Food Regulatory Update

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by

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I. U.S. ACTIVITIES

A. FDA

Deadline for Facility Registration Renewal is Extended to January 31, 2013

On December 12, FDA announced that it was extending the registration renewal deadline for food facilities from December 31, 2012 to January 31, 2013 to accommodate companies that experienced technical difficulties when the online system was initially launched. U.S. and foreign food facilities were required under Section 102 of the Food Safety Modernization Act to renew their registration with FDA between October 1 and December 31, 2012. However, several food companies could not register until October 22 because the renewal system was overloaded by the number of registrants attempting to access and renew their registrations. Some registrants also had difficulty accessing their registrations, or found inconsistencies between the information entered and that reflected in FDA’s system. FDA also announced that the Q&A guidance document on the renewal process had been updated to include clarification on the definition of retail food establishments and a walk-through on the agency’s new power to suspend a facility registration for food safety problems.

See: [http://www.fda.gov/food/guidancecomplianceregulatoryinformation/registrationoffoodfacilities/default.htm](http://www.fda.gov/food/guidancecomplianceregulatoryinformation/registrationoffoodfacilities/default.htm)

FDA Requests Data to Establish Allergen Thresholds

On December 14, FDA published a notice that requests data and other information for a risk assessment that would establish regulatory thresholds for all or some of the major food allergens (milk, eggs, fish, shellfish, tree nuts, wheat, peanuts, and/or soybeans). FDA specifically asks the public to submit responses to the following questions: (1) How should the agency define an allergic response that poses a risk to human health? (2) Which major food allergens are of greatest public health concern and what is the size of the at-risk population? (3) How should clinical dose distribution data be used when establishing regulatory thresholds for the major food allergens? (4) What approaches exist for using biological markers or other factors related to the severity of allergic responses in a threshold risk assessment? (5) What data and information exist on dietary exposure patterns for individuals on allergen avoidance diets? (6) What data or other information exist on current levels of exposure associated with the consumption of undeclared major allergens in packaged foods? (7) What other information or data should we consider in establishing regulatory thresholds for major food allergens? FDA foresees the benefits of establishing regulatory thresholds for allergens by stating how they would: (1) help the agency develop appropriate corrective action measures for unintentional allergen contamination issues; (2) improve its evaluation of petitions and notifications for exemptions from allergen labeling; (3) enhance response time in situations where undeclared allergens are found in foods; and (4) help to improve consumer choices in the marketplace by protecting sensitive consumers. Comments are due February 12, 2013. See: 77 Fed. Reg. 74485 (December 14, 2012) at,
Senators Meet with FDA to Discuss Energy Drinks

On December 6, Senators Dick Durbin (D-Ill.) and Richard Blumenthal (D-Conn.) met with FDA Commissioner Margaret Hamburg to discuss the agency’s approach for investigating the health effects of energy drinks and the safety of their ingredients. Durbin and Blumenthal have sent several letters asking the agency to take regulatory action on the allowable levels of caffeine in energy drinks, as numerous incident reports have revealed the potential dangers of such products. The senators used the meeting to urge FDA to convene an expert panel to discuss the effects of consuming caffeine and other stimulants as soon as possible. The senators also asked FDA to take enforcement action against companies that sell energy drinks containing at least 20% more caffeine than the amount disclosed on the products’ label. Overall, the senators were pleased to hear the agency’s approach towards the issue. They specifically stated that, “FDA made it clear it is moving forward in a number of areas to protect vulnerable populations against high levels of caffeine in energy drinks.” and “energy drink makers are mistaken if they believe they have escaped regulatory oversight to safeguard consumer health.” See: [http://www.blumenthal.senate.gov/newsroom/press/release/blumenthal-durbin-fda-taking-energy-drink-concerns-seriously](http://www.blumenthal.senate.gov/newsroom/press/release/blumenthal-durbin-fda-taking-energy-drink-concerns-seriously)

District Judge Issues Consent Decree Imposing Restrictions on Sunland, Inc.

