Response to CDPH AB 1264 Public Input Survey 2026

Center for Science in the Public Interest
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What factors do you think should be considered when defining "ultraprocessed foods of concern" and "restricted school foods"?

The factors that should be considered are provided in 104662(b)(1) of AB1264, which help identify products with clear evidence of harm. CDPH, in applying these factors, should classify the following products as "ultraprocessed foods of concern" and "restricted school foods":

- Products high in added sugar, sodium, or saturated fat (≥ 20% daily value (DV) per serving). Overconsumption contributes to cardiovascular disease, hypertension, and diabetes (factors listed at 104662(b)(1)(C)(ii-iii and vii) and 104662(b)(1)(E)) (Ref. 1).
- Processed meats and foods that contain them. The International Agency for Research on Cancer (IARC) classifies processed meat as a human carcinogen (104662(b)(1)(C)(i)) (Ref. 2). Studies linking consumption of ultraprocessed foods (UPF) to type 2 diabetes, heart disease, cancer, and mortality (104662(b)(1)(C)(i-iii and vii)) find that processed meat, as a UPF subgroup, is a key driver of the associated health risks for the entire UPF category (Refs. 3-8).
- Sweetened beverages. Consumption of sugar-sweetened beverages is linked to weight gain, type 2 diabetes, cardiovascular disease, and tooth decay (104662(b)(1)(C)(ii-iii, vi-viii)) (Refs. 9-12). In observational studies, sugar-sweetened beverages and artificially sweetened beverages, as UPF subgroups, are key drivers of health risks associated with high-UPF diets (Refs. 5-8).
- Processed refined carbohydrates and foods that contain them. These include refined flours and starches that have been subjected to food extrusion technology, which changes their molecular structure, shape, and texture and is associated with increased eating rate, decreased satiety, and increased postprandial blood insulin levels (104662(b)(1)(C)(iii) and 104662(b)(1)(D)) (Ref. 13).
- Products containing additives or ingredients containing substances known to the state of California to cause cancer (104662(b)(1)(C)(i)), including butylated hydroxyanisole (BHA); estragole; and 2,4-hexadienal (Ref. 14).
- Products containing additives or ingredients otherwise associated with cancer or other serious health effects (104662(b)(1)(C)(i and viii), including: caramel color (classes III and IV), which can contain the carcinogenic impurity 4-methylimidazole (4-MEI) at levels that could exceed the California No Significant Risk Level (Ref. 14-15); butylated hydroxytoluene (BHT), which caused liver cancer in animals according to a 2012 evaluation by the European Food Safety Authority (EFSA) (Ref. 16); menthofuran, which is considered by FDA and the US National Toxicology Program (NTP) to be the metabolite largely responsible for the toxic effects of pulegone, including carcinogenicity (Refs. 17-18); sodium nitrate and nitrite, which are classified as "probably carcinogenic to humans" by IARC (Ref. 19); propyl gallate, for which NTP reports equivocal evidence of carcinogenicity in animals (Ref. 20); and titanium dioxide, which was determined to

be unsafe for use in food by EFSA in 2021 based in part on evidence it may accumulate in the body and cause genotoxicity (Ref. 21).

- Products containing non-nutritive sweeteners (NNS). NNS, as a class, have not been adequately demonstrated to be safe for consumption by children according to a 2019 policy statement from the American Academy of Pediatrics (104662(b)(1)(C)(viii)) (Ref. 22). Several health organizations have advised that consuming beverages with non-nutritive sweeteners is not recommended in children (Refs. 23-25).

We have identified other substances associated with serious harm in our Chemical Cuisine database (Ref. 26) and a recent report on flavor (Ref. 27); we urge CDPH to review both resources and consider each of the chemicals discussed therein.

For more information on the harms of processed foods with these attributes, please see CSPI's comments to FDA/USDA/HHS from October 2025: https://www.cspi.org/resource/cspi-comment-ultraprocessed-foods-request-information.

References are listed in our response to Question 7.

What considerations should guide decisions about which foods may or may not be allowed in schools?

The harm factors provided in AB1264 at 104662(b)(1) should provide the key consideration for foods that will not be allowed in school. Some foods that meet these factors and show documented health harms may not be classified as an "ultraprocessed food of concern" or "restricted school food" because they do not contain an ingredient that appears in FDA's Substances Added to Foods Database with one of the specified functions. This is because the database is incomplete, in part, because it does not include ingredients that are self-determined "generally recognized as safe" (GRAS). For example, sodium nitrite is used to cure meat and is listed in the FDA database as a color or flavor, but celery powder, which is a natural source of nitrates and thus performs the same function in some processed meats, is not. Therefore, a processed meat containing synthetic sodium nitrate could be classified as an "ultraprocessed food of concern" or a "restricted school food" under AB1264, but a processed meat with celery powder could not. Both are processed meats and thus known carcinogens, but AB1264 treats them differently. Food companies may undertake reformulations that do not improve the safety or healthfulness of foods simply to avoid classification and restriction under AB1264. CDPH should address this problem by requiring, or at a minimum recommending, that all foods meeting the harm factors be banned from school foods, even if they fall outside the scope of AB1264 due to an ingredient not being listed in the FDA database. CDPH should also investigate the potential risks posed to children by ingredients that entered the market without FDA premarket review (i.e., so-called self-determined GRAS substances).

