



A Broader Perspective

Bulletin

To: Our Clients and Friends

March 12, 2010

Food, Dietary Supplement and Cosmetic Regulatory and Policy Bulletin



Top News

Number of HVP-Related Recalls Continues to Grow

In the weeks since FDA confirmed the presence of salmonella in a batch of hydrolyzed vegetable protein (HVP) produced by Basic Food Flavors in Nevada, many food manufacturers have recalled products that contain the ingredient, a common food additive. An FDA report indicates that [Basic Food Flavors continued to sell HVP for about a month after it discovered salmonella at its processing facility](#). [Bloomberg News](#) reports that the total number of products recalled is approaching 150 and that FDA surmises that this could be one of the largest recalls (by number of products) in history. The [recalls have also expanded to Canada](#).

The contamination was identified before any illnesses occurred and FDA has provided [instructions to industry](#) on how to properly deal with contaminated product. FDA also published a [consumer alert](#) and has created a web page consolidating [all relevant information about the contaminated HVP product](#).

USDA products are also involved in the recall. The [USDA Food Safety and Inspection Service \(FSIS\)](#) has [posted information on its web site](#) describing its actions associated with the recall. Additionally, in its [March 12, 2010 Constituent Update](#), USDA warns establishments that they may find that product formulations and labeling of products containing HVP, or a seasoning containing HVP, need to be revised. These revisions are likely to cause existing labels to be out of compliance, and consequently, establishments may need to obtain temporary approval for continued use of these labels. The update also provides temporary guidance for label approval of these products.

Survey Finds Americans Want Government to Help With Healthy Eating Decisions

Market researchers at FoodMinds surveyed more than 1,000 American adults and found [consumers would pay attention to government-endorsed labeling](#). Results also showed that 77 percent of respondents wanted the government to warn them against less healthy foods and 86 percent wanted the government to call attention to nutritional information on the front of the label, such as number of calories and the level of healthy nutrients). Another recent study found that consumers trusted labeling more if a government body is mentioned prominently in the nutrition facts panel.

Dietary Supplement Provisions Will Be Included in Senate Food Safety Bill

Senators John McCain (R-AZ) and Byron Dorgan (D-ND) officially withdrew their support for a bill that critics claimed would "gut" the Dietary Supplement Health and Education Act (DSHEA) after [striking a deal with fellow lawmakers to include dietary supplement safety provisions in the senate food safety bill](#). The agreement is embodied in a letter from Senators McCain and Dorgan to important members of the Senate Health Education Labor and Pensions Committee, which has jurisdiction over food safety and dietary supplements. The senators agreed that the following provisions would be included in the food safety bill: (1) All dietary supplement companies would be required to register with the U.S. Department of Health and Human Services; (2) FDA would have authority to issue a mandatory recall order for dietary supplements that are adulterated, misbranded, or have the potential to create serious health problems; (3) FDA would be required to publish guidelines on new dietary ingredients ASAP; (4) and FDA would be required to notify the Drug Enforcement Administration when a new product contains a synthetic anabolic steroid.

FDA Commissioner Presents FDA's FY 2011 Budget Request

On March 9, 2010, [FDA Commissioner Dr. Margaret Hamburg presented the agency's FY 2011 budget request](#) to the Senate Committee on Appropriations Subcommittee on Agriculture, Rural Development, Food and Drug Administration, and Related Agencies. The next day Dr. Hamburg presented [FDA's request to the same subcommittee on the House side](#). [Food safety was discussed at length](#) and Dr. Hamburg stressed that user fees were essential and would be directed toward inspections freeing up other FDA funds to expand other programs.

CDC Uses Shopper Cards to Trace Source of Salmonella Montevideo Outbreak

In an effort to determine the source of the recent Salmonella Montevideo outbreak, [CDC used information collected from shopper cards used by 41 ill and 41 well persons](#). When the results showed that 58 percent of ill individuals and only 16 percent of well individuals likely ate salami in the days immediately before they became sick. FDA posted its most recent [update on the Salmonella Montevideo outbreak](#) on March 11, 2010.

USDA and Russia Reach Agreement to Reopen Russian Pork Market to United States

In December 2009, Russia notified USDA of its intent to restrict pork shipments from 13 U.S. pork plants, which accounted for more than 90 percent of U.S. pork exports to Russia. Since then, the two countries have been in negotiations and finally reached an [agreement to reopen the Russian market to U.S. pork and pork products](#). The U.S. exported nearly 20 percent of our pork production in 2009. Russia imported \$257 million worth (6 percent) of U.S. pork and pork variety meat exports last year.

