



January 22, 2024

Dockets Management Staff (HFA-305)
Food and Drug Administration
5630 Fishers Lane, Rm. 1061
Rockville, MD 20852

Re: Food and Drug Administration's Strategies to Reduce Added Sugars Consumption in the United States (Docket No. FDA-2023-N-3849)

Dear Dockets Management Staff:

The Center for Science in the Public Interest (CSPI) respectfully submits the following comments on the U.S. Food and Drug Administration's (FDA's) Strategies to Reduce Added Sugars Consumption in the United States. CSPI participated in FDA's virtual public meeting and listening sessions on this topic in November of 2023, and has been actively petitioning federal agencies and working with Congress to take action on reducing added sugars. CSPI is a non-profit consumer education and advocacy organization that has worked since 1971 to improve the public's health through better nutrition and safer food. CSPI has an extensive history of advocating for policies related to added sugars reduction through food labeling, menu labeling, restaurant nutrition standards, school meals and competitive foods nutrition standards, and federal dietary guidance. CSPI publishes *Nutrition Action* (NA) and is supported by the subscribers to NA, individual donors, and foundation grants. CSPI is an independent organization that does not accept any corporate donations.

The average American consumes 17 teaspoons of added sugars per day (13% of total daily calories),^{1,2} which is over 30% more added sugars than recommended for a healthy diet.³ Overconsumption of foods and beverages high in added sugars is linked to increased risk of type 2 diabetes^{4,5,6} and cardiovascular disease,^{7,8,9} in part by increasing the risk of weight gain,¹⁰ and can contribute to dental decay.¹¹

The predominant sources of added sugars in Americans' diets are foods and beverages purchased from retail stores and restaurants, including sugary drinks, sweet bakery products, and candy.^{12,13} As a result, consumers have only limited control over the amounts of added sugars they consume. Food and beverage companies are largely responsible for introducing excess added sugars into the food supply. Polling shows that 75% of U.S. consumers support a policy to reduce the amount of added sugars in the food supply.¹⁴

In this comment, **we recommend five critical actions** for FDA and USDA to reduce added sugars consumption across the U.S. population:

- 1. Establish added sugars reduction targets for packaged and restaurant foods and beverages [FDA]**
- 2. Mandate interpretive, nutrient-specific front-of-package nutrition labels for packaged foods and beverages [FDA]**
- 3. Mandate added sugars disclosure at restaurants [FDA]**
- 4. Update sugars standards for foods and beverages offered in schools and child and adult care settings [USDA]**

5. Ensure that foods and beverages with low- and no-calorie sweeteners are safe for human consumption [FDA, USDA]

We also present additional recommendations for federal agencies to reduce U.S. added sugars consumption in the following categories:

Additional population-level approaches

- 6. Adopt strong limits on added sugars in FDA’s final rule on “healthy” [FDA]**
- 7. Define “low added sugars” claims and take enforcement action to prevent misleading labeling [FDA]**
- 8. Issue guidance encouraging online retailers to provide consumers with access to the same nutrient, ingredient, and allergen information required on food and beverage packages [FDA]**
- 9. Publish a Surgeon General’s Report on the importance of added sugars reduction [HHS]**
- 10. Improve access to safe and appealing tap water across the U.S. [EPA]**

Important approaches for vulnerable and/or underrepresented populations

- 11. Update WIC food package to align with the Dietary Guidelines for Americans [USDA]**
- 12. Require SNAP-authorized retailers to adhere to stocking and marketing guidelines that increase availability, placement, and promotion of foods aligned with the Dietary Guidelines for Americans [USDA]**
- 13. Strengthen nutrition standards for the foods distributed through USDA Food Distribution Programs (TEFAP, CSFP, FDPIR) [USDA]**
- 14. Support waivers for pilots testing SNAP incentives and disincentives [USDA]**
- 15. Strengthen regulations for transition formulas and toddler milks [FDA]**

I. MAIN RECOMMENDATIONS

1. Establish added sugars reduction targets for packaged and restaurant foods and beverages [FDA]

In recognition of the need for added sugars reduction across the U.S. food supply, the 2022 Biden-Harris Administration’s National Strategy on Hunger, Nutrition, and Health included a commitment to assess additional steps to reduce added sugars consumption, including potential voluntary targets.¹⁵ In April of 2023, CSPI and the New York City Department of Health and Mental Hygiene (NYC DOHMH) filed a citizen petition echoing the White House’s call for such targets.¹⁶ The petition requested that FDA develop voluntary, measurable added sugars reduction targets for processed, packaged, and prepared foods and beverages, with the 10-year goal of lowering average population intake of added sugars to less than 10% of total daily calories, as recommended by the DGA.

