Correcting the Industry's Inflated Cost Estimates for the New York Food Safety and Chemical Disclosure Act

Parke Wilde[a], Meghan Enslow[b], Jensen Jose[b]
[a] Tufts University, Friedman School of Nutrition Science and Policy
[b] Center for Science in the Public Interest

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Abstract

New York's Food Safety and Chemical Disclosure Act (S1239F/A1556G) would require manufacturers to report publicly available information used to determine that ingredients are "generally recognized as safe" (GRAS) and ban three food chemicals linked to adverse health outcomes. Widely reported industry estimates, commissioned by the American Beverage Association (ABA) and written by Policy Navigation Group (PNG), grossly overstate the cost of this legislation to NY consumers and the food industry. Correcting just two flawed assumptions substantially reduces the estimated cost: (a) the industry estimates wrongly assume massive new data collection costs, even though manufacturers should already possess the scientific evidence required to support their GRAS determinations under existing federal law, and (b) the industry estimates assume that manufacturers would withdraw products that have sales too low to justify compliance costs, but then use vastly higher sales figures when calculating the subsequent costs to consumers. Correcting just these two estimates reduces the PNG cost estimate from $4.88 billion to $1.11 billion, a 77% reduction. Correcting an additional seven flawed or unsupported assumptions reduces the estimated cost to $219 million, 96% less than the PNG estimate. PNG assumed that nearly all of these estimated costs would be passed on to NY consumers, but this assumption is inconsistent with the economic literature they cite. The PNG estimate is fundamentally flawed and should not be used as the basis for public policy decisions.

Introduction

The well-known "GRAS loophole" is a provision of federal law that allows food and beverage manufacturers to decide for themselves whether an ingredient is safe, sometimes without even disclosing their use of the ingredient to federal or state authorities. By statute, "Generally Recognized as Safe" (GRAS) refers to ingredients that qualified experts have determined are safe, based on publicly available evidence, when used as intended. A GRAS determination allows a manufacturer to market a food ingredient without submitting a Food Additive Petition for premarket review by the U.S. Food and Drug Administration (FDA). Since 2000, nearly all new food chemicals have come to market through the GRAS loophole rather than through the Food Additive Petition process.[1]

The Food Safety and Chemical Disclosure Act (S1239F/A1556G) passed the New York legislature in April 2026 and awaits Governor Hochul's signature as of November 2026.[2] This legislation has two provisions:

- A disclosure provision requires manufacturers who opt out of notice to the FDA to report the publicly available information they used for GRAS determinations to New York State.
- A ban on three food chemicals linked to adverse health outcomes: Red 3 (neurobehavioral effects in children and cancer), potassium bromate (cancer), and propylparaben (hormone disruption and reproductive toxicity).

The proposed NY law does not impose new data collection costs on the food industry beyond what is already required by federal law. In public communications, food and beverage manufacturers emphasize that they comply with existing federal law, which requires them to base GRAS determinations on publicly available information.[3] As FDA has explained previously, drafting a notification summarizing that decision should not require companies to generate any new data: "There is no burden on the notifier for developing the data and information that are the basis for the GRAS determination because such data and information must already be generally available."[4]

A widely circulated report commissioned by the American Beverage Association (ABA) from a consultancy called the Policy Navigation Group (PNG) described the costs to consumers from the NY legislation.[5] That report concluded that the cost to industry and consumers of implementing the law would be $4.88 billion.

Methods

We evaluated the PNG report and analyzed the factual basis of the assumptions made when calculating compliance costs to industry for the NY Food Safety and Chemical Disclosure Act. Each assumption was assessed against the plain language of the GRAS exemption, the requirements of the NY legislation, and publicly available data sources. We corrected PNG's assumptions and recalculated the cost estimates accordingly. Our estimates do not include the costs to the government of creating the database to manage the GRAS submissions.

Results and Discussion

Costs to Industry

Correcting just two major flaws reduces the PNG report's total cost estimate by 77% (Table 1).

(a) Data collection costs

PNG mistakenly assumed $1.646 billion for moderate and intensive data collection costs (Table 1, left column), even though companies that comply with current federal law should already have the publicly available scientific evidence supporting their GRAS self-determinations and should retain this data in their records. Moderate data collection costs were for 2700 reports at $287,500 each, and intensive data collection costs were for 1080 reports at $805,000 each, including a 15% surcharge for transaction costs (p. 23). PNG more reasonably assumed the remaining 30% of reports would require only simple data collection (1620 reports at $28,750 each). If simple data collection is assumed for all 5400 reports at $28,750 each, the data collection costs are just $155 million (Table 1, middle column).