Brazil Threatens to Double Tariff on U.S. Personal Care Products

In retaliation for excessive subsidies offered to U.S. farmers, Brazil [plans to double its tariffs on 100 U.S. personal care products to 36 percent](#) unless the two countries can reach an agreement in the next 30 days.

U.S. Dairy Farmers Fear Competition from New Zealand

As U.S. trade representatives prepare for negotiations on a regional agreement that would allow New Zealand to import dairy products into the United States, [U.S. dairy farmers fear that the new competition could hurt their business](#). The U.S. dairy industry has still not fully recovered from two years of severe losses.

USDA Employee, GAO Criticize USDA Enforcement of Humane Slaughter Act

In testimony to lawmakers, Dean Wyatt, who has served as a public health veterinarian for USDA's Food Safety Inspection Service for 18 years, told the House Subcommittee on Domestic Policy that ["FSIS officials who were hundreds of miles away simply took company personnel at their word that the egregious events I had personally witnessed did not justify my actions."](#) A recently released [GAO report highlights weaknesses in USDA's enforcement of the Humane Slaughter Act](#).

Recent Study Bolsters Reasoning Behind Soda Tax

A [study](#) released on March 8, 2010 found that [if soda were 18 percent more expensive, people would consume fewer calories and lose an average of 5 pounds per year](#). New York Governor David Paterson and New York City Mayor Michael Bloomberg reiterated their support a [tax on sugary beverages](#), while a coalition of manufacturers, bottlers, and some state legislators, New Yorkers Against Unfair Taxes, say the tax is “wrong” and will put some New Yorkers jobs at risk. A [New York Times Editorial](#) also encouraged law makers to pass a soda tax.

Utah Senate Passes Low-Interest Loan Program for Dairy and Turkey Industries

In hopes of preventing high feed costs from driving Utah famers into bankruptcy, the [Utah Senate unanimously passed a bill that would provide \\$12 million in low-interest state loans for faltering dairies and turkey farms](#). The bill now goes to the House for a vote.

Georgia House Approves Food Safety Bill With Tougher Penalties

In response to the 2009 salmonella outbreak that was traced back to Georgia-based Peanut Corporation of America, the [Georgia State House of Representatives passed the Sanitary Activity for Food-Processing Enterprises \(SAFE\) Act](#) by an overwhelming majority (142-20). The bill, which would increase penalties for those who knowingly distribute or fail to report tainted food ingredients, now goes to the State Senate.

Study Reports What Consumers Perceive to Be Natural

A team of researchers from Australia and France asked 190 participants from Australia to rank how natural 50 food products appeared to be. Results showed that [consumers here more likely to find a product to be natural](#) if ingredients were processed using physical (rather than chemical) procedures, processed less, and chemicals were identified by name rather than E-number. [Another study found that health claims](#) could also lead consumers to believe that the product is less natural.

United States Ranks Fourth on List of Food Safety Offenders

[A new computer monitoring tool that takes a “network” approach to capture and analyze global food safety data](#) was introduced at a food surveillance conference in Europe last month. The program found that the five biggest food safety offenders, based on the number of recalls, were Iran, China, Turkey, the United States, and Spain (in that order).

Briefly Noted

[New York assemblyman introduces bill to ban salt in New York restaurants.](#)

[Victims of shigella outbreak sue Subway.](#)

[China reiterates its commitment to food safety.](#)

[Food Safety News editorializes on “More or Less Food Safety Regulation?”](#)

[European Court of Justice finds Roundup Ready Soybeans patent does not extend to processed soybean oil in EU.](#)

[Missouri’s Governor says state’s biotech push will reap economical benefits.](#)

[Developing countries will surpass rich nations in planting GM crops within 2 – 3 years.](#)

[Slow tracing of tainted food puts school lunches at risk.](#)

[USDA announces funding to promote rural biofuel and bioenergy production.](#)

[USDA and DOJ hold first-ever workshop on competition issues in agriculture.](#)

[USDA Secretary Vilsack announces appointments to the National Dairy Promotion and Research Board; Lamb Promotion, Research, and Information Board; American Egg Board; Cattlemen’s Beef Promotion and Research Board.](#)

