

To: Our Clients and Friends

January 29, 2010

## Food, Dietary Supplement and Cosmetic Regulatory and Policy Bulletin



### *Top News*

#### **Virginia Governor Bob McDonnell Makes Biotechnology A Priority in Job Creation and Economic Development**

Virginia Governor Bob McDonnell emphasized the importance of biotechnology in his first State of the Commonwealth address last week and again this week when he unveiled his jobs and opportunities agenda. The legislative package consists of 20 pieces of legislation, as well as previously announced budget amendments, all focused on spurring job creation and promoting economic development. The initiatives create opportunities for biotech firms by increasing their access to capital, facilities, and creating a biotech research grant program. The [Virginia Biotechnology Association](#) and [Washington Business Journal](#) both reported the story.

#### **Advocates Respond to Obama's USDA Food Safety Pick**

Earlier this week, in the wake of criticism for not having yet named the Under Secretary of Food Safety at USDA, President Obama announced his intent to name Dr. Elisabeth Hagen. Food safety advocates are pleased that the post has been filled and stakeholders generally approve of Dr. Hagen's selection. Nevertheless, some advocates and industry representatives, while eager to work with Dr. Hagen, have also expressed some tentativeness about their unfamiliarity with the nominee. Articles appearing in [Food Safety News](#) and [The Washington Post](#) summarized the reactions

#### **EFSA Requests Comments on Its Evaluation of the Safety and Effectiveness of Substances Used for Removal of Microbial Surface Contamination**

The European Food Safety Authority's (EFSA's) Biological Hazards (BIOHAZ) Panel issued a [press release](#) that it has published and is seeking comment on a [draft guidance](#) that is a revision of the joint guidance document for the submission of applications on the substances to be used for removing microbial contamination from the surface of foods of animal origin. [The deadline for comments is February 20, 2010.](#)

## Study Finds “Deeply Rooted” Flaws in Health Canada’s Food Safety System

A study published in [the Canadian Medical Association Journal](#) found significant flaws in the Canadian food safety system. The study highlights problems in food-borne illness surveillance and food inspection, among other areas.

## GAO Investigating New Dietary Ingredient Status in the Marketing of Herbal Products

Several members of herbal and botanical products associations recently [received letters from the Government Accountability Office \(GAO\)](#) that requested information on the marketing of products such as St. Johns wort, echinacea root, and peppermint oil, with an emphasis on New Dietary Ingredient (NDI) status.

## Canada Considers Fortified Foods

Health Canada has indicated that it is interested in receiving feedback from the food industry regarding [food fortification policy](#) considerations. On February 16, the agency will hold a one-day conference to discuss “the expanded voluntary addition of vitamin and mineral nutrients to foods.”

## Campaign Finance Reform Ruling Could Be Bad News for Food Safety

[Food Safety News](#) reports that the recent U.S. Supreme Court decision to overturn campaign finance restrictions could “hinder food safety reform.” The article provides insights from food safety advocates on how the ruling, which eliminated campaign finance restrictions on corporations and unions, could have a negative impact on food safety reform efforts.

## Washington Post, LA Times Critique Dietary Supplements

An article appearing in [The Washington Post](#) concluded that “dietary supplements may produce health benefits, but proof is lacking.” Ultimately the reporter recommends a diet of whole foods and finds that dietary supplements are only necessary for those with a chronic deficiency. The [LA Times](#) ran a similarly themed story, reporting that “there could be a downside to getting too much of some food supplements.”

## Washington, Wisconsin Move Forward with BPA Bans

Legislative bodies in Washington and Wisconsin both passed bills that, if they become law, would ban Bisphenol A (BPA) from substances for babies and children. The [Wisconsin bill would ban BPA in baby bottles](#) and the [Washington law would eliminate BPA in children’s products](#). Minnesota and Connecticut are the only other states with similar BPA bans in place.

