

MAHA Movement Continues to Invite Significant Change for Food Regulation at Federal and State Levels

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July 24, 2025

Robert F. Kennedy Jr. promised big changes as Secretary of the Department of Health & Human Services, the sweeping agency that oversees FDA, NIH, CDC, and other divisions and agencies. Five months into his tenure, he has launched a number of initiatives that target certain types of food products and ingredients. The changes invited by the so-called “MAHA” or “Make America Healthy Again” movement have not been limited to the federal level – with certain states passing or proposing legislation banning or limiting the use of certain foods and ingredients, or requiring warning labels akin to California’s Proposition 65.

We highlight a few notable recent developments here.

Federal Developments

- **Defining “Ultra-Processed Foods.”** Just yesterday, the FDA [issued](#) a joint Request for Information (RFI) in conjunction with the U.S. Department of Agriculture (USDA) “to gather information and data to help establish a federally recognized uniform definition for ultra-processed foods” and “address the growing concerns around ultra-processed foods and the current epidemic of diet-related chronic disease that is plaguing America.” The press release notes that there is not currently an authoritative definition for ultra-processed foods while also opining “that approximately 70% of packaged products in the U.S. food supply are foods often considered ultra-processed, and that children get over 60% of their calories from such foods.” The [Federal Register notice](#) released today presents a series of questions, including related to existing classification systems, ingredients often used in foods considered ultra-processed, manufacturing and processing means, and nutritional research relating to health outcomes.
- **Phasing Out Petroleum-Based Food Dyes.** In April, FDA [announced](#) a number of steps to “phase out all petroleum-based synthetic dyes from the nation’s food supply,” including by initiating the process to revoke authorization of two seldom-used dyes, Citrus Red No. 2 and Orange B and working with industry to eliminate six additional synthetic dyes by the end of next year. Earlier this month, FDA followed through on its stated goal of approving new natural color additives by [announcing](#) that it had granted a color additive petition to use the color gardenia (genipin) blue in various foods, at levels consistent with good manufacturing practice.
- **Reconsidering the Self-Affirmed GRAS Process.** Earlier this year, Secretary Kennedy [directed](#) FDA to examine rulemaking to eliminate the self-affirmed “Substances Generally Recognized as Safe” or “GRAS” process that allows individuals and companies to independently

determine whether a food additive is safe under the intended conditions of use, and therefore, exempt from the definition of a food additive under the Federal Food, Drug & Cosmetic Act (FDCA). Minimizing the laborious and painstaking process that underlies effective GRAS determinations, Secretary Kennedy characterized the self-GRAS process as “a loophole that has allowed new ingredients and chemicals, often with unknown safety data, to be introduced into the U.S. food supply without notification to the FDA or the public.” Notably, the FDCA expressly excludes GRAS substances from the definition of food additive by statute, though FDA could attempt to impose additional substantive or procedural requirements before food manufacturers deem certain substances to be GRAS. Given the lack of clear statutory authority to do so, such attempts may be susceptible to challenge. There’s also the question of staffing and budget to support a potential overhaul of the current GRAS system.

State Developments

- **Warning Labels for Foods Containing Additives and Dyes.** In June 2025, Texas and Louisiana each enacted laws requiring warning labels on packaging for foods that contain specified additive or dyes. Texas’s law, SB 25, applies to 44 additives and dyes and requires manufacturers to clearly display the following warning label: “WARNING: This product contains an ingredient that is not recommended for human consumption by the appropriate authority in Australia, Canada, the European Union, or the United Kingdom.” Louisiana’s law, on the other hand (SB 14), requires manufacturers to include a QR code on their packaging with a prominent statement that informs consumers that they can access additional ingredient information by scanning the code. While Louisiana’s list of relevant ingredients overlaps substantially with Texas’s, it includes certain artificial sweeteners excluded from Texas’s statute. Both laws contain exceptions for foods labeled, prepared, or served in restaurants or other retail establishments. Texas’s labeling requirement takes effect in January 2027, and Louisiana’s takes effect in January 2028. Although Texas and Louisiana are not the first states to require warnings on food labels (*e.g.*, California’s Prop 65), these new laws mark a shift in states’ approaches to dyes and additives.
- **Restrictions on Certain Ingredients in School Lunches.** A couple of states recently enacted statutes that prohibit certain food dyes from being used in school lunches. For example, in March 2025, West Virginia enacted a law (HB 2354) that prohibits public or state-funded schools from serving foods that contain specified red, yellow, and blue dyes. That law becomes effective on August 1, 2025. In signing the bill, West Virginia Governor said, “West Virginia ranks at the bottom of many public health metrics, which is why there’s no better place to lead the Make America Healthy Again mission.” Louisiana, as part of its food labeling statute, passed a similar prohibition. Specifically, Louisiana SB 14 provides that, starting with the 2028-2029 school year, all public and state-funded nonpublic schools are banned from serving foods or beverages containing one of 15 artificial dyes and chemicals, including a variety of blue, green, red, and yellow dyes.

These are just some of the federal and state legislative and regulatory developments impacting the manufacturing, labeling, and marketing of food products. Our team continues to monitor these and other developments as part of our cross-cutting advertising and food and drug practices.