FDA lifted a suspension order on Sunland, Inc. in accordance with a consent decree issued by U.S. District Judge William Johnson from the District of New Mexico. FDA had suspended Sunland’s registration on November 26, 2012, after the company’s peanut product manufacturer and distributor was linked to an outbreak of *Salmonella* Bredeney that infected 42 people in 20 states. Although the consent decree vacates the suspension order, it prohibits Sunland from processing or distributing food from its peanut butter plant or peanut mill plant in Portales, New Mexico, until certain corrective actions are completed and approved by FDA. Some of those actions include: (1) retaining an independent sanitation expert to develop a sanitation control program that the company must then implement; (2) complying with current good manufacturing practice regulations; (3) conducting environmental monitoring and testing of its peanut butter plant to ensure that disease-causing organisms are not present in the facility or in its finished foods; and (4) having comprehensive inspections conducted by an independent sanitation expert. See: [http://www.fda.gov/food/foodsafety/corenetwork/ucm320413.htm](http://www.fda.gov/food/foodsafety/corenetwork/ucm320413.htm)

FDA Files Motion to Dismiss Suit Regarding FSMA Delays

FDA filed a motion to dismiss a suit brought against the agency by the Center for Food Safety and the Center for Environmental Health on August 29, 2012, in the U.S. District Court for the Northern District of California. The complaint accuses FDA and the White House’s Office of Management and Budget (OMB) of violating the Food Safety Modernization Act (FSMA), the Administrative Procedures Act, and a federal executive order because they failed to meet the statutory deadlines for at least seven of the FSMA regulations. The regulations were expected to be published in January 2012, after OMB
completed its 90-day review. FDA’s motion says there has been no egregious delay in implementing the rules, as Congress directed the agency to “engage in an in-depth, well-considered, and thorough process that would take into account numerous scientific, technical, and regulatory issues.” It also says “there is no indication that Congress believed that strict adherence to those timetables is more important than careful consideration and development of [the] complex regulations to create an effective and modernized food safety system, provide clear guidance to the industry, and minimize later challenges or revisions to hastily adopted regulations.” Furthermore, FDA says it has been extremely busy setting up workgroups, prioritizing regulations, and making substantial progress in drafting proposed regulations, but the FSMA’s aggressive timelines have still proved to be unachievable. With respect to OMB, the motion argues that the FSMA imposes no obligation on the Office to act. It further states that the 90-day review period for the regulations was extended at the request of FDA, which does not make OMB in violation of an executive order. The hearing for the motion is scheduled for February 27, 2013, before Judge Phyllis Hamilton, in Oakland, California. See: http://www.foodsafetynews.com/files/2012/12/FDA-motion-to-dismiss.pdf

**FDA Recognizes New Zealand’s Food Safety System as Comparable to U.S.**

On December 10, FDA announced that it signed an agreement that recognizes the U.S. and New Zealand’s food safety system as comparable. It is the first “systems recognition” agreement between FDA and a foreign country. The agreement is expected to provide a higher level of regulatory cooperation for food safety by allowing both countries to focus their resources on high-risk foods rather than routine inspections, and improve the efficiency of follow up actions after food safety incidents. It is also expected to help facilitate the admittance of products entering the U.S. from New Zealand. FDA says the agreement was reached by utilizing its draft International Comparability Assessment Tool (ICAT), a process that includes a comprehensive review of a country’s relevant laws and regulations, inspection programs, response to food-related illness and outbreaks, compliance and enforcement, and laboratory support. FDA plans to publish a guidance document and request comments on its systems recognition process by next year. See: http://www.fda.gov/Food/NewsEvents/ConstituentUpdates/ucm331276.htm

