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MEMORANDUM

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BY ELECTRONIC MAIL

FROM: Olsson Frank Weeda Terman Matz PC

RE: FDA Releases 2026 Human Foods Program Guidance Agenda

On June 29, 2026, the U.S. Food and Drug Administration (FDA or the agency) released its 2026 Human Foods Program (HFP) Guidance Agenda (2026 Agenda), providing some insight into HFP's current priorities surrounding food and dietary supplements. The 2026 agenda continues to follow the three risk pillars ((1) Food Chemical Safety, Dietary Supplements, and Innovation; (2) Microbiological Food Safety; and (3) Nutrition) of the HFP.

In the 2026 Agenda, the agency says it expects ***to publish all of the following*** *as drafts or finals by the end of December 2026*. Interested parties may submit comments any of the guidance topics via www.regulations.gov at Docket FDA-2022-D-2088.

The 2026 Agenda includes fifteen (15) topics:

- **Three (3)** new draft or final guidance topics;
- **Twelve (12)** items from its "Foods Program Guidance Under Development" 2025 agenda (2025 Agenda) (*Note, three (3) items have been on the agenda since before 2025*); and
- **One (1)** topic was completed since the 2025 Agenda was published.

New Priorities

- **Labeling Caffeine Content in Foods and Beverages; Draft Guidance for Industry:** While added caffeine must be listed in the ingredients, there are no other blanket Federal

requirement to declare the exact quantitative amount (in milligrams) of caffeine on conventional food or beverage labels. Therefore, FDA appears to be considering ways to provide updated industry guidance for added caffeine disclosures to better inform consumers.

- **Questions and Answers Regarding Use of the "Healthy" Claim:** On December 19, 2024, FDA issued the final rule, Food Labeling: Nutrient Content Claims (NCC); Definition of Term 'Healthy.' Since the compliance date for the Final Rule is February 25, 2028, this guidance is meant to assist industry in how they can and cannot use this voluntary NCC.

- **Necessity of the Use of Food Product Categories in Food Facility Registrations and Updates to Food Product Categories: Guidance for Industry:** This guidance was last updated in September 2016. Therefore, FDA *appears to be considering* revisiting what information food facilities must provide about the types of foods they handle, using standardized categories to support faster response during food-related emergencies. Notably, unlike most guidance documents, this one effectively supports *requirements that companies must follow*, because the law allows FDA to require this information.

Retained Priorities from Before 2025 Agenda[1]

- Action Levels for Inorganic Arsenic in Food Intended for Babies and Young Children; Draft Guidance for Industry

- Action Levels for Cadmium in Food Intended for Babies and Young Children; Draft Guidance for Industry

- Hazard Analysis and Risk-Based Preventive Controls for Human Food; Chapter 12: Preventive Controls for Chemical Hazards.

Retained Priorities from 2025

Pending Draft Guidance

- Action Level for Opiate Alkaloids on Poppy Seeds; Draft Guidance for Industry

- Food Colors Derived from Natural Sources: Fruit Juice and Vegetable Juice as Color Additives in Food; Draft Guidance for Industry

- Preventing Contamination of Low-Moisture Ready-to-Eat Human Foods and Remediating a Pathogen Contamination Event if Prevention Fails; Revised Draft Guidance for Industry

[1] OFW Law did a memorandum on the 2025 Agenda (here).

- Hazard Analysis and Risk-Based Preventive Controls for Human Food: Chapter 10: Sanitation Program; Draft Guidance for Industry

- Compliance Policy Guide for Determining the Identity, Quality, and Purity of Olive Oil and Olive-Pomace Oil Products; Draft Guidance for FDA Staff

- Food Labeling for Online Grocery Shopping Platforms; Draft Guidance for Industry

Pending Final Guidance

- New Dietary Ingredient Notifications and Related Issues: Identity and Safety Information About the NDI: Guidance for Industry

- Guide to Minimize Biological Hazards in Ready-to-Eat Fresh-Cut Produce; Guidance for Industry

- The Accredited Third-Party Certification Program: Questions and Answers; Guidance for Industry

Complete Priorities from the 2025 Agenda

- **The Food Traceability Rule: Questions and Answers; Draft Guidance for Industry:** On November 21, 2022, FDA issued a final Food Traceability Rule, which established additional recordkeeping requirements for persons who manufacture, process, pack or hold foods the Agency has designated for inclusion on the Food Traceability List (FTL). Then on February 19, 2026, FDA published a draft guidance for industry to answers questions to facilitate industry's understanding of the final rule.

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We will continue to monitor this area and will provide additional information as it develops. If you have any questions concerning the material discussed in this client alert, please contact us.