FDA ANNOUNCES A NEW APPROACH TO REVIEWING CHEMICALS ADDED TO FOOD

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By: Regulated Products Section Associate Jana Caracciolo

On May 26, 2023, the Food and Drug Administration (FDA) announced that it is "embarking on a more modernized, systematic reassessment of chemicals with a focus on post-market review." The FDA already conducts post-market review of chemical food additives; however, the FDA's new approach aims to utilize modern technology to improve this review.

Currently, the FDA conducts post-market review of food chemical additives in two ways. First, it collects data and information submitted through petitions and notifications. Therefore, the FDA relies on consumers, consumer groups, and even industry to monitor the safety of food chemical additives currently on the market. Additionally, the FDA conducts its own review of chemical food additives as information on the safety of chemicals becomes available.

Although the FDA has these post-market reviews in place, most of its oversight occurs pre-market. Generally, to use a chemical food additive, a food manufacturer must petition the FDA for approval of the chemical's specific use in a particular food. However, if the FDA or the United States Department of Agriculture deemed the chemical safe for use in food prior to 1958, then the manufacturer does not need to petition for approval. Additionally, suppose the chemical is one of the hundreds of "generally recognized as safe" or "GRAS" chemicals. In that case, the manufacturer does not need to petition the FDA before using it in food.

Although the FDA has these pre-market reviews in place, the FDA aims to create a more robust post-market review process that will help it better evaluate "new information on toxicity and use and conduct risk assessments."

The FDA is currently seeking more resources, including staff, to support this new approach. In achieving this approach, the FDA will be "publishing information and engaging stakeholders, including opportunities for public comment and other stakeholder feedback about the framework through public meetings, webinars, and other engagements." It is important that food manufacturers partake in these engagements.

To learn more about FDA's new approach and for assistance in partaking in the upcoming public engagement activities, contact the GrayRobinson national Food Law Team at 866.382.5132 or foodlaw@gray-robinson.com.

Jana Caracciolo *is an associate at GrayRobinson, providing an astute knowledge of food labeling regulation and interpretation and counsel related to food safety-related issues. She provides legal counsel and compliance guidance to farmers, ranchers, producers, processors, distributors, and retailers on compliance issues with the U.S. Food and Drug Administration (FDA), the U.S. Department of Agriculture (USDA), and various state agencies' requirements on food safety, food and beverage labeling and packaging, and product development. Prior to joining GrayRobinson, Jana served as a staff attorney at the National Agricultural Law Center, researching and analyzing food safety and food labeling issues.*