Policies encouraging added sugars reformulation provide benefits for individuals, the private sector, and public health.¹⁷ A modeling study¹⁸ estimating the effects of implementing NYC DOHMH’s national sugar reduction targets¹⁹ on added sugars intake and cardiometabolic health outcomes in the U.S. found that with full industry compliance, achieving sugars reduction targets was estimated to prevent 2.48 million

cardiovascular disease events, 490,000 cardiovascular disease deaths, and 750,000 diabetes cases; and save \$160.88 billion in lifetime net costs.ⁱ

Our petition specifically requested that FDA take the following actions, and we recommend the same in this comment:²⁰

- a. Issue guidance for the food and beverage industry that provides voluntary short-term (2.5-year), mid-term (5-year), and long-term (10-year) targets for added sugars content in commercially processed and packaged foods and beverages from categories that contribute most to overall added sugars intake.
- b. Create and maintain a public online database of all the products included in the targeted food categories at baseline and the 2.5-year, 5-year, 7.5-year, and 10-year marks, including each product's category, brand, nutrition information (including added sugars content), ingredient list, and additional relevant product-level details.
- c. Following publication of the guidance, provide interim progress reports to the public at the 2.5-year, 5-year, 7.5-year, and 10-year marks evaluating industry compliance with the targets across each food and beverage target category and to report any other significant change in other nutrients of concern (such as sodium or saturated fat).
- d. Extend the scope of this guidance to include voluntary targets for added sugars content in prepared food and beverage categories that contribute most to overall added sugars intake as soon as federal regulations are amended to require chain restaurants to declare added sugars nutrition information (see Main Recommendation 3, below).

2. Mandate interpretive, nutrient-specific front-of-package nutrition labels for packaged foods and beverages [FDA]

Current U.S. food labeling requirements (i.e., the Nutrition Facts label) and voluntary industry initiatives (i.e., Facts Up Front²¹) are insufficient to help consumers reduce their added sugars consumption. Only 41% of people report using the Nutrition Facts panel always or most of the time when deciding to buy a food product,²² and experimental studies have found that Facts Up Front-style labels do not improve the overall healthfulness of consumers' food choices compared to a no-label control.^{23,24,25} Many countries, including Canada and Mexico, require simple front-of-package nutrition labels to help consumers quickly and easily identify foods and beverages that are high in sugars as well as saturated fat and sodium.^{26,27,28} In addition to helping consumers understand the added sugars content of the foods they buy, such labels can encourage companies to reduce added sugars in their products; after Chile's adoption of a mandatory front-of-package nutrition labeling policy in 2016, there was a 10% decrease in sugar purchased per person per day²⁹ and a 15% decrease in the proportion of commonly consumed packaged foods that qualified for a "high in sugars" label.³⁰ Polling shows that Americans want front-of-package nutrition labels too, with 75% responding that they would support a policy requiring labels like these in the U.S., including majorities of Democrats (83%), Republicans (68%), and Independents (73%).³¹

ⁱ The model assumed a 100% compliance scenario in which industry fully met the 40% sales-weighted mean sugar reduction targets for sugar-sweetened beverages and the 20% sales-weighted mean sugar reduction targets for all other categories by 2026.

