related to specific claims, ingredient statements, and naming practices that are ripe for FDA attention under its Nutrition Innovation Strategy.

FOOD CLAIMS

Perusing a food aisle today indicates that much needs to be done to address the current state of food labeling claims. As explained in further detail in Table 1, the FDA draws distinctions in how it regulates four different types of claims. The two types of claims subject to the most regulation are utilized the least on food labels[6]; these are health claims and qualified health claims, both of which characterize the relationship between a food or food component and a reduced risk of disease or health-related condition.[3] Although health claims require significant scientific agreement supporting the claim and FDA approval for manufacturers to use them, qualified health claims do not need to meet this scientific standard so they must include a disclaimer indicating a reduced level of evidentiary support. Neither health claims nor qualified health claims can be made on products containing disqualifying levels of total fat, saturated fat, cholesterol, or sodium.

The vast majority of claims on food are nutrient content claims and structure function claims.[6] Nutrient content claims may be made when a food meets specific

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Table 1. FDA Defined Claims for Food Labels and Opportunities for Improvement

Claim and definition	FDA requirements	Examples	Opportunities for the FDA to strengthen
Health claims[3] characterize the relationship of a substance to a disease or health related condition and must be based on a "significant scientific agreement" standard.	• Preapproval required through a petition process. • Food may not meet or exceed disqualifying nutrient levels of total fat (13 grams), saturated fat (4 grams), cholesterol (60 milligrams) or sodium (480 milligrams).	• "Healthful diets with adequate folate may reduce a woman's risk of having a child with a brain or spinal cord defect."	• FDA should reevaluate the disqualifying nutrient list, potentially removing "total fat" requirements, and adding limits for "added sugar."
Qualified health claims[3] are permitted when "credible evidence supporting the claim" of a relationship between a food and reduced risk of a disease or health related condition, but the evidence does not meet the more rigorous "significant scientific agreement" standard.	• Manufacturer must apply for preapproval but qualified health claims are not approved under the statutory standard; rather the FDA issues a Letter of Enforcement Discretion. • Claims are required to use a disclaimer or other qualifying language to accurately communicate the level of scientific evidence supporting the claim. • Food may not meet or exceed disqualifying nutrient levels of total fat (13 grams), saturated fat (4 grams), cholesterol (60 milligrams) or sodium (480 milligrams).	• "Very limited and preliminary scientific research suggests that eating one half to one cup of tomatoes and/or tomato sauce a week may reduce the risk of prostate cancer. FDA concludes that there is little scientific evidence supporting this claim."	• The FDA should reassess the qualified health claim framework, which was based on federal appellate court case (1999) on dietary supplement labels,[4] in light of new evidence that such disclaimers do not seem to enhance consumer understanding. • FDA should reevaluate the disqualifying nutrient list, potentially removing "total fat" requirements, and adding limits for "added sugar."
Nutrient Content Claims[3] expressly or implicitly characterize the level of a nutrient of the type required to be disclosed in nutrition labeling.	• Must be made in accordance with Reference Amounts Customarily Consumed or the Recommended Daily Value of a food or nutrient. • No disqualifying nutrient list applies, but if the food meets the disqualifying standards for health claims (noted above), the label must state: "See nutrition information for [subject nutrient] content."[5]	• "low fat" • "high in Vitamin D"	• FDA should reevaluate the disqualifying nutrient list, potentially removing "total fat" requirements, and adding limits for "added sugar," and apply it to nutrient content claims. • The FDA should also use its authority to address untruthful and misleading statements to reign in misleading nutrient content claims.
Structure/Function Claims[3] describe the role of a nutrient or dietary ingredient intended to affect the normal structure or function of the human body.	• Do not need preapproval and there are no specific requirements for their use.	• "Calcium builds strong bones"	• FDA should regulate structure/function claims and/or Congress should provide express authority for the agency to do so. • FDA should also reevaluate the disqualifying nutrient list, potentially removing "total fat" requirements, and adding limits for "added sugar," and apply it to structure/function claims. • The FDA should also use its authority to address untruthful and misleading statements to reign in false and misleading structure/function claims.

FDA, U.S. Food and Drug Administration.

thresholds for that nutrient (e.g., "excellent source of vitamin C," "fat free").[3] For nutrient content claims, there is no disqualifying level of other nutrients, so unhealthy food that is high in sugar or sodium, for example, can nonetheless tout healthy levels of other nutrients.

Structure/function claims describe the role of a nutrient or dietary ingredient intended to affect the normal structure or function of the body (e.g., "DHA omega-3 supports brain health").[3] There are no regulations related to the use of structure/function claims on food labels. Therefore, they—like all claims—are simply required to be truthful and not misleading. Similar to nutrient content claims, there is no requirement that a food carrying a structure/function claim meet any criteria for healthfulness, so, as for nutrient content claims, manufacturers can highlight positive attributes of otherwise unhealthy products.

