

VIA ELECTRONIC SUBMISSION

October 17, 2016

Division of Dockets Management (HFA-305)
Food and Drug Administration
5630 Fishers Lane, Rm. 1061
Rockville, MD 20852

**Re: Final Rule Regarding Substances Generally Recognized as Safe
Docket No. FDA-1997-N-0020 (formerly 97N-0103)
81 Fed. Reg. 54959 (August 17, 2016)**

The United States Pharmacopeial Convention, Inc. (USP) appreciates this opportunity to submit comments on FDA's final rule on the criteria for substances that are generally recognized as safe (GRAS) and on the GRAS notification process. USP is committed to supporting FDA as it administers the GRAS notification program. In particular, we feel that our activities and our food ingredient compendium – the *Food Chemicals Codex (FCC)* – can play a vital role in helping the Agency and the food industry characterize the identity and the appropriate common or usual names of GRAS substances. In the following pages, we highlight the utility of the *FCC* as a resource for identity and naming of food substances. We also briefly summarize USP's role in promoting the safety and quality of food substances more generally.

I. Comments on Final GRAS Rule

USP appreciates FDA's issuance of a final rule to formalize the GRAS notification procedure under which the food industry has been operating for many years. We further appreciate the clarifications that FDA has provided regarding how GRAS status must be demonstrated under the law and what FDA expects to see in GRAS Notices submitted to the Agency for review.

Founded in 1820 with a public health mission, USP has direct experience in facilitating activities and programs that improve the safety and quality of food substances in the United States. From 1966 to 2006, the Institute of Medicine (IOM) published a compendium of food ingredient standards called the *Food Chemicals Codex (FCC)*. In 2006 – and in keeping with USP's longstanding history and experience with compendial development for medicines and dietary supplements – USP assumed stewardship of the *FCC*. Since then, USP has worked to develop and update validated, peer-reviewed public standards, called "monographs," for food substances that include tests, procedures, and acceptance criteria to ensure the quality, purity, and identity of such products.

To date, FDA has issued more than 200 regulations for food substances that incorporate *FCC* specifications by reference. At present, the *FCC* also contains monographs for more than 1,200 food substances, many of which are the subject of "no questions" letters in FDA's online GRAS Notice inventory. Even where not expressly referenced in an FDA regulation or a GRAS Notice, *FCC* monographs are widely used as a benchmark for "food grade" quality specifications in contractual agreements among food producers to ensure supply chain integrity.

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In our view, *FCC* monographs complement the process of establishing the GRAS status of food substances. In particular, we highlight below the ways in which *FCC* monographs can serve as a resource in establishing the identity and the name of food substances in the marketplace.

A. *The FCC as a Resource for Identity*

A complete and accurate characterization of the identity of a food substance is crucial to any GRAS determination, as illustrated by FDA’s requirements that a GRAS Notice include scientific data and information that identify the notified substance, including:

- Information such as the chemical name, applicable registry numbers (such as a Chemical Abstracts Service (CAS) registry number or an Enzyme Commission (EC) number), empirical formula, structural formula, quantitative composition, and characteristic properties;
- Detailed information about the source of a biological material, including the taxonomic source, the part of the plant/animal used as the source, and any known toxicants that may be in the source;
- A manufacturing process description;
- Specifications for food-grade material; and
- Information related to the intended technical effect of the substance, where necessary to demonstrate safety.¹

As FDA and the food industry likely already know, an *FCC* monograph typically contains the detailed information described in this regulatory requirement. Numerous existing GRAS Notices expressly cross-reference *FCC* monographs in their ingredient and raw material specifications, as the *FCC* is widely viewed as a benchmark for establishing the “food grade” suitability of an ingredient.

B. *The FCC as a Resource for Naming*

In the final GRAS regulations, FDA specifies that a GRAS Notice should identify the name of the notified substance using an “appropriately descriptive term,” rather than its “common or usual name.”² Although this name may be the same in some cases, we understand that FDA’s GRAS notification process will focus squarely on evaluating the safety and regulatory status of notified substances, rather than addressing labeling requirements of the Federal Food, Drug, and Cosmetic Act.