FDA should issue regulations adopting mandatory front-of-package nutrition labels for packaged foods and beverages that highlight when foods are high in added sugars, among other nutrients of concern. CSPI, the Association of State Public Health Nutritionists, and the Association of SNAP Nutrition Education Administrators previously submitted a citizen petition requesting this action in August of 2022,³² and we are thrilled that FDA is already hard at work researching and developing a front-of-package nutrition label for the U.S. food supply. We are also happy to see interest from Congress with the December 2023 introduction of the TRUTH in Labeling Act of 2023 (S.3512/H.R.6766), which would amend the Federal Food, Drug, and Cosmetic Act to require standardized, interpretive nutrition labels on the front of food packages.³³ We support FDA's work and encourage the agency to move swiftly to issue a proposed rule. As the agency drafts a proposed rule, we encourage it to:

- **Make the policy mandatory.** This is the only way to ensure labels will appear on all foods and beverages high in added sugars. Voluntary front-of-package nutrition labeling policies may have inconsistent uptake by food manufacturers, and companies may selectively apply labels to products that will look more appealing with the label. For example, five years after Australia's adoption of a voluntary front-of-package nutrition labeling policy in 2014, the voluntary health star rating label appeared on less than half of eligible products (41%), and those products were more nutritious compared to products not displaying the label.³⁴
- **Make the labels interpretive and nutrient-specific,** indicating when a product is high in added sugars as opposed to providing numeric content, such as grams of added sugars and Percent Daily Values (DV). FDA surveys show that 37% of people are unable to accurately interpret the Percent DV, with lower utilization and understanding among groups with lower educational attainment.³⁵ Interpretive labels are well-suited to consumer tendencies to rely on heuristic cues to evaluate the nutritional quality of foods,³⁶ and researchers have suggested that they may also be easier to understand by youth and people with less education, lower literacy or numeracy, and limited English.³⁷
- **Make the labels simple and eye-catching.** Labels need to be useful for people of all ages and backgrounds, and stand out against other information on the package. Icons should be used to draw attention to the labels.
- **Require the labels to appear prominently at any point of sale, whether on the package or online.** Given the rise in online food shopping—in 2020, 29% of U.S. households were active monthly users of online grocery³⁸—it is important that any labels mandated on the front-of-package are similarly prominent when products are sold online.
- **Move expeditiously and prioritize public health over private industry interests.** The Department of Health and Human Service's (HHS's) Fall 2023 Unified Agenda of Regulatory Actions stated that FDA would issue a notice of proposed rulemaking on front-of-package nutrition labeling in December 2023, but the Unified Agenda published in December delays the proposed rulemaking to June 2024.³⁹ We urge FDA not to further delay its timeline and to issue a proposed rule by June 1, 2024.

3. Mandate added sugars disclosure at restaurants [FDA]

Restaurant foods and beverages are a significant source of added sugars in the American diet, contributing 20% of total daily added sugars intake,⁴⁰ but consumers currently have no way of determining the added sugars content of these products. Consumers need access to this information to make informed choices when ordering from restaurants.

In January of 2022, CSPI, along with others, petitioned FDA to update its menu labeling rules to require restaurants to disclose added sugars information alongside other nutrition information that consumers can request.⁴¹ The original menu labeling rule was finalized in 2014 and included only disclosures for total sugars.⁴² It was not until 2 years later that FDA updated its regulations for the Nutrition Facts Panel to require added sugars information to be disclosed for packaged foods.⁴³ In doing so, the agency did not similarly update its menu labeling regulations, leaving a discrepancy.

FDA has clear authority to require restaurants to publish added sugars information if the agency determines that it “should be disclosed for the purpose of providing information to assist consumers in maintaining healthy dietary practices.”⁴⁴ FDA already leveraged nearly identical authority⁴⁵ to require added sugars disclosure in the Nutrition Facts label, so there is no question that it could similarly require the declaration for restaurants. Harmonizing the menu labeling rules with the Nutrition Facts label is also a simple, straightforward way for the agency to reinforce the importance of added sugars as a nutrient to consider, thus facilitating reductions in added sugars consumption. Unfortunately, the agency has to date not indicated it will engage in rulemaking to correct the discrepancy in the menu labeling rule, and this item does not appear in the Current Unified Agenda.⁴⁶

In addition to consumer education, access to added sugars information is important for state and local policymakers and researchers to develop and evaluate policies designed to reduce added sugars in restaurant meals. In November of 2023, New York City adopted the Sweet Truth Act, which will require warnings on menu items that are high in added sugars.⁴⁷ However, until FDA requires restaurants to disclose added sugars information, most restaurant items will not be subject to this novel New York City law. Mandating added sugars disclosure at restaurants will be important to pave the way for other jurisdictions to follow New York City’s lead and further help consumers reduce added sugars consumption in restaurant settings.