## USDA Allocates \$234.5 Million to Promote U.S. Food and Agricultural Exports

USDA announced that it has allocated [\\$234.5 million to 70 U.S. trade organizations to help promote American food and agricultural products overseas](#). The funding was allocated under the Market Access Program (MAP) and the Foreign Market Development (FMD) Cooperator Program, both administered by USDA’s Foreign Agricultural Service (FAS).

## USDA Secretary Vilsack Announces Members of Pork Producers Delegate Body

Agriculture Secretary Tom Vilsack announced the appointment of 154 pork producers and 6 importers to the 2010 National Pork Producers Delegate Body. All appointees will serve a one-year term. The appointees were selected from nominees submitted by state pork producer association and importer groups. A list of the appointed members representing pork producers by state can be found in the [USDA press release](#).

## BBB’s National Advertising Division Demands Company Alter CoQ10 Claims

The Better Business Bureau’s (BBB’s) National Advertising Division (NAD), an industry regulatory group without legal authority to enforce its advisories, [has told a California firm that it must again alter the claims it makes on its CoQ10 product](#). The company says that it has already complied with most of NAD’s suggestions, but will appeal NAD’s advice on the CoQ10 claims.

## Briefly Noted

[HHS Secretary, Surgeon General Join First Lady to Announce Campaign to Combat Obesity, Support Health Choices.](#)

[USDA will lift its 21-year ban on haggis.](#)

[Food Safety News Reports on the debate surrounding the National Salt Reduction Initiative.](#)

[Consumer Goods Forum's Global Packaging Project agrees on sustainable packaging definitions and principals.](#)

[Survey finds that most Europeans do not look for nutrition labels while shopping; those who do focus on fat, calories.](#)

## Recent Recalls

[Well Luck Co. Instant Noodle Products](#) due to failure to meet USDA product inspection or exemption requirements for poultry, beef, and pork. The foreign inspection system of the country where the beef, poultry, and pork ingredients originated, China, has not been deemed to be equivalent as required by federal regulations (January 27, 2010).

## Recent Warning Letters

FDA issued warning letters to [SweetSommer Water Bottling Company](#) and [Girard Springs Water Co.](#) stating that FDA investigators documented serious violations of the Processing and Bottling of Bottled Drinking Water regulations at the companies' facilities.

FDA issued warning letters to [P. T. Panca Mitra MultiPerdana](#) and [K & S Wholesale Meat, Inc.](#) stating that the companies had serious violations of the seafood Hazard Analysis and Critical Control Point (HACCP) regulation.

FDA issued a warning letter to [Cerebral Health Inc.](#) (a company that sells dietary supplements) stating that its web site promoted products for conditions that cause the products to be drugs in violation of the Federal Food, Drug, and Cosmetic Act.

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## Regulatory Notices

### FSIS Updates

FSIS issued [Notice 08-10](#), *Nationwide Raw Chicken Parts Microbiological Baseline Data Collection Program*.

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## Upcoming Meetings

### Meeting of the Science Board to FDA

On February 22, 2010, the Science Board will hear about and discuss an interim report from its subcommittee reviewing research at the Center for Food Safety and Applied Nutrition (CFSAN). The Science Board will also hear about and discuss plans to establish another subcommittee to review research programs at the Center for Drug Evaluation and Research (CDER). The Science Board will then hear and discuss updates on science programs at the Office of Regulatory Affairs (ORA) and the National Center for Toxicological Research (NCTR). The meeting will be held in Bethesda, MD. The notice was published in the [January 27 Federal Register](#) and additional information is available in the [Meeting Announcement is posted on the FDA web site](#).

## U.K. Food Standards Agency to hold 10<sup>th</sup> Anniversary Conference

The U.K. Food Standards Agency (FSA) recently published its [strategy for 2010 - 2015](#). On February 24, 2010, FSA presents [FSA10: Ensuring safe food and healthy eating for all](#) in London. FSA invites consumers and stakeholders from the U.K. to participate and help shape the agency's work in the context of its strategic plan for the next five years. The conference will also be broadcast live from the FSA web site. Additional information is available at <http://www.glasgows.co.uk/fsa10/>.

## 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](http://www.bryancave.com) on the [FDA Practice Bulletins web page](#).

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

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