Similarly, as proposed in AB2034 (Addis, 2026) (Ref. 28), CDPH should set regulations to require food and beverage manufacturers to provide complete ingredient lists for any product

served or sold in schools that list vague ingredients such as “artificial flavor,” “natural flavor,” “spices,” or “artificial color,” none of which are in FDA’s Substances Added to Foods Database and thus foods containing them with no other qualifying ingredients would not be eligible for classification as “ultraprocessed foods of concern” or “restricted school foods.” This will ensure that the Department understands the full universe of chemicals currently added to school foods, information that is impossible to ascertain from ingredient labeling alone. Without such information at its disposal, the Department cannot comprehensively implement Section 104662(b)(1)(C) of AB1264.

Is there anything else you believe is important for CDPH to keep in mind regarding food definitions or school food restrictions?

It is essential that CDPH ensures that the burden on school food authorities (SFAs) is minimized and that forthcoming regulations accommodate the needs of students with dietary restrictions. We recommend that CDPH provide technical assistance and training to assist SFAs on topics including, but not limited to: developing standardized recipes, menu cycles, model preparation techniques, and solicitation templates and tools; information and assistance regarding menu planning; developing and disseminating best practices and trainings on food preparation and procurement; and working with food industry and the local agriculture sector to procure affordable products that meet updated standards. CDPH should evaluate the proportion of foods served in school that would be eliminated under these new regulations and use that evaluation to inform tailored technical assistance for SFAs and to support advocacy for increasing school kitchen infrastructure grant allocations.

Plant-based milks that contain, but are not high in, added sugars should not be classified as "ultraprocessed foods of concern" or "restricted school foods" even though they are sweetened beverages, as they provide essential nutrients for students who cannot consume dairy milk and are challenging for schools to procure without added sweeteners.

Reference list for Questions 5 and 6:

1. 2025 Dietary Guidelines Advisory Committee. 2024. doi: 10.52570/DGAC2025.
2. International Agency for Research on Cancer. 2018. https://publications.iarc.who.int/564.
3. Vallianou NG, et al. 2025. doi: 10.3390/biom15020307.
4. Kim Y, et al. 2025. doi: 10.4093/dmj.2024.0706.
5. Mendoza K, et al. 2024. doi: 10.1016/j.lana.2024.100859.
6. Cordova R, et al. 2023. doi: 10.1016/j.lanepe.2023.100771.
7. Taneri PE, et al. 2022. doi: 10.1093/aje/kwac039.
8. Fang Z, et al. 2024. doi: 10.1136/bmj-2023-078476.
9. Malik VS and Hu F. 2015;66(14): 1615-1624. doi: 10.1016/j.jacc.2015.08.025.
10. Fung TT, et al. 2009. doi: 10.3945/ajcn.2008.27140.
11. Malik VS, et al. 2010. doi: 10.2337/dc10-1079.
12. Valenzuela MJ, et al. 2021. doi: 10.1093/eurpub/ckaa147.

13. Kessler DA. 2025. www.regulations.gov/document/FDA-2025-P-3071-0001.
14. California Office of Environmental Health Hazard Assessment. The Proposition 65 List. https://oehha.ca.gov/proposition-65/proposition-65-list.
15. Folmer et al. 2018. doi: 10.1080/19440049.2018.1508892.
16. EFSA. 2012. doi: 10.2903/j.efsa.2012.2588.
17. NTP. 2011. https://ntp.niehs.nih.gov/publications/reports/tr/tr563.
18. 83 Fed. Reg. 50490.
19. IARC. 2010. https://publications.iarc.who.int/112.
20. NTP. 1982. https://ntp.niehs.nih.gov/publications/reports/tr/200s/tr240.
21. EFSA. 2021. doi: 10.2903/j.efsa.2021.6585.
22. Baker-Smith CM, et al. 2019. doi: 10.1542/peds.2019-2765.
23. Johnson RK, et al. 2018. doi: 10.1161/CIR.0000000000000569.
24. Lott M, et al. 2019. https://healthyeatingresearch.org/tips-for-families/0-5-beverage-recommendations/.
25. Lott et al. 2025. https://healthyeatingresearch.org/research/healthy-beverage-consumption-in-school-age-children-and-adolescents-recommendations-from-key-national-health-and-nutrition-organizations/.
26. Center for Science in the Public Interest (CSPI). Chemical Cuisine. https://www.cspi.org/page/chemical-cuisine-food-additive-safety-ratings.
27. CSPI. 2025. https://www.cspi.org/resource/flavor-report-hidden-ingredients.
28. California AB 2034.