4. Update sugars standards for foods and beverages offered in schools and child and adult care settings [USDA]

School nutrition standards are outdated with respect to added sugars: there are currently no added sugars limits in the National School Lunch or Breakfast programs or in Smart Snacks standards for competitive foods. This has resulted in nine out of ten schools exceeding the 2020 DGA limit for added sugars for breakfast meals, and nearly seven out of ten schools exceeding the limit for lunch.⁴⁸ In January of 2022, CSPI, the American Heart Association, and the American Public Health Association petitioned the U.S. Department of Agriculture (USDA) to establish an added sugars standard for school meals and competitive foods to align with the 2020-2025 DGA recommendation limiting added sugars consumption to less than 10 percent of total calories.⁴⁹ We recommend the following actions to reduce children’s intake of added sugars in schools and childcare settings:

a. Establish added sugars standards for school meals.

In February of 2023, USDA proposed limits on added sugars in the National School Lunch and Breakfast programs.⁵⁰ We applaud this action and urge USDA to finalize both the per-product and per-meal limits on added sugars.

b. Update sugars standards for competitive foods and beverages in schools.

USDA should replace the total sugar limits in Smart Snacks standards with added sugars limits, with no more than 5 grams added sugars for snacks, no more than 9 grams for entrees, and no added sugars for beverages (except for flavored milk, which should meet USDA's proposed product-based caps on added sugars of no more than 10 grams per 8-ounce serving, and no more than 15 grams per 12-ounce serving). We support allowing yogurt and breakfast cereals to meet the proposed limits for the National School Lunch and Breakfast programs for ease of implementation.

c. Apply proposed per-product added sugars limits to the Child and Adult Care Food Program (CACFP).

USDA has proposed applying per-product added sugars limits for breakfast cereals and yogurts to CACFP,⁵¹ which we support.

5. Ensure that foods and beverages with low- and no-calorie sweeteners are safe for human consumption [FDA, USDA]

With successful added sugars reduction, consumers will increasingly consume products that are lower in added sugars. It is crucial to ensure that those products are safe. This includes monitoring the use and safety of low- and no-calorie sweeteners (LNCS) and limiting LNCS consumption among young children.

a. FDA should closely monitor the use and safety of low- and no-calorie sweeteners in the U.S. food supply.

It is likely that food manufacturers will respond to federal added sugars reduction efforts by substituting LNCS for added sugars. Each LNCS must be evaluated for safety on a case-by-case basis, and updated safety evaluations will require data on the quantity of different LNCS in the U.S. food supply over time. Although data suggest prevalence of LNCS in the food supply is widespread and has increased over time,⁵² it is practically impossible to estimate the total quantitative amount of different LNCS in foods and beverages, as the food industry is not required to disclose the amount of LNCS in their products. A related issue is that some LNCS have come to market through the "generally recognized as safe" (GRAS) loophole without notification to FDA—lactitol and maltitol, for example, are in use^{53,54} but are not listed in FDA's GRAS notice inventory⁵⁵—meaning that FDA lacks information on concentrations of intended use in addition to concentrations of actual use of these two LNCS.

To adequately monitor the use and safety of LNCS in the U.S. food supply, Congress should ensure that FDA has the authority to collect data on the production and use of LNCS. Meanwhile, FDA must encourage the food industry to disclose the LNCS content of their products. The agency should create a publicly available database of this data to allow the government and outside researchers to track use and evaluate safety over time.

Further, because the GRAS exemption is a process rife with industry conflicts of interest,⁵⁶ FDA should identify the LNCS that are not covered by a GRAS notice and subsequent "no questions letter" and review the published safety data for such products, encouraging companies to submit such a GRAS notice if data supporting safety appear to be inadequate.