**FDA Extends Food Safety Cooperation Agreement with China**

On December 11, FDA announced the renewal of a food safety agreement with the General Administration Quality Supervision, Inspection, and Quarantine of China (AQSIQ), which was originally signed in 2007. The agreement includes: (1) enhancement of FDA’s ability to identify high-risk food products entering the U.S. from China; (2) collaboration to facilitate inspections of facilities that process and produce food; (3) a focus on high-risk foods frequently exported from China to the U.S., including canned and acidified foods, pet food and aquaculture; and (4) the creation of processes for FDA to accept relevant, verified information from AQSIQ regarding registration and certification. FDA says it renewed the pact with China because of the significant progress that has been made since the agreement was signed. As an example, FDA says China allowed the agency to open offices in Beijing, Shanghai, and Guangzhou in 2008, shortly after the agreement went into effect. FDA says its strong presence in China has
significantly increased the agency’s understanding of the country’s food safety system. Both countries agreed to extend the agreement for an additional five years to further enhance cooperation on food safety issues.  

See: [http://www.fda.gov/Food/NewsEvents/ConstituentUpdates/ucm331518.htm](http://www.fda.gov/Food/NewsEvents/ConstituentUpdates/ucm331518.htm)

### FDA Publishes Preliminary Environmental Assessment of GE Salmon

FDA’s Center for Veterinary Medicine (CVM) released its preliminary environmental assessment of the genetically engineered (GE) AquAdvantage salmon phenotype developed by AquaBounty Technologies, based in Maynord, Massachusetts. The assessment concludes that the GE salmon “will not have any significant impacts on the quality of the human environment of the United States” and is unlikely to harm natural salmon populations. Several biotech opponents do not agree with FDA’s preliminary assessment and argue that the agency’s review process was not comprehensive. Food & Water Watch (F&WW) says that it will be examining legal options to force FDA to do a more thorough assessment on the GE salmon. F&WW also stated that FDA failed to conduct the appropriate studies to determine if the GE salmon is safe to eat or if it can live up to AquaBounty’s claim of faster growth rates. Additionally, F&WW says that FDA failed to consider the threat the new fish could pose to wild fish populations. The Center for Food Safety says FDA’s decision “ignores calls from more than 40 Congress members who have repeatedly urged FDA to conduct more rigorous review of environmental health safety and halt any approval process until concerns over risks, transparency and oversight have been fully satisfied.” On the other hand, The Biotechnology Industry Organization (BIO) referred to FDA’s assessment as a “significant milestone in the approval process for the first food application from a genetically engineered animal.” BIO also expressed confidence in FDA’s review process by stating that the agency “assures the safety and efficacy of genetically engineered animal products,” and mentioned that it looks forward to the final decision. Once the environmental assessment is final, FDA is expected to approve commercialization of the transgenic salmon. Meanwhile, FDA is accepting comments on its preliminary risk assessment until February 25, 2013. See: 77 Fed. Reg. 76050 (December 26, 2012) at, [http://www.gpo.gov/fdsys/pkg/FR-2012-12-26/html/2012-31118.htm](http://www.gpo.gov/fdsys/pkg/FR-2012-12-26/html/2012-31118.htm)


Center for Food Safety’s Statement: [http://www.centerforfoodsafety.org/2012/12/21/obama-administration-snubs-risks-moves-forward-with-ge-salmon-approval/](http://www.centerforfoodsafety.org/2012/12/21/obama-administration-snubs-risks-moves-forward-with-ge-salmon-approval/)


### Citizen Petition Asks FDA to Review the Health Effects of Ractopamine

The Center for Food Safety (CFS) and the Animal Legal Defense Fund (ALDF) filed a citizen petition that asks FDA to conduct a safety review of ractopamine, which is a drug used as a feed additive to promote leanness in animals. The petition says the continued
use of ractopamine has shown to have negative health impacts on humans and animals, ultimately suggesting that FDA should lower its maximum residue limits. FDA allows a maximum residue limit of ractopamine at 30 parts per billion (ppb) for beef and 50 ppb for pork. The petition further notes that ractopamine has resulted in more reports of sickened or dead pigs than another other livestock drug on the market. The groups ask FDA to either meet the Codex standards for ractopamine, which sets the MRLs at 10 ppb, or set “more health-and-welfare-based standards.”


