CENTER FOR Science IN THE Public Interest
The nonprofit publisher of Nutrition Action

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Deputy Commissioner Jim Jones
U.S. Food and Drug Administration
10903 New Hampshire Avenue
Silver Spring, MD 20993

Dear Deputy Commissioner Jones,

The Center for Science in the Public Interest (CSPI) congratulates you on your appointment as the new Deputy Commissioner for Human Foods at the U.S. Food and Drug Administration (FDA) and looks forward to meeting with you tomorrow. We are excited to work together to enhance the FDA's important food and nutrition work as the agency develops and puts into place its new Human Foods Program.

CSPI supports the FDA's plans for re-organization of the Human Foods Program, and urges the agency to continue to improve transparency and coordination with external stakeholders, state and local officials, and members of Congress. CSPI would like to highlight the following priorities for your consideration as you build the Program:

1. Front-of-Package Nutrition Labeling

The FDA must prioritize efforts to establish front-of-package nutrition labeling as we requested in our petition in August 2022. The FDA committed to front-of-package labeling in the White House National Strategy on Hunger, Nutrition, and Health in September 2022. The FDA has also announced that it would issue a proposed rule on front-of-pack labeling by December 2023 and announced a stakeholder meeting in November. We understand that the FDA has announced an additional study as part of its research agenda involving a second round of focus groups, but we urge the FDA to stick to its original timeline for publication of a proposed rule.

We hope that the proposed rule will make clear that the labeling scheme would be mandatory. Mandatory front-of-package labeling ensures that food companies cannot opt out of labeling, setting an equal playing field for all companies and providing consistency for consumers. It is also critical that the FDA adopt an approach that does more than simply display the grams and Daily Value presented in Nutrition Facts. Front-of-package nutrition labeling must highlight when foods are "high in" salt, sugar, and saturated fat, similar to the front-of-package labeling systems that have been adopted by several other countries, including Canada and Mexico. These front-of-package disclosures provide nutrition information in a quick and easy-to-understand format and are proven to help people better understand the nutritional content of packaged foods and to make healthier choices.

2. Sodium and Added Sugars Reduction

As we advocated in a petition submitted in April 2023, the FDA should strengthen its sodium reduction efforts for foods and beverages. In the National Strategy, the FDA committed to pursuing long-term sodium reductions that go beyond the 2.5-year targets established by the FDA in 2021, which aim to reduce sodium in the food supply by 10 percent by 2024. CSPI urges the FDA to establish longer-term (10-year) targets that align levels of sodium with the Dietary Guidelines for Americans. If fully achieved, long-term sodium reduction targets prevent up to 475,000 cases of cardiovascular disease and save $41 billion in healthcare costs over 20 years. The FY2023 omnibus legislation provided the FDA with an additional $1 million for implementation of the short-term sodium targets and to develop a monitoring and evaluation plan, which the FDA has not yet made public. Monitoring industry progress on sodium reduction is crucial to understand whether the voluntary targets are working; if not, the FDA needs to have a strategy to further reduce sodium in the food supply.

The FDA should also focus on reducing added sugars in foods and beverages. In the National Strategy, the FDA committed to requesting additional information from the food industry about potential added sugars reduction through a public stakeholder meeting, now scheduled for November. The FDA needs to commit to establishing concrete across-the-board targets for added sugars reduction in foods and beverages, analogous to those for sodium. CSPI and the New York City Department of Health and Mental Hygiene have called on the FDA to set such added sugars reduction targets through a joint petition filed in April 2023.

The FDA can also use its authority over food labeling to encourage added sugars and sodium reduction and healthy reformulation. These actions include requiring restaurants to declare added sugars in updated menu labeling rules, requiring restaurants to include calories when they post menus on third-party platforms, finalizing updates to its definition of "healthy," and amending the rules on standards of identity to allow sodium substitution.

3. Food Safety

CSPI endorses the FDA's requests to Congress for new authority to support the testing of infant formula and food for young children, remote inspection of food facilities, and enhanced sharing of information with state officials. CSPI is also seeking new legislative authority for the FDA to investigate foodborne outbreaks, in the form of the Expanded Food Safety Investigation Act (EFSIA) (H.R. 4110/S. 2782), a bill that allows the FDA to enter concentrated animal feeding operations (CAFOs) to test for harmful bacteria and other microbes that cause foodborne illness, which presently CAFOs can deny entry.

We urge you to increase the efficiency and speed with which the FDA sets new food safety policies. The agency must move swiftly to finalize the portions of the Produce Safety Rule that create testing standards for agricultural water, which have been under development for over a decade since they were required under the Food Safety Modernization Act. We also urge the agency to expedite its work setting standards to reduce heavy metal contamination in foods for infants and young children under the Closer to Zero Initiative. The agency also must be swifter in its response to emerging safety issues, such as opiate contamination in poppy seeds. After two years, the agency has still not responded to a petition from CSPI urging the agency to set a threshold for this form of contamination, which has been tied to 19 deaths cited in our petition.

4. Food Additives

CSPI supported the recent bill in California to ban four dangerous food chemicals and believes such state efforts are necessary to protect consumers when the FDA has not developed an effective program to review and, if necessary, remove dangerous chemicals from our foods. It is concerning that the FDA has failed to ban Red 3 from foods after it was banned in cosmetics and topical drugs more than 30 years ago based on cancer risks acknowledged by the FDA which our petition on Red 3 cites. We appreciate that you have committed to addressing the problems in the food chemical review process, and urge you to issue a plan that identifies priority chemicals, sets an urgent timeframe for review, and identifies funding streams that will be used to achieve the work.

Further, the FDA must close the Generally Recognized as Safe (GRAS) loophole, which has allowed companies to self-certify new food chemicals as safe to consume. Manufacturers often secretly introduce these substances into our foods without ever notifying the FDA. The FDA sanctions this GRAS loophole by expressly not requiring GRAS notifications. Closing this loophole would ensure that both industry and the FDA uphold their responsibility to public safety and transparency.

5. Dietary Supplements

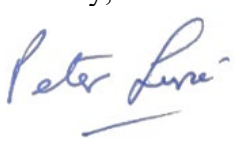
We urge the agency to prioritize inspections of high-risk dietary supplements, including those marketed for weight loss, bodybuilding, sexual enhancement, and diabetes, and urge the FDA to investigate misleading claims for dietary supplements marketed online and on social media. CSPI also supports the FDA's request for new authority to require the listing of dietary supplements and clarify its authority over products marketed as supplements, to facilitate effective enforcement.

6. Allergens

Food companies, particularly in the baking industry, have discovered they can sidestep their obligations to control allergen cross-contact risks by intentionally adding major allergens to foods and declaring those allergens as ingredients. This practice is a serious and worsening challenge and has the potential to undermine decades of regulatory progress in protecting consumers with food allergies. The FDA should do more to publicly identify the risks this practice poses to consumers and deter companies from engaging in the practice.

We are grateful to you and the administration for your commitment to ensure the success of the FDA's Human Foods Program. CSPI stands ready to work with you to make these priorities a reality.

Sincerely,



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