Additionally, a recent HHS report to Congress on sugar substitutes recommended that FDA update and refine dietary exposure estimates for U.S. children's consumption of LNCS.⁵⁷ We encourage FDA to update these exposure estimates.

b. USDA should disallow the use of low- and no-calorie sweeteners of concern in foods and beverages offered in schools.

LNCS are not recommended for young children because long-term health effects associated with consumption in childhood are still unknown, and because it has been suggested that early exposure to LNCS may predispose children to prefer higher levels of sweetness in the diet and unfavorably influence their future dietary patterns.^{58,59,60,61} Based on the available evidence, we believe it is prudent for children to avoid prolonged consumption of foods and beverages sweetened with LNCS, and especially LNCS that have been linked to increased risks of various cancers and endocrine disruption, including aspartame,⁶² acesulfame potassium,⁶³ saccharin,⁶⁴ and sucralose.⁶⁵ In a report published by CSPI in October of 2023, more than one-third (35%) of beverages assessed that were marketed for sale as competitive foods in high schools contained at least one of these LNCS of concern.⁶⁶ We urge USDA to disallow products containing aspartame, acesulfame potassium, saccharin, and sucralose as part of their added sugars standards for school meals and competitive foods.

c. FDA should consider clear disclosures for products that contain low- and no-calorie sweeteners.

Research has shown that many U.S. parents try to avoid purchasing products sweetened with LNCS for their children, but are largely unsuccessful due to confusing product labels. In one simulated shopping study in a supermarket, parents indicated that they avoided LNCS for their children, but they failed to identify the majority (77%) of the foods and beverages that contained LNCS, and roughly one quarter of the foods and beverages they selected for their family contained LNCS.⁶⁷ Similarly, the majority of parents in another study (62%) could not identify beverages with LNCS, even when shown the ingredients lists.⁶⁸

To alleviate this confusion and aid parents in selecting healthier products for their children, FDA should consider on-package LNCS disclosures like "sweetened with [LNCS], a low-/no-calorie sweetener" or "contains [LNCS] as a low-/no-calorie sweetener", especially on products making "healthy" claims or claims about low/no/reduced sugar content.

II. ADDITIONAL POPULATION-LEVEL APPROACHES

6. Adopt strong limits on added sugars in FDA's final rule on "healthy" [FDA]

FDA has recently proposed updates to the nutrient content claim "healthy" and suggested it may endorse the use of a "FDA Healthy" logo on products meeting the new criteria. If widely adopted by manufacturers of foods with little or no added sugar, the healthy logo could contribute to diets lower in

added sugars. However, it will only have this effect if the limits on added sugars in foods making “healthy” claims remain strong and uptake of the claim/logo is high.

In its proposed rule to update the “healthy” claim, FDA proposed a baseline limit of 5% of the DV for added sugars per Reference Amount Customarily Consumed (RACC) with adjustments for certain products, such as 0% DV for fruit, vegetable, and protein foods, and 10% DV for certain main dish and meal products.

Some industry groups, intent on leveraging nutrient claims like “healthy” to market their added-sugar-laden products, have asked FDA to adjust their baseline added sugars limit from 5% to 20% and allowances for meals from 10% to 25-30%.^{69,70} We strongly urge the agency to hold fast to its original proposed limits on added sugars. There are plenty of foods across a range of product categories with very little or no added sugar, and only the healthiest foods should be allowed to market themselves as healthy.

7. Define “low added sugars” claims and take enforcement action to prevent misleading labeling [FDA]

As noted in a letter CSPI sent to FDA in January 2020, numerous beverage products are currently marketed with unauthorized implied “low sugar” or “reduced sugar” claims such as “lightly sweetened” and “less sweet,” despite being high in added sugars ($\geq 20\%$ DV per RACC).⁷¹ These claims are in violation of the federal Food, Drug, and Cosmetic Act because they are unauthorized nutrient content claims, and mislead consumers by obscuring which choices of beverages best support a healthful diet. We call on FDA to take enforcement action against the manufacturers of these products and urge the agency to issue regulations authorizing “low added sugar” claims based on the DV for added sugar. Such regulations would allow more healthful products to identify themselves, while precluding less healthy products from bearing misleading claims.