FDA's differing treatment of these claims creates a confusing labeling landscape for consumers and an inconsistent framework that is not always science-based. Research indicates that consumers cannot differentiate among different types of claims or distinguish the level of evidence supporting them,[6,7] and consumers actually find structure/function claims more convincing than health claims.[8] Therefore, in addition to enhancing the requirements for qualified health claims, the FDA should consider updating and strengthening the requirements for nutrient content and structure function claims. For example, the European Union requires, what it calls "health" and "functional" claims, to meet the same scientific standard and that food manufacturers obtain specific authorization for their use.[9] The FDA should similarly apply more uniform and science-based standards for nutrition content and structure/function claims and should include a disqualifying nutrient list as a prerequisite for making any such claim.

INGREDIENT STATEMENTS

In the FDA's effort to make ingredient information more helpful to consumers, the agency should focus on misleading statements and names of foods that contain healthy ingredients but are not actually healthy overall or not primarily composed of the promoted ingredient. Many examples like this exist, such as labels indicating that a food is "made with whole grain," when it is predominantly composed of refined grains[10]; fruit-flavored candy made to appear healthy by adding concentrated fruit sugars (along with corn syrup and flavoring) and marketing them as containing fruit[11]; and the addition of small amounts of healthful components (e.g., kale and berries) to otherwise unhealthy products (e.g., chips and sugary cereals) alongside promotion of the product based on the healthful ingredient. Consumers purchase and consume these generally unhealthy products based on misleading statements and names, while producers of more healthful foods may lose market share.

FDA should create requirements to ensure that all such ingredient references are not misleading. For example, the FDA can address the whole-grain labeling issue by requiring that foods making whole-grain claims disclose the relative percentages or grams of whole grains versus refined grains per serving.[12] FDA should also require manufacturers to disclose that products "contain no real fruit or vegetables" or "contain insignificant amounts of fruits or vegetables" when this is so or when the ingredient comes solely in the inconsequential form of powders, pastes, and concentrates.

PRODUCT NAMES

The FDA stated it will consider updating standards of identity, but the FDA could also regulate product names to support informed choices and reduce consumer confusion. Two product categories stand out as examples. First, juice blends may be named according to any juice that is a component of the product no matter how insignificant. For example, "pomegranate blueberry flavored blend of five juices," is permitted even though the product is 99.4% apple and grape juice and the disclaimer that the product is actually a "flavored blend of five juices," may be written in tiny font on the product label.[13] The FDA should consider amending its regulation to require the most prominent juices, or all the juices in order of prominence, be identified in the name in equal font size.

Another example is the manufacturer created statements of identity for older-infant and toddler drinks with various names, such as infant and toddler formula, toddler formula, toddler milk, and milk drinks.[14] These products are not infant formulas but are branded to appear similar to infant formulas and are not recommended by WHO or U.S. physician groups. Unlike infant formulas, there are no FDA regulations for names, ingredients, or labels, potentially leading to consumer confusion and risky feeding practices. The FDA should directly regulate this relatively new class of products using a similar framework as for infant formula because it is promoted along this feeding continuum.

ADDITIONAL AUTHORITIES AND LIMITATIONS FOR FOOD LABELS

In the past, Commissioner Gottlieb, among others, argued that the First Amendment's protection for commercial

speech should lead the FDA to use disclaimers to correct any potentially misleading speech on food labels.[15] However, unlike factual disclosures, disclaimers (e.g., "FDA has determined that this evidence is limited and not conclusive") in the context of food have not generally been found to clarify consumer confusion over the scientific underpinning of various types of claims.[3] In other words, deceptive claims accompanied by a disclaimer remain deceptive.[16] The First Amendment does not protect misleading or deceptive commercial speech.[17–19] Therefore, the First Amendment is not a barrier to FDA regulation of confusing and deceptive claims, ingredient statements, and product names.

Beyond the FDA, Congress can revise the Nutrition Labeling and Education Act to directly address misleading claims and ensure that food meets appropriate standards. In fact, several members of Congress introduced a bill called the Food Labeling Modernization Act, which would provide enhanced direction and authority to the FDA to regulate products and evaluate claims, including creating regulations for structure/function claims and addressing misleading descriptors like "whole grain," among other promising revisions.[20] However, this has yet to progress through Congress.

CONCLUSIONS

The goal of supporting public health and alleviating consumer confusion should drive new FDA rules. The FDA has taken a public health approach to other products under its authority (e.g., reducing nicotine content of tobacco products) and it is encouraging to see it wield its powerful toolbox on food labeling to improve public health. To fulfill the FDA's goal of supporting informed consumer decision making, the agency should ensure that food labels are truthful, not misleading, and provide true clarity for consumers seeking a healthy diet.