Because food manufacturers and distributors need to determine the “common or usual name” of a food substance for labeling purposes, we hope that both FDA and the food industry will consider the utility of *FCC* monographs in this domain as well. In our experience, title and synonym names in an *FCC* monograph are used to identify that substance in the marketplace. Because FDA’s regulations permit the “common or usual name” of a food to be “established by common usage,” the marketplace acceptance of *FCC* terminology can prove useful in this regard. It will be resource-sparing both for the Agency

¹ See 21 CFR §§ 170.230; 570.230.

² 21 CFR §§ 170.225(c)(3); 570.225(c)(3).

and for regulated industry if companies may appropriately rely on *FCC* monograph names for labeling purposes without the need for further consultation with the Center for Food Safety and Applied Nutrition (CFSAN) (for human food) or the Center for Veterinary Medicine (CVM) (for animal food) to seek consensus on an appropriate “common or usual name.”

II. The Role of USP as a Standards-Setting Organization in Assuring the Safety and Quality of Foods

USP is a scientific nonprofit organization that sets standards for the identity, strength, quality, and purity of medicines, food ingredients, and dietary supplements that are manufactured, distributed, and consumed worldwide. Our standards and programs are informed by global expertise from industry, academia, and regulators. USP’s headquarters are in Rockville, Maryland, and we have facilities in India, China, Brazil, and Ghana, as well as offices in Switzerland, Indonesia, Nigeria, Ethiopia, and the Philippines.

In addition to producing documentary standards in the *FCC* (as described above), USP develops and supplies the industry with reference materials for food substances, as well as for related impurities and contaminants. These reference materials are highly characterized substances intended for use in conducting quality control tests and analytical procedures associated with specifications in established monographs. USP’s current catalog includes more than 3,600 items, including more than 200 Reference Standards for food substances (e.g., amino acids, salts, sweeteners, and oils).

Based on our history and experience, USP strongly believes that the development and use of public standards in the marketplace produces significant public health benefits. Our process generates transparent, science-driven benchmarks that help secure the safety and quality of food substances.

As the Agency also knows, USP has been working with FDA and other stakeholders to develop tools to facilitate implementation of the FDA Food Safety Modernization Act (FSMA). Specifically, USP has published the *Food Fraud Mitigation Guidance* as an Appendix to the *FCC* (available at: http://www.usp.org/sites/default/files/usp_pdf/EN/fcc/food-fraud-mitigation-guidance.pdf). The guidance offers a comprehensive framework to guide manufacturers and retailers in implementing effective mitigation approaches to safeguard the most fraud-vulnerable ingredients in their supply chain. In conjunction with the guidance, USP also has developed a *Food Fraud Database*, which represents the largest and most current database of historical records of food fraud that can be used to help inform mitigation plans (available at: <http://www.foodfraud.org>). Together, these tools can help food producers develop strategies to combat economically motivated adulteration, an issue directly addressed in FSMA’s hazard analysis and risk-based preventive control (HARPC) requirements. It is USP’s hope that the food industry will harness these resources to take steps to enhance the integrity of the food supply.

Through our compendial development efforts and our ongoing work to develop tools to enhance food safety, USP seeks continued opportunities to collaborate with FDA and to serve as a resource in promoting food quality and enhancing public health.



As FDA continues to administer the GRAS notification program under the newly-final rule, and as companies continue to reach their own GRAS conclusions under the finalized framework, we hope to encourage further submission of food substances for the purpose of developing *FCC* monographs. In our view, the continued development of publicly available standards for food substances provides clarity and transparency that can benefit the Agency, the industry, and the consuming public. USP stands ready and willing to engage with Agency and industry stakeholders, among others, to ensure that the *FCC* continues to serve as useful resource.

We thank FDA for the opportunity to submit comments on the final GRAS rule, and we hope to work collaboratively with FDA and others in this area to ensure that USP can best serve as a resource in enhancing the safety and quality of the food supply. Please feel free to contact me with any inquiries related to these comments or to USP's capabilities and resources in the area of food safety. I have included my contact information below.

Sincerely yours,

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