8. Issue guidance encouraging online retailers to provide consumers with access to the same nutrient, ingredient, and allergen information required on food and beverage packages [FDA]

The Nutrition Facts labels and ingredients lists required on foods and drinks are currently the most important tools available to consumers looking to limit or avoid added sugars. Unfortunately, as an increasing proportion of food purchases happen online rather than in stores, people are losing reliable access to these tools. Nutrition and ingredient information is often missing from the online point of sale and, even when present, it is often outdated, inaccurate, or hard to find. The American Heart Association and WISEcode highlighted this issue in recent comments to the FDA citing results from their own informal studies that found frequent inaccurate or missing nutrition information online.^{72,73} Both noted especially high error rates for added sugars, with WISEcode documenting missing added sugar information on nearly 50% of online labels assessed. Congress should pass legislation giving FDA the authority to require that the same Nutrition Facts and ingredient information that is now on packages also be available for online grocery items. In the meantime, FDA should issue guidance with best practices for grocery labeling for retailers and manufacturers selling food online. The guidance should encourage sellers to provide nutrition and ingredient information in a way that is consistent, easy to read, easy to find, and not buried beneath marketing and promotional material.

9. Publish a Surgeon General's Report on the importance of added sugars reduction [HHS]

We urge the Surgeon General to prepare a report on the health effects of added sugars in the U.S. food supply and issue a Call to Action to spur national efforts to reduce added sugars consumption. Much like the 1964 *Surgeon General's Report on Smoking and Health* focused national attention on the harms of tobacco use,⁷⁴ such a report could galvanize urgent societal action to reduce added sugars consumption.

A Surgeon General's Report on the health effects of added sugars would evaluate the evidence for the harmful effects of added sugars on health; trends in consumption of added sugars across age, gender, racial, and ethnic groups; and alert health professionals, health officials, federal food assistance program personnel, and consumers to the serious threat that added sugars pose to health. The report would pave the way for policy measures at all levels of government and for widespread voluntary actions in the private sector to improve health and reduce health care costs. An accompanying Surgeon General's Call to Action to reduce consumption of foods and beverages with added sugars could establish goals for federal, state, and local governments, as well as for other public and private entities.

10. Improve access to safe and appealing tap water across the U.S. [EPA]

Sugary drinks are a leading source of added sugars in the U.S. diet.⁷⁵ Effectively addressing sugary drink consumption requires not only active efforts to discourage it but also parallel initiatives to encourage and facilitate access to safe and appealing healthier alternatives, particularly drinking water.

Unfortunately, more than 2 million residents of the U.S. lack access to safe drinking water and basic indoor plumbing. This includes 1.4 million people who lack indoor plumbing specifically, 250,000 people in Puerto Rico who lack access to indoor plumbing and safe drinking water, and 553,000 unhoused people who also may lack access to both.⁷⁶ Race is the strongest predictor of sanitation and water access, with Indigenous households 19 times more likely to lack access to indoor plumbing than White households.⁷⁷

African American and Latine households are also disproportionately burdened by a lack of indoor plumbing. In parts of the South, African Americans are more likely to lack indoor plumbing, while in California and Texas, the Latine population is most impacted.⁷⁸ Poverty is also a major barrier to water access. Even within racial subpopulations, higher income and educational attainment are positively correlated with access to complete plumbing.⁷⁹ Additionally, drinking water violations, long term compliance, and weak enforcement are more likely to occur in counties that have a greater percentage of residents with racial, ethnic, and language vulnerability, crowded housing conditions, transportation challenges, and lower socioeconomic resources.⁸⁰ If strategic investments are not made into these communities, safe water consumption and overall well-being will remain at risk, and the water access gap is positioned to widen.

Beyond access to drinking water, quality is also a problem. A nine-month investigation into the nation's drinking water conducted by Consumer Reports and the Guardian U.S. news organization highlighted that millions of people in the U.S. continue to face serious water quality problems because of contamination, deteriorating infrastructure, and inadequate treatment at water plants.⁸¹ These water quality problems include contamination with PFAS, arsenic, and lead.

