

To: Our Clients and Friends

November 10, 2009

Food, Dietary Supplement and Cosmetic Regulatory and Policy Bulletin



Top News

FDA Issues 2009 FDA Food Code

On November 9, 2009, [FDA announced the publication of its 2009 Food Code](#). The [FDA Food Code](#) is a model code and reference document that provides a scientifically sound technical and legal basis for regulating the retail and food service segment of the food industry and is a key component of the President's overall public-health-focused food safety framework for maintaining a safe food supply. Significant changes include:

- Designation of each provision as either a "Priority Item," "Priority Foundation Item," or a "Core Item," to assist the industry and regulatory community in prioritizing food safety interventions and inspections;
- Cut leafy greens are now included among the foods that require time and temperature control for safety;
- Requirements are added to improve food worker awareness of food allergen concerns in the food service and retail setting;
- Serving hamburgers and other ground meats in an undercooked form upon a consumer's request is no longer an option for items offered on a children's menu; and
- Enhancement and clarification of requirements related to effective cleaning and sanitizing of equipment and surfaces.

FDA and FSIS Collaborate to Improve Tracing of Unsafe Food Products

The [FDA and USDA Food Safety Inspection Service \(FSIS\) have announced a December public meeting focused on improving the system for tracing of food products](#) and ingredients that are causing illness outbreaks or presenting other risks to the health of consumers (see meeting notice in Upcoming Meetings section below). FDA and FSIS share authority for helping to ensure the safety of the nation's food supply. Each agency investigates foodborne illness outbreaks and other foodborne risks associated with the products they regulate. A [Food Production Daily](#) article provides additional information on the meeting and some of the issues the meeting hopes to address.

Biotech Seed Company Opens Research Facility in China

The St. Louis Post-Dispatch reports that leading biotech agricultural company [Monsanto opened a new research facility in China](#). The facility hopes to serve as an independent research center where Monsanto can collaborate with Chinese scientists and provide technical support to the firm's business in China. In a later article, the paper reported that [Monsanto also broke ground for a Texas facility that will study cotton](#) breeding in the high plains.

California Considers Soda Tax to Curb Obesity

At the end of last week, [California legislators heard testimony on whether sweetened beverages should be taxed](#) or otherwise regulated in order to decrease consumption in the hopes of reducing obesity. The director The Rudd Center for Food Policy and Obesity at Yale testified as well as representatives from the soft drink industry.

Industry Reacts to BPA Study

Last week, the findings of [a study by Consumers Union](#) were published and showed that almost all of the 19 name-brand canned products, including foods such as tuna, juice, soups, and vegetables, had measurable levels of Bisphenol A (BPA), which were leaching into the cans at potentially hazardous levels. [Industry groups reacted to the findings](#) by stressing that the FDA has approved the plastic linings of cans that are at issue and that using these linings actually improves food safety and the shelf life of products.

Kellogg to Discontinues Antioxidant Claims on Cereal

Kellogg, whose cereals boast claims such as "Now Help's Support Your Child's Immunity" will discontinue its practice of placing immunity and antioxidant claims on the front of its packaging. [Advertising Age](#) reports that the company insists that the claims are supported by science, but will nevertheless remove the claims from packaging given the public's attention to H1N1.

Boston Globe Editorial Criticizes FDA Power to Regulate Dietary Supplements

A [Boston Globe editorial](#) criticized the FDA, calling the agency "virtually powerless in regulating the \$25 billion dietary supplements industry," in spite of the fact that many products contain illegal steroids that can cause significant harm. A [Food Production Daily](#) article summarized the dietary supplement industry's strong reaction to the editorial.

Congressional Dietary Supplement Supporters Urge FDA to Take Action

Under the Dietary Supplement Health and Education Act of 1994 (DSHEA), FDA has the authority to issue a regulation that would permit a natural substance already permitted in drugs to be used in dietary supplements. Inside Health Policy's [FDA Week](#) (subscription required) reports that FDA has never exercised this authority, and that several members of Congress are now urging FDA Commissioner Margaret Hamburg to take action.

Two Lawsuits Filed in E.Coli Outbreak; FSIS Publishes Retail Distribution List

[Food Production Daily](#) reports that two suits have been filed after the E.coli outbreak in several Northeast states was linked to [beef recalled on October 31, 2009](#). FSIS has published a [retail distribution list](#) (updated as of November 8, 2009) that includes retail locations that FSIS has reason to believe received the recalled meat products described in the news release. Lists may not include all retail locations that have received the recalled product or may include retail locations that did not actually receive the recalled product.

FDA Issues Warning on Sexual Enhancement Dietary Supplement

FDA is warning consumers that Stiff Nights, a product marketed as a dietary supplement for sexual enhancement, contains an ingredient that can dangerously lower blood pressure and is illegal. Over the past several years, the FDA has found and issued multiple alerts about many products marketed as "dietary supplements" for sexual enhancement that are essentially contaminated dietary supplement products.