**FDA Publishes Semi-Annual Regulatory Agenda**

FDA has released its semi-annual regulatory agenda that includes proposed and final rules the agency expects to publish in the first half of 2013. The agency’s top priority is to publish the long-awaited provisions of the Food Safety Modernization Act (FSMA) before the end of January. The agenda says that proposed rules on dietary supplement statements will also be published in January. Two proposed regulations expected in February will revise the Nutrition Facts label and Supplement Facts label and change the Reference Amounts Customarily Consumed for certain food categories. Proposals to amend serving size regulations for hard candies and breath mints are also expected in February. FDA also plans on finalizing several key proposals in the first half of this year, beginning with the gluten-free labeling regulations, which are expected by March. Final menu-labeling regulations, which establish requirements for nutrition labeling of standard menu items for certain food establishments, along with the final rules for vending machines, which establish requirements for nutritional labeling of food sold in vending machines are expected by April. Also expected in April, is a final rule that would revise current Good Manufacturing Practices, establish quality factors, and amend quality control procedures and reporting requirements for infant foods.

See: [https://www.federalregister.gov/articles/2013/01/08/2012-31500/department-regulatory-agenda-semiannual-summary](https://www.federalregister.gov/articles/2013/01/08/2012-31500/department-regulatory-agenda-semiannual-summary) and, [http://www.reginfo.gov/public/do/eAgendaMain](http://www.reginfo.gov/public/do/eAgendaMain)

**B. FTC**

**FTC Publishes Follow Up Report on Foods Marketed to Children**

On December 21, the Federal Trade Commission (FTC) released its 2nd report on foods marketed to children and teens. The report serves as a follow up to FTC’s 2008 study that reported on the marketing and advertising trends in 2006. The latest study evaluates 2009 financial and nutrition information collected through compulsory process orders from 48 major food and drink marketers, including Coca-Cola Co., ConAgra Foods, Del Monte Fresh Produce, Mars Inc., McDonald’s Corp. and PepsiCo Inc. It also includes a detailed analysis of the nutritional profile of 625 foods and beverages marketed to youth in 2006 and 2009. The food products were broken down into the following groups: (1) cereals, (2) dairy, (3) drinks, (4) snacks, (5) prepared foods, (6) candy/frozen desserts, and (7) fast food restaurants. The study reveals that the nutritional profile of snacks had minimal to no improvement from 2006 to 2009. However, there were modest
improvements in all key nutrients for foods marketed to children and improvements in all but sodium and saturated fat content for foods marketed to teens. The report also shows that cereals were less sugary, drinks had fewer calories, and nearly all dairy drinks advertised to children were non-fat and low-fat products in 2009. FTC says the changes are due to product reformulations and newly advertised healthier products that replaced less nutritious products. FTC credits the Children’s Food and Beverage Advertising Initiative (CFBAI) for encouraging healthier choices and improving the foods advertised to children under 12. However, FTC says there is still room for improvement and suggests that CFBAI strengthen its new criteria to more closely track improvements in the 2010 Dietary Guidelines for Americans. FTC also said that it would like for more quick service restaurants, candy companies, and baked good companies to join the initiative. See: http://www.ftc.gov/opa/2012/12/foodmarketing.shtm