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April 28, 2026

The Honorable Brett Guthrie
Chair
House Energy and Commerce Committee

The Honorable Frank Pallone
Ranking Member
House Energy and Commerce Committee

The Honorable Morgan Griffith
Chair, Subcommittee on Health
House Energy and Commerce Committee

The Honorable Diana DeGette
Ranking Member, Subcommittee on Health
House Energy and Commerce Committee

Re: "Healthier America: Legislative Proposals on the Regulation and Oversight of Food" and Support for the Food Date Labeling Act (H.R. 4987)

Dear Chair Guthrie, Ranking Member Pallone, Chair Griffith, Ranking Member DeGette, and Members of the Committee:

As you consider legislation in your upcoming hearing: "Healthier America: Legislative Proposals on the Regulation and Oversight of Food", I am writing to respectfully ask for your support in advancing the bipartisan **Food Date Labeling Act (H.R. 4987)**. A no-cost bill that enjoys widespread industry and trade association support, the FDLA establishes a voluntary date-labeling system that is common-sense and easy-to-understand and will help consumers and food businesses save money.

ReFED is a non-profit entirely focused on reducing the amount of food that goes to waste across the U.S. In addition to extensive modeling and analysis to better understand the costs, benefits, impacts, and solutions to food loss and waste, ReFED convenes the food industry, funders, solution providers, and other partners to drive collective impact on the topic. We also host the U.S. Food Waste Pact, with industry participation representing a significant share of the food retail and food service markets. As a result, we have a strong systems-level view of the problem and potential solutions.

Approximately one-third of all food produced or imported into the United States goes unsold or uneaten each year, and confusion over date labels is a major driver of this waste. With almost 50 different labeling terms currently being used, consumers often prematurely discard food because they mistakenly confuse "quality" date labels with "discard" date labels. There is currently no federal regulation for food date labeling (except for infant formula). **Put simply, standardizing date labels will reduce food costs for both businesses and consumers at a time when food prices are at record highs. In 2024, over 4 million tons of food—or approximately $21 billion worth of food—went unsold or uneaten due to date label concerns.**

A recent nationally representative survey we conducted found that 96 percent of respondents reported using date labels to some extent. However, with nearly 50 different date label terms appearing on the grocery shelf, consumers are understandably confused. While an average of

87% of U.S. consumers believed they knew the meanings of eight different labels, when quizzed, only an average of 53% answered correctly.

Addressing this confusion will stop businesses and households from throwing food away prematurely. **ReFED estimates that standardizing date labels would deliver a bare minimum net financial benefit of $1.32 billion to consumers and ~$600 million to food manufacturers, retailers, and food service per year.**

The FDLA directly addresses consumer confusion by establishing a voluntary labeling scheme where companies that choose to include a date label on their food product can use one of two options: “BEST If Used By” to indicate optimal freshness and quality and “USE By” to indicate the discard date. There is widespread industry and trade association support for this simplified and standardized labeling system, including from major industry actors such as Walmart, Amazon, Kroger, Nestle, and Unilever, as well as leading trade associations - the Consumer Brands Association and FMI - The Food Industry Association. Food businesses also find that standardized and simplified labeling can help their employees better manage inventory and, in turn, control costs.

The FDLA also directs the U.S. Department of Agriculture (USDA) and U.S. Food and Drug Administration (FDA) to work together to provide education on the meanings of the standardized date labels. Such consumer education would support successful implementation of this bill And, FDLA supports food recovery: there are approximately 20 states that in some way restrict the sale or donation of food past its date - this legislation would allow much of that food that is still good to be donated. Under the FDLA, food products past their quality date that still meet food safety standards can continue to be sold or donated by food businesses, reducing unnecessary waste and ensuring that food products go to people, not landfills.

In sum, you have an opportunity to advance no-cost legislation that will help American consumers and businesses save money and reduce food waste. This bipartisan legislation enjoys broad industry and stakeholder support and would meaningfully help families facing high food costs.

Thank you for considering these comments.

Sincerely,

Dana Gunders, President
ReFED

April 28, 2026

Chair Brett Guthrie,
Ranking Member Frank Pallone, Jr.
Chair H. Morgan Griffith
Ranking Member Diana DeGette

RE: Support for the Food Date Labeling Act (H.R. 4987) – Hearing on "Healthier America: Legislative Proposals on the Regulation and Oversight of Food"

Dear Chair Guthrie, Ranking Member Pallone, Chair Griffith, Ranking Member DeGette, and Members of the Committee:

Spoonfuls appreciates the opportunity to submit this statement for the record regarding the Energy and Commerce Subcommittee on Health's hearing, "Healthier America: Legislative Proposals on the Regulation and Oversight of Food." We write to express our strong support for the Food Date Labeling Act (H.R. 4987) and respectfully urge the Committee to proceed to a markup and pass this common-sense legislation into law.

