



ML Strategies Update

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FOOD SAFETY & NUTRITION

The regulatory and legislative outlook for Food Safety and Nutrition is, compared to other more contentious and politicized issues, fairly robust for the next two years. At the federal agencies, there will be continued activity on implementation of the Food Safety Modernization Act, along with other food safety and food additive rulemakings. The Food and Drug Administration (FDA) regulatory agenda can be found [here](#). On Capitol Hill, food safety legislation will be a priority, along with efforts to reauthorize child nutrition programs before they expire later this year.

REGULATORY OUTLOOK

Food Safety Modernization Act Implementation: The FDA will finalize five of the seven major Food Safety Modernization Act (FSMA) rules by the end of 2015. It will complete the rules for preventive controls for human food and preventive controls for animal food by August 30, 2015, and the rules for produce safety, third-party accreditation, and foreign supplier verification program by October 31, 2015. The FDA will finalize a rule related to sanitary transportation by March 31, 2016, and a rule related to intentional adulteration by May 31, 2016.

Generally Recognized as Safe Rule: Following a Consent Decree issued by the U.S. District Court for the District of Columbia related to a lawsuit filed against the FDA by the Center for Food Safety (CFS), the FDA will issue a final rule on the Generally Recognized as Safe (GRAS) review program by August 31, 2016. GRAS allows industry-hired experts to determine the safety of food additives. The GRAS Notification Program has operated under a 1997 proposed rule since 1997. That led to the CFS lawsuit, which claimed that, under the Administrative Procedure Act (APA), the GRAS program was operating illegally.

Veterinary Feed Directive: The FDA will finalize by April the Veterinary Feed Directive, a rule first proposed in December 2013 that would require that the use of medically important microbial drugs in animal feed and water be under the supervision of a licensed veterinarian.

Use of Materials Derived from Cattle in Human Food and Cosmetics: In March, the FDA is expected to make permanent interim measures to minimize human exposure to materials that scientific studies have demonstrated are highly likely to contain the BSE (bovine spongiform encephalopathy) agent in cattle infected with the disease. Many scientists believe that the human disease variant (vCJD) is likely caused by the consumption of products contaminated with the agent that causes BSE.

LEGISLATIVE OUTLOOK

Child Nutrition: The Healthy, Hunger-Free Kids Act of 2010, which subsidizes discounted school meals and supplemental nutrition for women, children, and infants, is set to expire on September 30, 2015. The White House would like for Congress to pass a robust reauthorization measure, with incentives for schools to serve fruit and bans on trans-fats in donuts. However, congressional Republicans want to scale back the process. In the 113th Congress, Representative Robert Aderholt (R-AL), Chairman of the House Appropriations Agriculture Subcommittee, and Senator John Hoeven (R-ND), a member of the Senate Appropriations Subcommittee on Agriculture, were the strongest critics of the White House's school lunch initiatives. Representative John Kline (R-MN), Chairman of the House Education and Workforce Committee, and Senator Pat Roberts (R-KS), Chairman of the Senate Agriculture Committee, have both criticized the Act in the past.

Prevention of Antibiotic Resistance Act: Senators Susan Collins (R-ME) and Dianne Feinstein (D-CA) have introduced [S. 621](#), the Prevention of Antibiotic Resistance Act, a bill intended to combat the overuse of medically-important antibiotics in agriculture. The bill would require the FDA to withdraw its approval of medically-important antibiotics used for disease prevention or control that are at high risk of abuse, unless the producer of the drug can demonstrate that its use in agriculture does not pose a risk to human health. Antibiotics that meet the standard for prevention and control uses would be issued a revised label that supports prudent antibiotic use.

Common Sense Nutrition Disclosure Act: Representative Cathy McMorris Rodgers (R-WA) plans to reintroduce the bipartisan [Common Sense Nutrition Disclosure Act](#). The legislation, which she first introduced in March 2013, would repeal some of the FDA's menu labeling rules, which affect chain restaurants, grocery stores, and movie theaters. FDA released two final rules for menu and vending machine labeling on November 25, 2014. The rules stem from provisions in the Affordable Care Act.

Genetically Modified Organisms (GMOs): Representative Mike Pompeo (R-KS) intends to reintroduce the [Safe and Accurate Food Labeling Act](#). This act would limit states' ability to set their own food standards by – among other means – preventing them from mandating the labeling of GMOs. Though his bill's two Democratic cosponsors, former Representatives Jim Matheson (D-UT) and Mike McIntyre (D-NC), have retired, it received a warm reception from Energy and Commerce Democrats when it was first introduced. Former Representative Henry Waxman (D-CA), then the committee's ranking member, said GMO labeling could be “inherently misleading,” while Representative G.K. Butterfield (D-NC) said it would impose additional costs onto consumers. These comments bode well for Representative Pompeo's bill, which would need Democratic support to become law.

Safe Food Act: Representative Rosa DeLauro (D-CT) and Senator Richard Durbin (D-IL) have introduced the Safe Food Act ([H.R. 609](#) and [S. 287](#)), which would create a single, independent food safety agency. Currently, oversight of food safety is handled by 15 different federal agencies. The Safe Food Act would transfer and consolidate food safety authorities for inspections, enforcement and labeling into a single food safety agency; provide authority to require the recall of unsafe food; require risk assessments and preventive control plans to reduce adulteration; authorize enforcement actions to strengthen contaminant performance standards; improve foreign food import inspections; and require full food traceability to better identify sources of outbreaks.

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