C. USDA

Lawmakers Urge USDA to Withdraw HIMP Proposal

On December 6, Senators Kirstin Gillibrand (D-NY), Jeff Merkley (D-Ore), Richard Blumenthal (D-Conn) and Representative Chellie Pingree (D-Maine) sent a letter to USDA asking the agency to withdraw a final rule expanding the HACCP-based Inspection Models Project (HIMP). The modified inspection program, which is currently in use in 20 poultry plants, transfers the responsibility of carcass checks from federal inspectors to company employees. Therefore, inspectors would only be responsible for conducting sanitation inspections at the processing establishments. In the letter, the senators and Pingree state that the modified inspection program would have “deleterious impacts on both food safety and worker safety”, as inspectors would have a fraction of a second to examine each carcass. They warn USDA that workers in plants currently operating under HIMP are more likely to complain of repetitive motion injuries than workers in non-HIMP plants. They also mention how the agency has yet to conduct a study to determine any worker safety problems that might arise with a significantly faster line speed. The letter concludes by asking USDA to either withdraw the proposal or delay publishing the final rule until the expressed concerns can be adequately considered and addressed. See: http://foodpoisoningbulletin.com/wp-content/uploads/Letter-to-USDA-Sec-Vilsack-on-Poultry-Slaughter-Inspection-Program-12-06-2012.pdf

USDA Modifies School Lunch Requirements

USDA has lifted the maximum serving restrictions for school lunches established by the Healthy, Hunger-Free Kids Act of 2010, for the rest of the 2012-2013 school year to accommodate several concerns raised by members of Congress and school food authorities (SFAs). The new meal standards, which went into effect on July 1, 2012, include minimum and maximum calorie levels that vary by grade level, in addition to serving requirements for grains, meal/meat alternatives, vegetables, fruits and milk, aimed at increasing healthy foods while cutting back on sodium, sugar and fats. In a November 19 letter to USDA, Congress members relayed concerns from parents who complained that their children were not receiving enough food from meals they consumed at school and asked the agency to address the calorie restrictions under the new standards.
requirements. SFAs also submitted complaints regarding the operational challenges they faced in order to stay within the weekly restrictions for grains and meat/meat alternatives. In a response to Congress members, Agricultural Secretary Tom Vilsack explained that USDA decided to allow additional flexibility in meeting some of the new standards, as the agency always anticipated some modifications and other allowances would be required. USDA explains the modifications to the new requirements in a memo sent to SFAs and all of USDA’s Food Safety and Nutrition Service’s directors. The memo amends the requirements by ordering state agencies “to consider any SFA compliant with the component requirements for grains and meat/meat alternatives if the menu is compliant with the daily and weekly minimums for those two components, regardless of whether they have exceeded the maximum for the same components.”


**FSIS Issues Final Policy on Test and Hold Practice**

On December 10, USDA’s Food Safety and Inspection Service (FSIS) published a notice regarding a final policy that will require meat and poultry producers to hold shipments of all raw products the agency tests for pathogens until the results are received. FSIS says it will no longer stamp pathogen-tested products with the official USDA “Mark of Inspection” until test results are obtained. The agency says it anticipates most negative test results to come back within two days. FSIS says the new policy applies to: (1) non-intact raw beef products or intact raw beef products intended for non-intact use that are tested for the presence of seven types of *E. coli* determined to be adulterants under FSIS policy; (2) any ready-to-eat products that are tested for *E. coli*, *Salmonella*, or *Listeria monocytogenes*; and (3) livestock carcasses subject to testing for veterinary drug residues, including antibiotics, sulfonamides, avermectins, or the feed additive carbadox. The final policy will be published on February 8, 2013, and will take effect 60 days thereafter. See: [77 Fed. Reg. 73401 (December 10, 2012)](http://www.gpo.gov/fdsys/pkg/FR-2012-12-10/html/2012-29516.htm)