Through food recovery and distribution, education, and advocacy, Spoonfuls works to address the health, environmental, and economic impact that wasted food has on people and the planet. To date, we have recovered and distributed over 40 million pounds of food to communities across Massachusetts.

Our frontline experience reveals a frustrating reality: date label confusion is a significant driver of wasted food. The current patchwork of state regulations and inconsistently applied food date labels puts retail workers and consumers in a position of needing to decipher what these unclear labels mean, harming both businesses and households. This bill provides the clarity needed to keep good food on tables and out of landfills by:

- **Protecting Household Food Budgets**: In 2024 alone, Americans wasted 3.47 million tons of food due to date label confusion[1]. This waste contributes to the nearly $3,000 lost annually to wasted food by the average household of four[2]. Standardizing labels helps all households, including food-insecure households, maximize their resources.

[1] https://insights-engine.refed.org/food-waste-monitor?break_by=cause&indicator=tons-surplus&view=detail&year=2024
[2] Looking Ahead: Our 2025 Food Waste Forecast, https://refed.org/articles/looking-ahead-our-2025-food-waste-forecast/

- **Strengthening Food Recovery Capacity:** Much of the food Spoonfuls recovers is "close-dated." Some of our partners and the end-recipients served by those partners fear that food poses a safety risk. This requires Spoonfuls to educate our community on what these labels actually do (and do not) mean, to reassure those eating the food we recover that it is still good and safe to eat. Standardizing food date labels would streamline our ability to recover more food and ensure our partners feel confident in the safety and dignity of the products we provide.
- **Reducing Environmental Waste:** Food waste accounts for over 25% of the waste stream in Massachusetts[3]. By eliminating the confusion that leads 31% of Americans to throw away food simply because it passed the date on its label[4], we can reduce the unnecessary waste of resources used in food production.

The Food Date Labeling Act builds on bipartisan momentum started during the first Trump Administration's "Winning at Reducing Food Waste Initiative" and continued through recent federal strategies. By codifying standard phrases that industry leaders support and have already begun to adopt voluntarily[5], this bill provides the regulatory clarity both businesses and consumers need.

Standardizing labels is a rare "win-win-win" policy that supports economic efficiency, bolsters food security, and protects the environment. We urge the Committee to move H.R. 4987 forward to help ensure that good food doesn't go to waste.

Sincerely,

Liz Miller
Senior Public Affairs Manager

lmiller@spoonfuls.org
617.639.0288

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[3] https://www.mass.gov/doc/massdep-food-waste-composting-fact-sheet/download#:~:text=How%20much%20food%20waste%20is,1%20million%20tons%20per%20year.

[4] The State of Food Waste in America, Mitre-Gallup https://sites.mitre.org/household-food-waste/wp-content/uploads/sites/41/2023/11/The-State-of-Food-Waste-in-America-11-14-23.pdf

[5] https://zerofoodwastecoalition.org/pdfs/FDLA%20Open%20Letter.pdf

Tuesday 28th April 2026

The Honorable Brett Guthrie
Chair, Subcommittee on Health
House Committee on Energy and Commerce
2125 Rayburn House Office Building
Washington D.C. 20515

The Honorable Morgan Griffith
Chair Subcommittee on Oversight and Investigations
House Committee on Energy and Commerce
2125 Rayburn House Office Building
Washington, D.C. 20515

The Honorable Frank Pallone, Jr.
Ranking Member
House Committee on Energy and Commerce
2322 Rayburn House Office Building
Washington, D.C. 20515

The Honorable Diana DeGette
Ranking Member Subcommittee on Health
House Committee on Energy and Commerce
2322 Rayburn House Office Building
Washington, D.C. 20515

RE: Support for the Food Date Labeling Act (H.R. 4987) – Hearing on "Healthier America: Legislative Proposals on the Regulation and Oversight of Food"

Dear Chair Guthrie, Ranking Member Pallone, Chair Griffith, Ranking Member DeGette, and Members of the Committee:

On behalf of Too Good To Go, I am writing to express our strong support for the Food Date Labeling Act (H.R. 4987). We appreciate the Subcommittee on Health holding this timely hearing, "Healthier America: Legislative Proposals on the Regulation and Oversight of Food," and we respectfully urge the committee to proceed to a markup of the Food Date Labeling Act and pass the bill into law.

At Too Good To Go, we operate a multi-country e-commerce marketplace that partners with third-party businesses, from local bakeries to major grocery chains, to sell their surplus, unsold food directly to consumers at a discount. We sit at the intersection of retail operations, consumer behavior, and sustainability. From this vantage point, we see firsthand how the current, fragmented system of food date labeling acts as a massive regulatory bottleneck that stifles business revenue, burdens consumers, and generates completely avoidable waste.