Codex Committee on Food Hygiene Meets In San Diego Next Week

The 41st session of the Codex Committee on Food Hygiene (CCFH) will be held November 16-20, 2009 in San Diego, Calif. Items to be discussed include a draft annex for fresh leafy vegetables to the code of hygienic practice for fresh fruits and vegetables, draft guidelines for the control of *Campylobacter* and *Salmonella* in chicken meat, as well as a draft code of hygienic practice for control of viruses in food. An agenda and other documents related to the 41st session of the CCFH will be accessible on the Codex Alimentarius Web site at <http://www.codexalimentarius.net/current.asp>.

USDA to Host 2010 Food Safety Education Conference

USDA and NSF International will host the Food Safety Education Conference, *Advancements in Food Safety: Trends, Tools and Technologies*, March 23-26, 2010, at the Hyatt Regency in Atlanta.

USDA FSIS Announces Export Library Revisions for October 2009

USDA's Food Safety Inspection Service (FSIS) issued a notice that provides links to the pages of the Export Library for those countries that have made changes in their export requirements during October.

USDA Announces National Pork Board Appointments

Secretary Tom Vilsack announced five appointments to the 15-member National Pork Board (Board). Established under the Pork Promotion, Research, and Consumer Information Act of 1985, the Board develops budgets and awards contracts to carry out a coordinated program designed to strengthen the position of pork in the marketplace. USDA's Agricultural Marketing Service oversees the operation of the Board.

FDA Updates "Lead in Lipstick" Data

In response to inquiries regarding lead contamination in lipstick, FDA began studying the subject several years ago. FDA recently updated its web page that responds to the inquiries and reports data about the lead content in lipstick.

Recent Recalls

Curly's Food roast beef deli products due to undeclared presence of soy (November 4, 2009).

Bay Valley Foods canned cream of mushroom soup due to possible undeclared egg (November 4, 2009).

Pet Carousel Pet Treats (Pig ears and Beef Hooves) due to possible salmonella contamination (November 5, 2009).

Jelly Belly 49 Flavors Jelly Belly Jelly Beans due to undeclared peanut ingredients (November 4, 2009).

Bodybuilding.com dietary supplements (65 products total) due to presence of steroids (November 3, 2009).

Pelican Bay Caramel Chocolate Truffle Hot Chocolate Mix due to undeclared treenuts (November 3, 2009).

Charleston Cookie Company Almond Cookies due to undeclared butter (milk) (November 3, 2009).

Regulatory Notices

FDA Extends Comment Period for Three Food Safety Draft Guidances

FDA has extended to January 4, 2010 the comment period on its draft guidances to improve the safety of tomatoes, leafy greens, and melons. The Agency is taking this action in response to requests for an extension to allow interested persons additional time to submit comments. The FDA originally published draft guidances designed to help growers and others across the entire supply chain minimize or eliminate microbial contamination tomatoes, leafy greens, and melons on July 31, 2009. The guidances were developed by the produce industry with assistance from FDA.

FDA Issues Final Rule Amending Color Additive Regulations

FDA issued a final rule amending the color additive regulations to provide for the safe use of astaxanthin dimethyldisuccinate as a color additive in the feed of salmonid fish to enhance the color of their flesh. This action is in response to a petition filed by DSM Nutritional Products, Inc. and is effective December 8, 2009, unless provisions are stayed by the filing of proper objections. The rule and additional details are available at <http://edocket.access.gpo.gov/2009/pdf/E9-26524.pdf>.

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Upcoming Meetings

FDA and FSIS Announce Public Meeting on Product Tracing Systems

The FDA and USDA Food Safety and Inspection Service (FSIS) have announced a public meeting on December 9 and 10, 2009 from 9 a.m. to 5 p.m. regarding product tracing systems for food intended for humans and animals, specifically, mechanisms to enhance product tracing systems for food. The notice, including more information about the meeting, how to register, and how to make a request for oral presentation during time allotted for public comment, is available at <http://edocket.access.gpo.gov/2009/pdf/E9-26479.pdf>.

More Information

If you have any questions regarding any of these issues, please contact:

Mark Mansour	Partner	mark.mansour@bryancave.com	1 202 508 6019	Washington
Alan K. Parver	Partner	alan.parver@bryancave.com	1 202 508 6332	Washington

Steven Kent Stranne	Partner	steven.stranne@bryancave.com	1 202 508 6349	Washington
Megan A. Gajewski	Associate	megan.gajewski@bryancave.com	1 202 508 6302	Washington
Patrice M. Hayden	Associate	pmhayden@bryancave.com	1 202 508 6147	Washington
Emily K. Strunk	Associate	emily.strunk@bryancave.com	1 202 508 6360	Washington

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