**Rep. DeLauro Says Initiatives with Canada Will Compromise Food Safety in U.S.**

Representative Rosa DeLauro (D-Conn.) sent a letter to Agriculture Secretary Tom Vilsack and U.S. Trade Representative Ron Kirk urging them to exclude food safety-related measures from the Regulatory Cooperation Council (RCC) and Beyond the Border (BtB) initiatives with Canada. The U.S. and Canada have been working to establish the RCC to increase transparency and boost trade between the two countries. The BtB initiative would eliminate re-inspection requirements for raw products shipped to the U.S. from Canada. However, Rep. DeLauro’s letter says that the goals of the RCC and BtB initiatives conflict with the U.S.’ efforts to prevent foodborne illness. She pointed to the recent recall of millions of pounds of beef and beef products from Canada’s XL Foods, Inc. which included an estimated 2.5 million pounds imported to the U.S., as an example that meat coming into the U.S. from Canada should continue to be inspected when it crosses the border. DeLauro also noted that, unlike the U.S., Canada
does not require continuous inspection presence at meat and poultry processing facilities, which could explain why the contaminated beef products from XL Foods went undetected until they were identified by USDA’s Food Safety and Inspection Service (FSIS). DeLauro also mentioned how the U.S. has a zero-tolerance approach towards *Listeria monocytogenes* in ready-to-eat products (RTE), whereas Canada has a tolerance level of fewer than 100 colony forming units on RTE products and food contact surfaces. She pointed to a recent incident where the U.S. recalled 5,000 pounds of frozen butter chicken products imported from Canada due to possible *Listeria monocytogenes* contamination which were considered RTE by Canadian standards, as an example of the “key differences” between the two countries approach to food safety. See: http://delauro.house.gov/index.php?option=com_content&view=article&id=1126:rosa-delauro-urges-obama-administration-not-to-weaken-food-safety&catid=2:2012-press-releases&Itemid=21

**FSIS Seeks Guidance From NACMPI on Meat and Poultry Slaughter**

On December 19, USDA’s Food Safety and Inspection Service (FSIS) announced that it is reconvening the National Advisory Committee on Meat and Poultry Inspection (NACMPI) to address two topics related to meat and poultry slaughter. FSIS says it is seeking feedback from the committee on strengthening agency verification activities and guidance covering sanitary dressing and antimicrobial interventions at veal slaughter operations. FSIS will also be looking for feedback on categorizing its regulations as public health regulations. The meeting is scheduled for January 16-17 at the Patriot Plaza III building in Washington, D.C. See: 77 Fed. Reg. 75118 (December 19, 2012) at, http://www.gpo.gov/fdsys/pkg/FR-2012-12-19/pdf/2012-30530.pdf

**FSIS Announces Compliance Deadline for Labeling Regulations**

On December 31, USDA’s FSIS announced January 1, 2016, as the compliance deadline for all meat and poultry product labeling regulations finalized between January 1, 2013 and December 31, 2014. The notice is required by USDA after it established the process of setting a compliance date for meat and poultry labeling rules in two-year increments in 2004. FSIS encourages companies to comply with the regulations earlier if other labeling changes are in the works or already underway. If a labeling regulation involves special circumstances that justify a compliance date after January 1, 2016, the agency will specify that compliance date in the regulation. See: 77 Fed. Reg. 76824 (December 31, 2012) at, http://www.gpo.gov/fdsys/pkg/FR-2012-12-31/pdf/2012-31398.pdf

**D. General**

**Decision Reached in Two of Several Cases on the Standard of Identity for Yogurt**

Judge Daniel Ottolia in the Superior Court of the State of California recently ruled in favor of Safeway in a class action suit filed against the grocery retailer in October 2012, on behalf of Ashley Tamas, a California resident, and others similarly situated. The plaintiffs argued that Safeway’s Lucerne Greek yogurt products cannot be identified as
“yogurt” because they contain milk protein concentrate (MPC), which is not permitted by the standard of identity (SOI) for yogurt. The complaint stated that a 1982 stay FDA issued on the final rule regarding the SOI for yogurt eliminated a provision that allowed the use of certain milk-derived ingredients, such as MPC, in yogurt. However, Judge Ottolia found that FDA issued the stay to eliminate the restrictions surrounding the use of milk-derived ingredients in order to accommodate objections, which “raised a genuine and substantial issue of fact”, that the limited list of ingredients barred the use of other safe, nutritional, and functional milk-derived ingredients. Therefore, the Judge found the plaintiff’s argument to be inconsistent with the terms used by FDA when it imposed the stay and ruled that MPC is an acceptable ingredient in yogurt. The decision further noted that the use of MPC as a thickening agent, instead of straining the yogurt, as is done traditionally for Greek yogurts, is acceptable, because there is no FDA established SOI for Greek yogurt.