Our global experience has shown us that the current patchwork of date labeling is one of the most significant, yet most solvable, drivers of household food waste..

The cost of confusion

In the US currently, there are no federal standards for date labels on food. This has resulted in an array of phrases including "Sell By," "Use By," "Best Before," and "Enjoy By." Nearly 4 million tons of food waste are generated annually in the U.S. due to consumer and retailer confusion over these dates.

This confusion carries a heavy price tag:

- **For Families:** The average American family of four spends roughly $1,500 a year on food that ends up in the trash, often because they mistakenly believe a "Best If Used By" date is a hard safety deadline.
- **For Businesses:** Retailers are often forced to discard perfectly safe products to comply with inconsistent state-level regulations or out of fear of liability, hampering supply chain efficiency.
- **For the Environment:** When food is wasted, all the water, land, and energy used to produce it are also wasted. Food waste is responsible for roughly 6% of U.S. greenhouse gas emissions.

Too Good To Go's experience and expertise

At Too Good To Go, across 15 countries in Europe and Canada we have launched the "Look, Smell, Taste" initiative to help consumers understand that for the vast majority of shelf-staple and produce items, the date on the package is an indicator of quality, not safety. However, our educational efforts can only go so far when the regulatory environment is designed for confusion.

We see the impact of this daily. We have seen partners hesitate to list surplus items on our marketplace because they are unsure of the legal distinction between a "Sell By" date and a "Best If Used By" date. By standardizing labels to "Best If Used By" for quality and "Use By" for safety, H.R. 4987 provides the clarity that businesses need to donate or sell surplus food with confidence.

A win-win-win solution

The Food Date Labeling Act addresses multiple national priorities simultaneously:

- **Economic Efficiency:** It streamlines interstate commerce by replacing 41 different state labeling laws with one federal standard, reducing the regulatory burden on food producers.
- **Food Security:** By making it easier for businesses to donate food that is past its "quality" date but still perfectly safe, we can help close the gap for the millions of Americans facing food insecurity.
- **Personal Responsibility:** It empowers consumers with clear, actionable information, allowing them to make informed decisions about the food they buy and eat.

The Food Date Labeling Act is one of the most cost-effective solutions available to reduce food waste and lower grocery bills for American families. It is time for a uniform, common-sense approach to how we date our food.

We thank the Committee for its leadership on these critical health and oversight issues and strongly encourage you to move H.R. 4987 forward to a markup.

Sincerely,

Chris MacAulay
VP Operations North America
Too Good To Go

World Wildlife Fund
1250 24th Street, NW | Washington, DC 20037 | 202 293 4800 | 202 293 9211 fax

worldwildlife.org

April 29, 2026

The Honorable Brett Guthrie
Chairman
House Energy and Commerce Committee

The Honorable Frank Pallone
Ranking Member
House Energy and Commerce Committee

The Honorable Morgan Griffith
Chairman
Subcommittee on Health,
Energy and Commerce Committee

The Honorable Diana DeGette
Ranking Member
Subcommittee on Health,
Energy and Commerce Committee

Dear Chairman Guthrie, Ranking Member Pallone, Chairman Griffith, Ranking Member DeGette, and members of the Committee:

World Wildlife Fund respectfully requests your support for H.R. 4987, the Food Date Labeling Act of 2025, considered during the Energy and Commerce Subcommittee on Health's Hearing entitled *Healthier America: Legislative Proposals on the Regulation and Oversight of Food* on April 29, 2026.

Nearly one third of all food in the U.S. goes uneaten, with half of this waste occurring in households. This costs our country $310 billion annually, with the average household losing about $3,000 each year to wasted food. The environmental toll is equally staggering – food waste accounts for roughly 10 percent of global greenhouse gas emissions, nearly four times the emissions of global airlines. Producing food that ultimately goes to waste consumes enough water to fill 9 million Olympic-sized swimming pools, generates emissions equivalent to driving 1 million fully loaded semitrucks across the country, and uses agricultural land equal in size to California and New York combined.

A common source of food waste at the household level is due to the confusion caused by inconsistent labeling used across the industry, such as "Best By" and "Use By." A recent study found that 31 percent of people who discard food based solely on these labels create nearly double the waste as those who report never or rarely throwing away food that has passed its date label. For most items, these dates indicate quality, not safety.

The Food Date Labeling Act would standardize date labels nationwide and clarify that "Best If Used By" refers to quality, while "Use By" refers to when food should be discarded. It would also clarify that food past a quality date is still safe to donate. This would not only reduce confusion – and therefore waste – at the household level, it would also make it easier for grocery stores, cafeterias, and restaurants to donate edible surplus food, allowing more food to reach food banks and the 47 million Americans who face food insecurity, as opposed to ending up in a landfill.