[USDA pledges additional funding for drought-stricken farmers in California.](#)

[USDA to propose expanding poultry loan guidance to include pork operations.](#)

Recent Recalls

The discovery that [Basic Food Flavors hydrolyzed vegetable protein \(HVP\)](#) was contaminated with salmonella continues to prompt food manufacturers to recall their food products that contain HVP. The most recent recalls due to contaminated HVP include:

- [Fernando's Food Corporation enchilada products](#) (March 12, 2010).
- [McCormick & Company expands best by dates of March 5 Spinach Dip items](#) (March 11, 2010).
- [Quaker Snack Mix Baked Cheddar](#) (March 10, 2010).
- [Austinuts of Dallas Honey Mustard Pretzels](#) (March 10, 2010).
- [Healthwise Cream of Mushroom Soup](#) (March 9, 2010).
- [Mrs. Gerry's Kitchen Crab Creole Spread](#) (March 9, 2010).
- [Windsor Foods Ready-To-Eat Beef Taquito And Chicken Quesadilla](#) (March 9, 2010).
- [Olde Westport Spice Garden Harvest Special Blend Seasoning](#) (March 9, 2010).
- [Ruiz Foods Ready-To-Eat Beef](#) (March 9, 2010).
- [Nestlé Professional Ready-To-Eat Bacon Base](#) (March 8, 2010).
- [Herr's Cracked Pepper and Sea Salt Flavored Kettle Style Potato Chips](#) (March 8, 2010)
- [GNS Foods Snack Mixes Containing Honey Mustard/Onion Pretzels from National Pretzel Co.](#) (March 8, 2010).
- [Pringles Restaurant Cravers Cheeseburger and Family Taco Night potato crisps](#) (March 8, 2010).
- [Publix Supermarkets Seasoning Mixes \(4 varieties\)](#) (March 8, 2010).
- [Ventura Foods Dean's Dip Products](#) (March 5, 2010).
- [Orval Kent Dips](#) (March 4, 2010).

[N.Y. Gourmet Salads various chicken products](#) due to lack of federal inspection (March 11, 2010).

[Frontier Natural Products various products with black pepper](#) due to potential salmonella contamination (March 9, 2010).

[Dutch Valley Food Distributors seasoning, pepper, and dip mix](#) due to potential salmonella contamination (March 9, 2010).

[Nature's Valley expands recall of Raw Frozen Diets for dogs and cats](#) due to salmonella contamination (March 8, 2010).

Recently Posted Warning Letters

A warning letter to [Lucky Farm Inc.](#) stated that FDA inspectors documented significant insanitary conditions that cause the food manufactured at its facility to be adulterated because it was prepared, packed, or held under insanitary conditions whereby they may have become contaminated with filth, or may have been rendered injurious to health.

A warning letter to [Christian Huyard](#) stated that his dairy offered for sale animals for slaughter as food that were adulterated because the animals had residues of animal drugs that were in excess of the amounts permitted by FDA, and the animals were held under conditions so inadequate that medicated animals bearing potentially harmful drug residues are likely to enter the food supply, among other reasons.

A warning letter to [Village Cannery of Vermont, Inc.](#) stated that FDA inspectors found serious deviations from the Current Good Manufacturing Practice in Manufacturing, Packing, or Holding Human Food (CGMP) regulation at the company's applesauce manufacturing facility. Additionally, FDA analysis of samples of applesauce processed at the facility (collected during the inspections), revealed the presence of patulin, a toxic substance.

A warning letter to [Cumberland Farms, Inc.](#) stated that FDA inspectors found serious violations of the seafood Hazard Analysis and Critical Control Point (HACCP) regulation at the company's seafood processing facility.

A warning letter to [Scotty's Inc.](#) stated that FDA inspectors found insanitary conditions and other violations related to their process and controls, equipment and utensils, personnel, plant and grounds, sanitary operations, sanitary facilities and controls, and seafood HACCP.

Regulatory Notices

FSIS Updates

FSIS recently published the following revised export requirements and plant lists:

- [Russia \(Pork\) Plant List](#) (Mar 12, 2010)
- [Russia](#) (Mar 11, 2010)

FDA Transparency Task Force Requests Comments

FDA is soliciting comments from interested persons on ways in which FDA can increase transparency between FDA and regulated industry. In addition to the [Federal Register Notice](#), FDA also issued a [press release on the subject](#). Interested parties must submit electronic or written comments by April 12, 2010.

