

THE INSIDE SCOOP ON HOW CR IS WORKING BEHIND THE SCENES FOR A SAFE AND HEALTHY FOOD SYSTEM

State Activity on Food Issues in 2026

Over the past few years, several states have successfully enacted food policy laws related to banning or requiring warning labels on certain chemicals and synthetic food dyes, addressing harmful ultra-processed foods, and mandating lead testing in baby foods. Given this success, additional states likely will consider their own versions of these food laws or propose new legislation in the new year. Some new issues that could get addressed at the state level include:

Dietary Supplements for Infants

California passed a law in 2023 that requires baby food manufacturers selling products in the state to test them for lead, arsenic, cadmium, and mercury and publicly disclose the test results. (Consumer Reports and Unleaded Kids recently [evaluated](#) how companies were complying with the law.) The law originally included dietary supplements geared to babies but it was amended last fall to explicitly exempt them. Some California legislators may consider legislation that would remove this exemption. Meanwhile, regardless of legislation requiring them to do so, some dietary supplement manufacturers do [post](#) test results.

Infant Formula

Because infant formula products were exempt from the California testing and disclosure law, some states may try to fill that gap by pushing for legislation that would require companies to periodically test for heavy metals and disclose the results. (It should be noted that many infant formula manufacturers already test their products periodically for these contaminants, but they don't publicly disclose the results.) Consumer Reports recently [tested](#) 41 baby formulas for lead and arsenic, and found some with concerning levels, but also found many good options on the market.

Protein Powder Testing

Consumer Reports recently [tested](#) 23 protein powders and shakes and found that more than two-thirds contain high levels of lead. Upon CR's reporting of these results, some state lawmakers have expressed interest in working on legislation that would require protein powder manufacturers to test their products for lead and other contaminants.

Testing for Lead in Spices

Consumer advocacy groups, including Consumer Reports, will be [encouraging](#) states to consider legislation requiring spice companies to make publicly available test results for arsenic, cadmium, lead, and mercury in their products.

New York currently has a so-called "action level" for lead at 0.21 ppm for spices. While not a regulatory health standard, an action level serves as a regulatory trigger point that prompts increased scrutiny and activity by the New York Department of Agriculture and Markets and the NY Department of Health. But over the past few years, there has been proposed legislation in New York that would allow for much higher levels, and in the process, undercut the current action levels. CR is on record opposing that legislation and in 2026 will also be encouraging other states to set limits on heavy metals in spices.

Food Chemical Disclosure

When it comes to additives in foods, federal law is not as strong as it should be. Food companies are allowed to designate certain ingredients as generally recognized as safe (GRAS), even when they have not undergone FDA pre-market safety reviews. This is often referred to as the "secret GRAS loophole" by consumer groups—and there's an urgent need to close it. CR has supported legislation in New York that would do just that, and other states have expressed interest in considering similar laws. It's not a complete solution to reforming the food chemical and reassessment process in the U.S., but it's a good first step.

Plastic Chemicals in Food Packaging

Last year, Consumer Reports [tested](#) nearly 100 foods and found plastic compounds called phthalates in almost every product, often at high levels. As a result of these tests, lawmakers in Minnesota introduced legislation that would require manufacturers to test their products for these plastic chemicals and disclose the results to the public. Deliberations on this bill are expected to continue in 2026, and other states may join the debate. Some states may consider proposals that would ban the intentional use of phthalates in food

packaging.

Grocery Stores Failing Consumers on ByHeart Recall

The ByHeart infant formula botulism recall continues to present a case study on what shouldn't happen when a food that could make people sick is taken off the market. Last month, Consumer Reports outlined a number of things that went wrong, including the slow removal of recalled products from store shelves. On Dec. 12, the FDA sent warning letters to Walmart, Target, Kroger, and Albertsons urging them to immediately remove ByHeart products from their shelves. The letter noted that, over one month later, recalled products were still available for purchase in their stores despite various notifications from the FDA and ByHeart, and numerous media reports.

Meanwhile, Consumer Reports recently joined other members of the Safe Food Coalition in a letter to the FDA calling on them to take immediate action to ensure the safety of infant formula products, including strengthening inspections and regulations, and expediting recalls.

Regulators Attempt to Define UPFs

The FDA and Department of Agriculture recently issued a request for data that could be used to help the agencies develop a uniform definition of ultra-processed foods. A standard definition, the agencies claim, would allow for consistency in research and policy addressing the health concerns related to UPF consumption.

Consumer Reports joined a comment letter from advocacy and public health groups urging that the definition of UPFs should identify the subset of processed foods that scientific evidence shows are clearly linked to health concerns. Because a UPF definition would inform the formulation of public policies, this would assist policymakers in limiting these foods. This approach is similar to legislation in California that was recently signed into law.

CR also submitted a separate letter urging the agencies not to exempt infant formula and medical foods when considering the definition of UPFs, noting that added sugars in infant formula have been linked to a number of

health harms.

The Department of Health and Human Services and the FDA are expected to announce that they will convene a roundtable discussion on UPFs in late January.

Sampler Plate

- The FDA's Human Foods Program plans to release a document in early January outlining the **policy items and projects** it intends to focus on in 2026. They announced this in a December meeting with the Safe Food Coalition that included Consumer Reports.
- **Instacart** recently announced that it would stop offering technology to retailers that charges shoppers different prices for the same groceries. This announcement was made after an investigation by Consumer Reports, Groundwork Collaborative, and More Perfect Union found that Instacart was running hidden price experiments on unsuspecting consumers.
- On Dec. 10, Congresswoman Rosa DeLauro (CT) and Senator Richard Durbin (IL) introduced legislation—the **Federal Food Administration Act**—that would consolidate food safety oversight into a single agency. Currently, the FDA, USDA, CDC and a dozen other agencies have certain food safety oversight roles. Consumer Reports has endorsed this bill.
- USDA will convene a public meeting on Jan. 14 to gather input on reducing **Salmonella** illnesses linked to poultry products. While the convening of this meeting may sound reasonable, it's likely a signal that the department doesn't intend to do anything meaningful to combat Salmonella in the next few years.
- After several delays throughout 2025, the USDA is expected to release new **Dietary Guidelines for Americans** in early January. Based on comments from HHS officials over the past year, consumer groups are concerned that the new guidelines will essentially be a promotional brochure for the meat and dairy industries.
- The FDA will convene a virtual public meeting on Feb. 18 to discuss **food allergies**. Those wishing to participate should register. Consumer Reports supports a Citizen Petition pending before the FDA that would require the labeling of gluten on all food packages.