

To: Our Clients and Friends

March 17, 2010

Food, Dietary Supplement and Cosmetic Regulatory and Policy Bulletin



Top News

Basic Foods Denies it Continued to Ship Product After Company Knew of Salmonella Contamination

Last week, as recalls of products containing salmonella-contaminated hydrolyzed vegetable protein (HVP, a common food additive) continued, reports indicated that [FDA believed HVP manufacturer Basic Food Flavors continued shipping its product for a month after it knew the product was contaminated](#). However, in its first statement to the press since the HVP recall began, [the company said that "Basic Foods has not knowingly shipped into commerce any product the Company believed had the potential to contain Salmonella."](#) Although the contamination was identified before any illnesses occurred, a [Food Production Daily editorial](#) likens the continued shipping of contaminated HVP to last year's contaminated pistachios and peanuts, arguing that FDA's lack of mandatory recall authority is troublesome.

FDA Trying to Make Spices Safer

In light of the recent recalls attributed to contaminated pepper that caused salami-maker Daniele to recall more than a million tons of product, [FDA met with the spice industry last week to discuss means of making spices safer](#). FDA Associate Commissioner for Food Safety Jeff Farrar noted that potential increased safety methods could include irradiation, steam heating, or fumigation with ethylene oxide (a pesticide).

UK's Food Standards Agency Agrees to Compile Nanotechnology Database

In response to a report issued by the House of Lords Science and Technology Committee, the Food Standards Agency (FSA) [board agreed to compile a confidential database of nanotechnology research by the food industry](#). The Committee report recommends that industry participation in the database be mandatory and hopes that the resulting data will inform risk assessment of and research priorities for nanotechnology. As part of the accepted recommendations, FSA will also create and maintain a list of publicly available products and packaging that contain nanomaterials approved by the European Food Safety Authority (EFSA).

Whole Foods Pulls Raw Milk to Review State Regulations

Last week Whole Foods removed milk products that had now been pasteurized, also known as raw milk, from its shelves in California, Washington state, Pennsylvania, and Connecticut. All four states permit the sale of raw milk, but because individual state regulations on the sale of raw milk products varies, Whole Foods, in what appears to be pressure from its insurance company, is developing a nationwide [food safety plan for raw dairy sold at all of its stores](#).

FDA Seeks Permanent Injunction Against Louisiana Sprout Grower

In an action initiated by FDA, the Department of Justice is seeking a permanent injunction against A Chau Sprouting Co. The complaint, filed on March 16, 2010, in the U.S. District Court for the Eastern District of Louisiana, charges the defendants with violating the Federal Food, Drug, and Cosmetic Act by preparing, packing, and holding sprouts under insanitary conditions, where they may have become contaminated with filth. FDA has repeatedly warned the company over several years that corrective actions need to be taken in this facility. No illnesses have been reported to date.

FSIS Issues Public Health Alert for Ready-To-Eat Deli Meat Products

USDA's Food Safety and Inspection Service (FSIS) is issuing a [public health alert due to illnesses possibly associated with ready-to-eat \(RTE\) deli meat products](#) that may be contaminated with *Listeria monocytogenes*. FSIS was informed by the Canadian Food Inspection Agency (CFIA) that products subject to recall in Canada may have been exported to the United States. At this time, no confirmed linkage has been made between the products subject to recall and the reported illnesses. FSIS is continuing its investigation and may proceed with a recall action as more information becomes available.

First Lady Calls on Food Companies to Rethink Products, Marketing

On Tuesday, March 16, 2010, in a speech to the Grocery Manufacturers Association, First Lady Michelle Obama [called upon large food corporations](#) to "entirely rethink the products [they are] offering, the information that [they] provide about these products and how [they] market those products to our children," noting that the food industry has a special role to play in the fight against obesity.

Childhood Obesity Task Force Asks Public for Ideas on Solving the Obesity Challenge

The U.S. Departments of Agriculture, Education and Health and Human Services are [asking the public for ideas to help the Task Force on Childhood Obesity come up with recommendations for public and private sector actions](#) to solve the problem of childhood obesity. The work of the Task Force will complement the efforts of First Lady Michelle Obama as she leads a national public awareness effort to tackle this critical public health issue.