Strategies that improve access to indoor plumbing providing qualitatively acceptable drinking water are needed. We support the Environmental Protection Agency's (EPA's) 2023 Lead Service Line Replacement Accelerators initiative to work with underserved communities to access funds from President Biden's Bipartisan Infrastructure Law and replace lead pipes that pose risks to the health of children and families.⁸²

III. IMPORTANT APPROACHES FOR VULNERABLE AND/OR UNDERREPRESENTED POPULATIONS

11. Update WIC food package to align with the Dietary Guidelines for Americans [USDA]

In February of 2023, CSPI submitted comments in response to USDA's proposed rule to revise the food packages provided through the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC).⁸³ Updating the WIC food package to align with the most recent DGA can reduce added sugars consumption among families with lower incomes.

We strongly support USDA's proposals to adjust dairy issuance to promote participant choice while reducing added sugars, and to create a pathway for plant-based dairy alternatives low in added sugars.

We encourage the USDA to further strengthen the package update by requiring canned fruits and vegetables in the infant food package have no added sugars or sodium, and establishing an added sugars standard, as opposed to a total sugars standard, for milk, yogurt, all non-dairy alternatives, and breakfast cereals.

12. Require SNAP-authorized retailers to adhere to stocking and marketing guidelines that increase availability, placement, and promotion of foods aligned with the Dietary Guidelines for Americans [USDA]

The Supplemental Nutrition Assistance Program (SNAP) is a powerful food safety net program and has many positive public health impacts. The program helps to reduce poverty, food insecurity, health care expenditures, and the risk of chronic conditions later in life.⁸⁴ Nearly 260,000 retailers participate in SNAP across the country,⁸⁵ with SNAP sales representing approximately 14 percent of total food retailer sales.⁸⁶ Thus, SNAP retailers and SNAP sales are a critical component of the U.S. retail food environment and represent a large-scale opportunity to increase healthy food access and reduce added sugars consumption.

SNAP participants have choices when it comes to where to shop but may lack choice when it comes to the foods available in these venues. Stocking standards aim to increase the number of food items and overall nutritional content of foods available at SNAP retailers. Most SNAP benefits are redeemed at supermarkets and super stores where stocking standards are easily met.⁸⁷ However, nearly half of SNAP-authorized retailers are convenience stores⁸⁸ that have limited fruit and vegetable, whole grain, and dairy products compared to larger retailers.^{89,90,91} This limited healthy food availability disproportionately impacts African American, Hispanic, and Native American SNAP participants as they spend more of their benefits at smaller retailers relative to White SNAP participants,⁹² thus providing an opportunity for stronger stocking standards to promote health equity. Healthier product availability has the potential to help shift consumers to consume less added sugar.

USDA should explore ways to further improve retail environments to include stronger stocking standards to increase availability of foods in-store and online that align with the latest DGA. Congress should remove the stocking standards appropriations rider, which currently bars USDA from expanding stocking standards. In the meantime, USDA should: 1) Improve stocking standards to better align with the DGA; 2) Provide a timebound waiver for retailers that allows flexibility for smaller retailers to make changes; and 3) Offer technical assistance and grants to assist smaller retailers with sourcing, stocking and marketing staple foods.

USDA should also establish SNAP retailer healthy food placement standards in-store and online. Even when healthy foods and beverages are available at retailers, they might not be the easy choice due to inconvenient placement. To make healthy food and beverage choices easier at SNAP-authorized stores, we recommend USDA to: 1) Create healthy placement standards for SNAP-authorized retailers that improve the availability of nutritious foods in prominent locations in-store and online; 2) Provide a phase-in period to allow for retailer implementation; and 3) Offer technical assistance and grants.

For more information, see CSPI's 2023 report on recommendations to promote healthy retail environments.⁹³

13. Strengthen nutrition standards for the foods distributed through USDA Food Distribution Programs (TEFAP, CSFP, FDPIR) [USDA]

Comprehensive nutrition guidelines are currently absent from USDA Food Distribution Programs, including The Emergency Food Assistance Program (TEFAP), the Commodity Supplemental Food Program (CSFP), and the Food Distribution Program on Indian Reservations (FDPIR). Mandating limits on added sugars in these programs would ensure the charitable food system is receiving health-promoting food that would better address the needs of the populations served.