The Food Date Labeling Act is a commonsense solution to addressing the problem of food waste. We thank Representatives Pingree and Newhouse for leading this effort and urge members of the Committee to support this bill and advance it through the Committee process without delay.

Thank you for your consideration.

Alejandro Pérez
Senior Vice President
Policy and Government Affairs
World Wildlife Fund

April 28, 2026

The Leadership of the House Energy and Commerce
Health Subcommittee
2125 Rayburn House Building
Washington, D.C. 20515

Dear Chair Guthrie, Ranking Member Pallone, Chair Griffith, Ranking Member DeGette, and Members of the Committee,

Thank you for including H.R. 4987, the Food Date Labeling Act of 2025, and for bringing it forward for discussion in the Energy and Commerce Subcommittee on Health's Hearing entitled *Healthier America: Legislative Proposals on the Regulation and Oversight of Food*. On behalf of the Zero Food Waste Coalition, I write in support of the bi-partisan Food Date Labeling Act of 2025 (FDLA) (H.R. 4987) and respectfully urge the committee to proceed to a markup of this legislation following this legislative hearing. FDLA is a no-cost bill with widespread industry support. It establishes a voluntary, common-sense, and easy-to-understand date labeling system that will help consumers and food retailers save money – more important than ever in these times of high food costs.

The Zero Food Waste Coalition (ZFWC) is a coalition of over 330 organizations – including retailers, food rescue groups, local governments, academic institutions, and waste management organizations – dedicated to informing and influencing U.S. food waste policy at the federal, state, and local levels to drive tangible progress toward the United States' goal of reducing food loss and waste by 50% by 2030. With expertise spanning the entire food system, ZFWC supports policies that reduce waste, improve government efficiency, and protect consumer health.

Food Waste Under the Current Date Labeling Patchwork

Each year, roughly 30-40% of the U.S. food supply goes to waste,[i] which cost the country $325 billion in 2024 alone.[ii] In other words, more than 1% of the U.S. GDP is wasted every year on growing, processing, and selling discarded food.[iii] At the same time, nearly 1 in 7 American households (18 million) are food insecure, and nearly 1 in 5 households with children are struggling to afford enough food, according to the most recent estimate by USDA.[iv]

A major driver of food waste in the United States is inconsistent and confusing date labels on food packaging. Each year, 3.47 million tons of food waste in the United States can be traced to concerns over date labels,[v] costing American households and businesses approximately $20 billion.[vi] Retailers often remove perfectly good food from shelves because of arbitrary or misleading date labels, while consumers – faced with inconsistent and unclear phrasing – unnecessarily throw out safe, edible food.[vii] Examples of these unclear date label phrases include

"Sell By," "Expired On," "Freshest By," and "Enjoy By," among others. Addressing date labels is one of the most cost-effective strategies to reduce food waste, support businesses, and help American families save money.[viii]

Food date labels are not federally required on any food products in the U.S., aside from infant formula (which is exempted from the FDLA's date labeling scheme).[ix] Because of the lack of federal standards, states have passed their own food date labeling laws. This current patchwork of date label regulations across the country exacerbates the amount of food waste attributable to date labels. No two states have the same date label policy,[x] a problem which gets more pronounced as consumers and companies commute or operate between neighboring states with different requirements.

Standardized Food Date Labels as a Solution

The Food Date Labeling Act of 2025 would standardize date labels in the following manner:

- Clarify that if food businesses voluntarily choose to include a date label on their food product, they must use one of two standard date labels. They may select either a quality label, indicating the date after which a food product's quality may deteriorate, using the phrase "BEST If Used By" or a discard label, indicating the date after which a food product should be discarded, using the phrase "USE By."
- Require the USDA and the FDA to work together to provide education on the meaning of the standardized date labels.
- Make donations of food past the quality date universally permissible, provided it meets safety specifications.

Benefit to Food Industry and Consumers

The food industry would benefit from passing the Food Date Labeling Act of 2025. For food product manufacturers, adjusting date labels on food products would require a relatively limited, one-time cost to change the date label phrase or label design in the printer.[xi] By contrast, doing business within the existing patchwork system of date labels requires constant upkeep. Any company seeking to conduct business across state lines must stay up to date with the unnecessarily costly process of ensuring compliance with up to 42 different date label standards, given that no two states that require date labels have the same date label laws.[xii] For retailers, consumer misconceptions around the meaning of date labels and specific state laws that restrict sales of food products past their printed date label[xiii] result in higher numbers of unsaleable and often discarded food in retail stores.[xiv] An industry initiative in the U.S. estimated in 2001 that about $900 million worth of inventory was removed from the supply chain due to date code expiration and identified the lack of standardization of date coding as one of the five factors driving that loss.[xv] While that data is outdated, the lack of any date label standardization or education since this initiative leads us to believe this loss has stayed the same or even worsened with inflation. These economic losses that retailers suffer can get passed to consumers in increases in the price of goods.