PNG provided no evidence that companies complying with existing federal law would incur moderate or intensive data collection costs. Indeed, the industry's own public statements suggest otherwise. The Consumer Brands Association (CBA), which represents the food and beverage manufacturers behind more than 2,000 brands, has emphasized that companies making GRAS self-determinations "must develop and maintain information regarding the basis of their conclusion," including manufacturing methods, dietary exposure, and publicly available scientific evidence supporting safety. CBA also states that "Companies reevaluate their GRAS determinations as new safety data or concerns emerge."[3] These statements suggest that manufacturers should already possess and maintain the information needed to substantiate their GRAS determinations, calling into question PNG's assumption that extensive new data collection would be necessary.

It is possible that PNG's authors really do believe food and beverage manufacturers lack the publicly available scientific evidence required to support their GRAS self-determinations, in which case the NY disclosure requirement would prompt manufacturers to undertake a new and expensive $1.646 billion effort to comply with existing federal law for the first time. Even if these costs were necessary, they should not be attributed to the NY legislation because they would arise from industry's failure to comply with longstanding federal requirements. Accordingly, in the middle column of Table 1, we replace PNG's assumed moderate and intensive data collection costs with its lower estimate for simple data collection, applied to all 5400 GRAS reports ($155 million).

(b) Products voluntarily withdrawn from the marketplace

PNG mistakenly assumed $2.243 billion in consumer costs for products that manufacturers voluntarily withdraw from the marketplace. PNG assumed manufacturers would voluntarily withdraw products if their sales were too low to justify the cost or effort

of submitting a disclosure notice. PNG assumed baseline consumer sales of $1.5 million per product withdrawn, a 41% price premium for alternative products (based on the median price difference between comparable conventional and organic products, which PNG used as a proxy for products with and without self-determined GRAS ingredients; p. 39), and an adjustment for the reduction in quantity demanded in response to a price increase (assuming an own-price elasticity of -1.1). This own-price elasticity means that the quantity of food purchased would drop by approximately 11% for every 10% increase in the prices faced by consumers. PNG suggested that manufacturers might withdraw products with less than $10,000 in annual New York sales rather than incur the cost of submitting a GRAS notice (pp. 22-23). However, rather than using this sales threshold to estimate the number of withdrawals, PNG separately assumed that 10% of their estimated 40,000 products containing self-determined GRAS ingredients would be withdrawn, yielding 4000 products. Yet, when calculating the resulting cost to consumers who have to shift to an alternative, PNG assumed that each withdrawn product had average New York sales of $1.5 million—150 times the $10,000 threshold it used to justify withdrawals in the first place (p. 39).[5] If this inconsistency is corrected, and one instead assumes $10,000 in sales per product withdrawn, with the same 41% price premium and own-price elasticity of -1.1, the consumer cost from products withdrawn is just $15 million (Table 1, middle column).

Table 1. Corrected estimates of the cost of NY State Legislation (S1239F/A1556G)

	PNG Estimate		With 2 Corrections		With 9 Corrections
Additional disclosure ($ millions)	**1836**		**299**		**124**
Simple data collection ($ millions)	47	[a]	155	[a]	90
Moderate / intensive ($ millions)	1646	[a]	0	[a]	0
Other costs ($ millions)	143		143		34
Banned / withdrawn ($ millions)	**3041**		**813**		**95**
Banned chemicals ($ millions)	798		798		92
Voluntary withdrawals ($ millions)	2243	[b]	15	[b]	4
Total ($ millions)	**4877**		**1112**		**219**
Reduction from PNG estimate (%)			77		96

Notes. See Table 2 for per-household estimates. See below for a description of all 9 corrections. Totals may differ by 1 unit from subtotals due to rounding. Just two flawed assumptions account for 77% of the costs in the Policy Navigation Group (PNG) estimate:

[a] PNG assumed $1646 million in costs for moderate and intensive data collection costs, even though companies that comply with current federal law already base their GRAS self-determinations on publicly available information that they retain in their records. The middle column instead assumed all reports require simple data collection.