In a similar case, U.S. District Court Judge Susan Richard Nelson dismissed a class action lawsuit against General Mills’ Yoplait Greek yogurt products, which was filed in April on behalf of Martin Taradjena and others similarly situated. The suit raised the same argument in Tamas v. Safeway, that Yoplait Greek yogurt products were labeled as “yogurt” despite containing MPC, which is not listed in FDA’s yogurt SOI. Judge Nelson dismissed the case on the basis that the resolution of the matter “falls squarely within the competence and expertise of the FDA, pursuant to the authority granted to the agency by Congress.” She said the “issues of food labeling are sufficiently complex that they are best left to FDA for consideration prior to judicial review”, and that the agency “is in the best position to resolve any ambiguity about the standard of identity of yogurt - a matter requiring scientific and nutritional expertise.”

There are at least six other cases pending on the SOI for yogurt. See: http://articles.law360.s3.amazonaws.com/0400000/400307/Opinion.pdf

General Mills Reached a Settlement to Dismiss CSPI’s Class Action Suit

General Mills has agreed on a settlement to dismiss a class action suit filed in October 2011 in the U.S. District Court, Northern District of California. It was filed by the Center for Science in the Public Interest (CSPI) and the New York law firm of Reese Richman on behalf of Annie Lam and others similarly situated. The plaintiffs accused General Mills of “misleading consumers about the nutritional and health qualities of its fruit snacks, namely Fruit Roll-Ups and Fruit by the Foot, as well as other similar products.” The complaint specifically points to General Mills’ Strawberry Naturally Flavored Fruit Roll-Ups as an example because the product does not contain strawberries. General Mills has agreed to modify labels that carry the claim ‘Made with Real Fruit’ by stating the actual percentage of fruit in each product. General Mills has also agreed not to depict images of fruit on labels of products that do not contain those fruit. Both changes are to take effect in 2014. See: http://cspinet.org/new/pdf/fruit_roll-ups_complaint.pdf

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National Organic Program Publishes Guidance Documents


Investigation Report Reveals Widespread Mislabeling of Seafood in New York City

On December 11, Oceana, a non-profit organization, released a report on its fourth investigation on fish fraud titled, Widespread Seafood Fraud Found in New York City. Oceana’s previous reports were based on fish fraud investigations in Boston, Los Angeles, and Miami. The latest report shows that 56 of the 142 samples collected from 81 retail outlets including grocery stores, restaurants, and sushi venues, were mislabeled according to FDA guidelines. The most frequently mislabeled species included cod, red snapper, white tuna and wild salmon. The report states that 13 types of fish were mislabeled as “red snapper”, including tilapia, white bass, goldbanded jobfish, ocean perch and tilefish, which FDA warns consumers against eating due to high mercury content. Oceana found that 94% of fish labeled as white tuna was actually escolar, which is a variety of toxin-carrying mackerel. Oceana also reported that smaller markets were more likely (40%) to sell misbranded products than chain retailers (12%). Oceana further notes that it found mislabeled fish at every sushi venue that it investigated. See: http://oceana.org/en/category/blog-free-tags/seafood-fraud

II. INTERNATIONAL NEWS

A. Europe

EU Will No Longer Test All Cattle for BSE

Beginning in March, the European Commission (EC) will no longer require all member states, except Romania and Bulgaria, to routinely test healthy cattle for Bovine Spongiform Encephalopathy (BSE), also known as mad cow disease. The change comes as a result of the significant improvements of the BSE situation in most member-states. The EC says the change will save the EU an estimated 36 million euros ($47.5 million) a year. The testing regime of at-risk cattle will remain unchanged. The EU will also continue to require removal during slaughter of specified risk materials. See: http://europa.eu/rapid/press-release_MEX-12-1213_en.htm?locale=en