The food industry is supportive of a federal standardization of date labels. The two largest food industry trade groups in the United States, Food Marketing Institute (now known as FMI - The

Food Industry Association) and the Grocery Manufacturers Association (now known as the Consumer Brands Association (CBA)), launched the Product Code Dating Initiative in 2017 that encourages companies to use the same two date label phrases in the FDLA. However, complete adoption of this initiative is impossible under the existing system because it is inconsistent with 27 different states' date label laws for at least one food product.[xvi] In February 2026, over 30 food industry leaders – including Amazon, CBA, FMI, Nestlé, the Sustainable Food Policy Alliance, Kroger, and Walmart – signed on in support of passing the Food Date Labeling Act of 2025.[xvii]

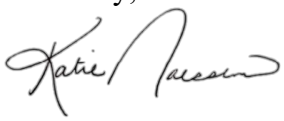
Consumers will also benefit from passing the Food Date Labeling Act of 2025 by spending less money on food that they throw away. A 2025 National Survey of 2,069 U.S. adults showed that 88% of respondents discard food near or past the date on the label, up from 84% in 2016.[xviii] Consumers mistakenly believe that date labels convey safety, rather than quality information. According to ReFED, date label confusion leads directly to approximately $20 billion in terms of food waste every year,[xix] with about $7 billion of that value lost by consumers.[xx] According to recent EPA estimates, an average household of four spends $3,000 on wasted food, or approximately 11% of their yearly food budget.[xxi] By standardizing date labels across the United States down to two phrases and by then educating consumers about the meaning of those date label phrases, consumers will waste less food and money due to date label confusion.

Furthermore, the Food Date Labeling Act will help food recovery organizations to recover safe, edible food for people. Some states prohibit the donation of food past the date label date, even though most date labels convey quality rather than safety, meaning past-date food is perfectly safe to consume. Passing the Food Date Labeling Act will ensure food recovery organizations across the United States can deliver past-date, safe, wholesome food for people.

The Food Date Labeling Act is a thoroughly vetted and widely supported piece of legislation that will address a critical source of food loss and waste in the United States, streamlining an overly complicated and confusing patchwork of regulation, reducing consumer confusion, and saving American households money. We respectfully urge the Committee to proceed to a markup of this bipartisan legislation so that the bill may continue through legislative process and ultimately be passed into law.

Thank you for your consideration of this written testimony.

Sincerely,



Katie Naessens
Executive Director
Zero Food Waste Coalition

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[i] *Why Should We Care About Food Waste?*, U.S. DEP'T OF AGRIC., https://www.usda.gov/about-food/food-safety/food-loss-and-waste/why-should-we-care-about-food-waste (last visited Apr. 23, 2026).