[b] PNG assumed $2243 million in consumer costs for 4000 products that manufacturers may voluntarily withdraw from the consumer marketplace. Although PNG assumed these products would be withdrawn due to low sales of less than $10,000 each, it later mistakenly assumed sales were $1.5 million each when estimating the cost to consumers. The middle column instead assumed the 4000 withdrawn products have sales of $10,000 each.

Seven additional unjustified or unsupported assumptions

We identified seven additional unjustified or unsupported assumptions in the PNG report and show their cost implications in the right column of Table 1.

- PNG increased the number of reports by 50% to account for duplicate submissions and draft reports, raising the total number of submissions from 3600 to 5400, but provided insufficient evidence to justify this assumption (p. 23). Duplication may be limited because manufacturers could consult the publicly available database to determine whether another manufacturer has already submitted a report for the same substance and use. Our alternate estimate in the right column of Table 1 assumed 3600 submissions, which is the number justified by evidence in the PNG report, assuming no duplication.
- PNG assumed $50 million for industry to review reports (p. 24). Citing a 2016 FDA estimate of 170 hours required to prepare and submit a GRAS notice, PNG assumed 170 hours of review time for each GRAS report ($6,885 in review time for each of 5400 reports). PNG also added 17 hours of legal review per report and applied a multiplier of 1.3 to account for nonwage benefits. However, FDA's 170-hour estimate covers the preparation and submission of a GRAS notice – not simply the review of an already-prepared report.[6] Our alternate estimate assumed that reviewing an existing report would require half of FDA's estimated preparation time (85 hours, or $3,443 per report, for 3600 reports), for a total of $12.4 million in review costs.
- PNG assumed $68 million to "address state questions" (Tables 9 and 10, pp. 25 and 30), on top of the $50 million already estimated for report review costs in the preceding bullet – an additional cost 36% greater than the original review costs. This estimate assumes that 30% of first-year submissions would be rejected and require additional review by state staff upon resubmission, with questions concentrated in the costliest reports (pp. 24-25). We retained PNG's assumption that the additional cost of addressing state questions would be 36% greater than initial review costs, recognizing that manufacturers may need to address shortcomings in their submissions. However, because our estimate of initial review costs is substantially lower, the associated costs of addressing state questions also fall. Our alternate estimate is $16.9 million in additional costs to address state questions.
- PNG assumed that consumers would switch to more expensive products when their preferred products were withdrawn, using a 41% price premium for organic products as a proxy for the cost of these alternatives (pp. 37-39). However, the USDA organic certification includes a wide variety of process requirements beyond simple ingredient replacement, such as restrictions on synthetic

pesticides and fertilizers and requirements for outdoor access for livestock, which may contribute to higher prices of organic products. A better analogy is the cost of replacing potassium bromate, one of the three chemicals implicated in the bill's ban, when California bakers reformulated their products to avoid Proposition 65 labeling in the 1990s. Retailers reported that, after initial difficulties, they and their suppliers were able to produce bread and baked goods comparable in quality and at only marginally higher costs.[7] Our alternate estimate used a price premium of 10%.

- PNG assumed that 593 products will be removed from the marketplace due to the ban on Red 3 (Table 11, p. 34), resulting in $332 million in consumer costs. However, these removals already are being implemented due to an FDA ban effective January 2027 and cannot be attributed to the NY legislation.[8] This cost was removed in our estimate.
- After listing out each cost for submission and review of a GRAS disclosure, PNG added another 15% for miscellaneous transaction costs (p. 20). For example, this surcharge increased the simple data collection cost per report from $25,000 to $28,750 (see subsection (a) data collection costs). PNG provided no basis for this assumption. In our alternate estimate, we removed this additional 15% cost factor.
- In addition to the 1264 products PNG assumed will be removed due to the ban on the three ingredients, PNG assumed another 160 products will be removed due to additional bans that will be implemented by NY in the future (p. 35). The NY legislation has no such provision. Because their report was supposed to address the effects of this bill, and not some speculative future bills, we removed this cost from our alternate estimate.

Correcting the two major flaws alone reduces PNG's cost estimate by 77%, from $4.88 billion to $1.11 billion. The seven additional adjustments reduce the estimate by another $893 million, to just $219 million, a 96% reduction from PNG's original estimate (Table 1, right column).