FSIS Extends Comment Period on Nutrition Labeling

On Dec. 18, 2009, FSIS published a [supplemental proposed rule](#) entitled, "Nutrition Labeling of Single-Ingredient Products and Ground or Chopped Meat and Poultry Products" (<http://www.fsis.usda.gov/OPPDE/rdad/FRPubs/2005-0018.pdf>). The comment period on the rule was scheduled to end on Feb. 16, 2010. In response to multiple requests, FSIS extended the comment period for 30 days, to March 18, 2010.

Upcoming Meetings

USDA to Host Web Outreach Seminar on Sanitary Dressing Procedures

FSIS will host a Web outreach seminar on sanitary dressing procedures on **March 23, 2010** from 11:30 a.m. to 1 p.m. ET. Participants will gain insight on FSIS sanitary dressing procedures and how they are critical to reducing *E. coli* O157:H7 to undetectable levels. The discussion will also provide a better understanding of validated HACCP plans and interventions. To learn more, go to http://www.fsis.usda.gov/News_&_Events/Regulatory_Web_Seminars/index.asp.

USDA to Host 2010 Food Safety Education Conference

USDA and [NSF International](#) are hosting the 2010 Food Safety Education Conference, *Advancements in Food Safety: Trends, Tools and Technologies*, **March 23-26, 2010**, at the Hyatt Regency in Atlanta. Food safety educators and other professionals worldwide will have the opportunity to discover the latest advancements in food safety education. To register and get more information, visit <http://www.fsis.usda.gov/Atlanta2010>.

FSIS to Host Public Meeting to Draft U.S. Positions for Codex Committee Meetings

FSIS announced a public meeting to draft U.S. positions and receive comments on agenda items for discussion at the [26th session of the Codex Committee on General Principles \(CCGP\)](#). The public meeting will be held **March 23, 2010** in Washington, DC. A complete agenda and documents relating to the 26th session of CCGP will be available on the Codex Alimentarius Web site at <http://www.codexalimentarius.net/current.asp>. For more information about the public meeting, contact Barbara McNiff at (202) 690-4719 or Barbara.McNiff@fsis.usda.gov. Individuals are invited to submit their comments electronically to uscodex@fsis.usda.gov. The 26th session of CCGP takes place in Paris, France April 12 - 16, 2010. Additional information is available at http://www.fsis.usda.gov/News_&_Events/NR_030110_01/index.asp.

Additionally, on **March 29, 2010**, the [USDA Office of Food Safety](#) and [FDA](#) are sponsoring a public meeting to provide information and receive public comments on agenda items and draft U.S. positions that will be discussed at the [4th Session of the Codex Committee on Contaminants in Food \(CCCF\)](#). Documents related to the 4th Session of the CCCF will be accessible via the World Wide Web at the following address: <http://www.codexalimentarius.net/current.asp>. The 4th Session of the CCCF takes place in Izmir, Turkey on April 26 – 30, 2010.

FDA, FSIS, and CDC to Host Public Workshop Measuring Progress on Food Safety

On **March 30, 2010**, in Washington, DC, FDA, FSIS, and CDC will co-host "Measuring Progress on Food Safety: Current Status and Future Directions," an inter-agency workshop where officials will discuss current and potential measurements for assessing progress in food safety and associated methodological issues as well as potential improvements. For registration information and general questions regarding the workshop, contact Juanita Yates at (301) 436-1731 or juanita.yates@fda.hhs.gov. Due to limited seating, preregistration is encouraged. Attendees may register in advance before March 24 at <http://www.fda.gov/Food/NewsEvents/WorkshopsMeetingsConferences/ucm201102.htm>.

USDA Workshops to Explore Competition and Regulatory Issues

Between March 12 and December 8, 2010, the Department of Justice and USDA will hold [five joint public workshops that will explore competition and regulatory issues in the agriculture industry](#). The workshops target issues of concern to farmers and the poultry, dairy, livestock industries. The final workshop will focus on price margins.

More Information

Archived issues of the Bryan Cave Food, Dietary Supplement, and Cosmetic Regulatory and Policy Bulletin are available at www.bryancave.com on the [FDA Practice Bulletins web page](#).

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