[ii] *Food Waste: The Problem*, REFED, https://refed.org/food-waste/the-problem/#what_is_food_waste (last visited Apr. 23, 2026).
[iii] U.S. BUREAU OF ECONOMIC ANALYSIS, "TABLE 1.1.5. GROSS DOMESTIC PRODUCT", https://www.bea.gov/itable/national-gdp-and-personal-income (open Interactive Data Tables; choose Section 1 – Gross Domestic Product and Income, then Table 1.1.5; modify to the Annual series) (last visited Apr. 23, 2026).
[iv] MATTHEW P. RABBITT ET AL., USDA ECON. RSCH. SERV., HOUSEHOLD FOOD SECURITY IN THE UNITED STATES IN 2023 8-9 (Sept. 2024), https://ers.usda.gov/sites/default/files/_laserfiche/publications/109896/ERR-337.pdf?v=85017.
[v] *Food Waste Monitor*, REFED INSIGHTS ENGINE, https://insights-engine refed.org/food-waste-monitor?break_by=cause&indicator=tons-surplus&view=detail&year=2024 (displaying surplus food generated by all sectors according to cause of surplus) (last updated Mar. 25, 2026).
[vi] *Food Waste Monitor*, REFED INSIGHTS ENGINE, https://insights-engine refed.org/food-waste-monitor?break_by=cause&indicator=us-dollars-surplus&view=detail&year=2024 (displaying surplus food generated in dollars according to cause of surplus) (last updated Mar. 25, 2026).
[vii] NAT. RES. DEF. COUNCIL, WASTED: HOW AMERICA IS LOSING UP TO 40 PERCENT OF ITS FOOD FROM FARM TO FORK TO LANDFILL 38 (2nd ed. 2017), https://www nrdc.org/sites/default/files/wasted-2017-report.pdf.
[viii] ReFED estimates that standardizing date labels would require less than $6 million in upfront and operating costs and would have a net financial benefit of $1.92 billion. *Solutions Database: Standardized Date Labels*, REFED INSIGHTS ENGINE, https://insights-engine refed.org/solution-database/standardized-date-labels (last visited Apr. 23, 2026).
[ix] Infant Formula Act of 1980, 21 U.S.C. § 350a; 21 C.F.R. §107.20 (2024); Food Date Labeling, 89 Fed. Reg. 96205, 96206 (Food Safety & Inspection Serv. and Food & Drug Admin. Dec. 4, 2024); *Food Product Dating*, FOOD SAFETY & INSPECTION SERV., https://www.fsis.usda.gov/food-safety/safe-food-handling-and-preparation/food-safety-basics/food-product-dating (last updated Nov. 30, 2023). While the U.S. Department of Agriculture (USDA) does not require quality or food safety date labels for products under its purview, it does require a "pack date" for poultry products and thermally processed, commercially sterile products to help identify product lots and facilitate trace-back activities in the event of an outbreak of foodborne illness. *See* 9 C.F.R. § 381.126 (2024) and § 431.2(e) (2024).
[x] HARVARD L. SCH. FOOD LAW & POLICY CLINIC, DATE LABELS: THE CASE FOR FEDERAL REGULATION 3 (2019), https://chlpi.org/wp-content/uploads/2013/12/date-labels-issue-brief_June-2019.pdf; *See also* HARVARD L. SCH. FOOD L. & POL'Y CLINIC & NAT. RES. DEF. COUNCIL, THE DATING GAME: HOW CONFUSING DATE LABELS LEAD TO FOOD WASTE IN AMERICA 12-15 (2013), https://www.nrdc.org/sites/default/files/dating-game-report.pdf.
[xi] By one estimate, the upfront and operating costs of nationally standardizing date labels would only require less than a combined $6 million of investment from private, public, and philanthropic funding. *Solutions Database: Standardized Date Labels*, REFED INSIGHTS ENGINE, https://insights-engine refed.org/solution-database/standardized-date-labels (last visited Apr. 23, 2026).
[xii] HARVARD L. SCH. FOOD LAW & POLICY CLINIC, DATE LABELS: THE CASE FOR FEDERAL REGULATION 3 (2019), https://chlpi.org/wp-content/uploads/2013/12/date-labels-issue-brief_June-2019.pdf.
[xiii] *See Date Labeling,* REFED U.S. FOOD WASTE POLICY FINDER, https://policyfinder refed.org/?category=prevention&key=date-labeling (displaying 'Date Labeling' policies by state).
[xiv] HARVARD L. SCH. FOOD L. & POL'Y CLINIC & NAT. RES. DEF. COUNCIL, THE DATING GAME: HOW CONFUSING DATE LABELS LEAD TO FOOD WASTE IN AMERICA 22 (2013), https://www nrdc.org/sites/default/files/dating-game-report.pdf.
[xv] RAFTERY RESOURCE NETWORK, INC., EXPIRED PRODUCT PROJECT 2 (2003) (available at: https://studylib net/doc/18546832/expired-product-project---grocery-manufacturers-association).
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[xvii] *Widespread Industry Support for the Food Date Labeling Act of 2025,* THE ZERO FOOD WASTE COALITION (Feb. 20, 2026), https://zerofoodwastecoalition.org/news/widespread-industry-support-for-the-food-date-labeling-act-of-2025/.
[xviii] RONI NEFF ET AL., CONSUMER PERCEPTIONS OF FOOD DATE LABELS: 2025 NATIONAL SURVEY 3, 5 (2025), https://chlpi.org/resources/consumer-perceptions-of-food-date-labels-2025-national-survey.
[xix] *Food Waste Monitor*, REFED INSIGHTS ENGINE, https://insights-engine refed.org/food-waste-monitor?break_by=cause&indicator=us-dollars-surplus&view=detail&year=2024 (displaying surplus food generated in dollars according to cause of surplus) (last updated Mar. 25, 2026).
[xx] *Food Waste Monitor*, REFED INSIGHTS ENGINE, https://insights-engine refed.org/food-waste-monitor?break_by=cause&indicator=us-dollars-surplus&sector=residential&view=detail&year=2024 (displaying surplus food generated in the residential sector across all states in 2024 by the dollar amount and cause) (last updated Mar. 25, 2026).
[xxi] *Estimating the Cost of Food Waste to American Consumers*, THE U.S. ENVT'L PROT. AGENCY 11 (April 2025), https://www.epa.gov/system/files/documents/2025-04/costoffoodwastereport_508.pdf.