Other assumptions in the PNG report may also overstate costs but could not be reliably adjusted with the available data. For example, we retained PNG's estimates of the number of products containing potassium bromate and propylparaben that would be removed from the marketplace, even though California's upcoming bans (effective January 2027) on these chemicals may already prompt manufacturers to reformulate products sold nationwide.[9] Our estimates therefore reflect corrections to identifiable flaws in the PNG report, rather than a comprehensive reassessment of every assumption.

Costs to Consumers

The PNG report argued that NY consumers would bear large costs from the legislation, with greater costs attributed to the bans and product withdrawals ($390 per household) than to the GRAS disclosure provision ($230 per household) (Table 14, p. 43). We can approximately replicate those estimates, dividing the estimates from Table 1 by an estimated 7.93 million households in NY State, which gives $231 per household for the disclosure provision and $383 per household for the bans and product withdrawals (Table 2, left column).

Table 2. Corrected estimates of costs on a per-household basis and as a percentage of NY consumer food spending.

	PNG Estimate	With 2 Corrections	With 9 Corrections
Additional disclosure ($ millions)	**1836**	**299**	**124**
Per household ($)	231	38	16
Relative increase (% of food spending)	1.2	0.2	0.1
Banned / withdrawn ($ millions)	**3041**	**813**	**95**
Per household ($)	383	103	12
Relative increase (% of food spending)	2.0	0.5	0.1
Total ($ millions)	**4877**	**1112**	**219**
Per household ($)	615	140	28
Relative increase (% of food spending)	3.3	0.7	0.1

However, three additional factors complicate PNG's conversion of the overall estimates to a per-household basis. We point these out qualitatively but are unable to provide sufficiently reliable alternative estimates to quantify them. Our estimates therefore still overstate the cost to NY consumers.

- First, the additional disclosure costs are one-time costs, so it is wrong to present these as an increase in annual consumer costs. More realistically, after the first burst of submissions, the number of new annual disclosures would be much smaller. Annual costs to consumers will be lower than Table 2 shows.
- Second, for both provisions, the costs would not be borne by NY consumers alone. Many major food manufacturers operate nationally and sell products nationwide. To the extent that manufacturers pass compliance costs on to consumers through higher prices, those costs could be spread across consumers nationwide rather than concentrated in NY, resulting in lower costs per household than Table 2 shows.
- Third, the PNG report uses a mistaken citation from prior research to justify its assumption that almost 100% of the costs are passed through to NY consumers

(pp. 31-32).[5] To justify the high pass-through rate, PNG cites an exceptionally small price elasticity of demand of -0.06, suggesting that consumers would barely reduce their purchases in response to higher prices, allowing manufacturers to pass along nearly all their costs. However, this estimate is inconsistent with the more typical elasticity of -1.1 that PNG uses elsewhere (p. 40). PNG cited a report by respected economists Abigail Okrent and Julian Alston to support its elasticity estimate of –0.06.[10] A larger own-price elasticity means that the price pass-through to consumers should be much lower than 100%, so again Table 2 overstates the cost to NY consumers.

Even assuming 100% pass-through and assuming NY households alone bear all of these costs, the estimated per-household costs are substantially lower after correcting for the mistaken or unsupported assumptions. Correcting for just the biggest two mistaken assumptions reduces the per-household costs from both provisions from $615 (3.3% of annual consumer food spending in NY State in 2025) to $140 (0.7% of annual consumer food spending) (Table 2, middle column). Correcting for the additional seven assumptions further reduces the estimated costs to $28 per household (just 0.1% of consumer food spending) (Table 2, right column).

Finally, it is important to consider the costs of the legislation in the context of its public health and safety purpose. The legislation could generate economic benefits by reducing exposure to harmful food chemicals and the associated healthcare costs and economic burdens of preventable illness. Greater transparency around GRAS substances would help regulators identify and address potential safety risks before they result in costly public health consequences. These benefits are not captured in PNG's cost estimates. If one counted only costs and ignored benefits, no public health or safety legislation ever would be approved.

Conclusion

In summary, the New York Food Safety and Chemical Disclosure Act would not impose on industry the billions of dollars in costs claimed by PNG. Correcting just the two largest and most consequential flaws in the PNG analysis reduces the estimated costs by 77%. Correcting seven additional unsupported assumptions reduces the estimated costs by a total of 96%. Given the magnitude of these errors and unsupported assumptions, PNG’s cost estimates are unreliable and should not be used to inform policy decisions.

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