USDA should also require the Nutrition Facts Panel and ingredient list for all USDA Foods available through TEFAP (except fresh produce) to be displayed on the USDA's Web-Based Supply Chain Management system. Currently, the Nutrition Facts Panel and ingredient list are not available online when selecting USDA Foods, making it very difficult for food banks to assess the nutritional profile of foods prior to ordering them. As food banks across the country are working hard to source and distribute nutritionally dense foods, it is critically important to have access to this nutritional information at the point of purchase.

For more information, see CSPI's 2021 report on policy approaches to healthier food banking.⁹⁴

14. Support waivers for pilots testing SNAP incentives and disincentives [USDA]

Numerous stakeholders have proposed leveraging SNAP to improve not only food security among participants but also dietary quality; strategies suggested have included incorporating financial incentives for purchasing fruits, vegetables, or other healthful foods; and restricting unhealthy items such as sugar-sweetened beverages.^{95,96} A microsimulation modeling study found that combining incentives with disincentives produced large health gains and reduced both healthcare and food costs, with net cost-savings of \$10.16 billion at 5 years.⁹⁷ In one randomized controlled trial of healthy incentives among SNAP participants, researchers demonstrated that a 30% subsidy for fruits and

vegetables increased intake by approximately 26%.⁹⁸ Two other randomized controlled trials have tested incentives, restrictions, and combined incentives and restrictions among non-SNAP participants; one found that the combined incentive and restriction arm resulted in improved dietary quality,⁹⁹ but the other found no improvements in dietary quality from any of the experimental arms.¹⁰⁰ However, these studies did not test incentives and restrictions among SNAP participants directly because they did not receive a waiver from USDA to do so, which significantly limits the generalizability of their findings. To truly evaluate the effects and feasibility of such programs, USDA must grant waivers to states interested in pilot testing incentives and disincentives among SNAP participants.

15. Strengthen regulations for transition formulas and toddler milks [FDA]

In February of 2021, CSPI submitted a comment to FDA requesting action to address consumer confusion and public health harms posed by two categories of drinks: "transition formulas," which are labeled and marketed for children 9 to 24 months old, and "toddler milks," which are labeled and marketed for children anywhere from 12 to 36 months old.¹⁰¹ Transition formulas and toddler milks are marketed as healthy choices, but they contain added sugars and are not recommended as necessary for a healthy diet by the DGA, the Academy of Nutrition and Dietetics, the American Academy of Pediatric Dentistry, the American Academy of Pediatrics, or the American Heart Association.^{102,103,104} CSPI recommends that FDA take the following actions to ensure that parents are not misled into purchasing these products for their children:

- **Take enforcement action** against transition formula products as misbranded infant formulas marketed to children over 12 months (current infant formula regulations only allow infant formulas to be marketed for children 12 months and under), and expressly prohibit the use of the term "formula" on products marketed for children over 12 months old. This would help prevent caregivers from being misled to believe these products are necessary or healthy for toddlers.
- **Establish labeling requirements**, including a statement of identity for toddler beverages, such as "milk-based drink powder for 12- to 36-month-olds" and a disclosure, "DO NOT SERVE TO INFANTS UNDER 12 MONTHS OLD," which would help prevent caregivers of infants from unintentionally purchasing products intended for toddlers.
- **Require that toddler beverages with added sugars or flavors bear the terms "sweetened" or "flavored"** to help caregivers differentiate them from healthier choices like plain cow's milk.

CSPI also encourages FDA to consider requiring prominent front-of-package disclosures on beverages marketed for children aged 12-24 months that contain added sugars, such as: "This product contains added sugars. The DGA recommends avoiding food and beverages with added sugars for children younger than age 2."

In conclusion, and as highlighted in this comment, there are several opportunities for action by federal agencies to reduce added sugars consumption in the United States. We urge U.S. federal agencies to act quickly on these recommendations to ensure a safe U.S. food supply with reduced added sugars, and to enable consumers to access the information they need to make healthy choices for themselves and their families.

Sincerely,

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