Senator Lincoln Introduces Healthy, Hunger-Free Kids Act

Senator Blanche Lincoln (D-AR), Chairman of the U.S. Senate Committee on Agriculture, Nutrition, and Forestry, [unveiled the Healthy, Hunger-Free Act of 2010](#) on March 17, 2010. The bill would provide \$4.5 billion in new child nutrition program funding over ten years, a significant increase over previous efforts.

Rep. Maurice Hinchey Introduces FDA Improvement Act of 2010

Representative Maurice Hinchey (D-NY) last week introduced the FDA Improvement Act of 2010 (FDAIA). According to a [press release from Rep. Hinchey's office](#), FDAIA is a sweeping reform bill that would end the financial link and inappropriately close relationship between the pharmaceutical industry and the FDA, vastly improve the agency's post-market drug safety operations, impose fees on drug company advertising to better monitor such ads, and eliminate conflicts-of-interest on FDA advisory committees. The bill currently has no cosponsors and is not likely to pass.

Federal Judge Rules that Modified Beet Planting Can Continue for 2010

Judge Jeffrey White of the U.S. District Court for the Northern District of California [denied a temporary injunction on planting genetically modified beets](#), however, indicated that he will still consider a permanent injunction for future growing

seasons. Judge white will hear arguments in July on whether GM beets should be permanently banned, pending the results of a court-ordered environmental review conducted by USDA.

Americans Are Eating Less Beef and Milk, More Cheese and Chicken

The [Chicago Times](#) analyzed data from the USDA's recently launched [Your Food Environment Atlas](#) to provide conclusions about how Americans eat. The article highlights the Chicago area and Illinois, but also notes national trends.

Briefly Noted

[Libertarian farmers lobby against Senate food safety bill.](#)

[FDA Issues March 17 Update on the Investigation Into the Salmonella Montevideo Outbreak.](#)

[USDA Secretary Vilsack to promote U.S. agricultural in Japan.](#)

[Cold storage facilities are now eligible for USDA facility loan program.](#)

[USDA Awards \\$1.6 million to Iowa to help develop biofuels as an energy alternative.](#)

[FoodNYC: A Blue Print for a Sustainable Food System, Manhattan Borough President Scott Stringer's 8 Point Plan.](#)

[Imported Indian spices found to contain trace levels of lead that could be troublesome.](#)

[Reuters reports on the soda tax debate.](#)

[Nielsen research advises that changing U.S. demographics may create new marketing opportunities.](#)

[Researchers Report that A Gene Splice Helps Crop Fight Disease.](#)

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:

- [Barcel Tostachos](#) (March 16, 2010).
- [Produce Valley Toasted Onion Dip Mix](#) (March 15, 2010).

[Lian How White Sesame Seeds](#) due to potential salmonella contamination (March 15, 2010).

[CaiE Foods Ltd Asian-style meat and poultry products](#) due to lack of federal inspection (March 17, 2010).

[Tastefully Simple Toasted Garlic&Parmesan Cheese Ball Mix](#) due to potential salmonella contamination (March 12, 2010).

[Julia's Spices Hulled Sesame Seeds](#) due to potential salmonella contamination (March 12, 2010).

[Emmi-Roth Käse Spreadables Crab Creole and Shrimp Scampi Cheese Spreads](#) due to potential salmonella contamination (March 12, 2010).

[GNF Foods Gluten-Free Naturals Pancake Mix, Light & Moist Yellow Cake Mix, and Cookie Blend Flour](#) due to potential salmonella contamination (March 11, 2010).

Recently Posted Warning Letters

Warning letters to [Venus Foods Inc.](#) and [Frisch's Commissary](#) 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.

Regulatory Notices

FSIS Updates

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

- [Egypt](#) (Mar 17, 2010)
- [Chile](#) (Mar 17, 2010)
- [Cuba](#) (Mar 16, 2010)
- [Australia Plant List](#) (Mar 15, 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.

FDA Requests Comments on Prior Notice of Imported Food Information Collection

FDA published a [Federal Register Notice](#) to solicit comments on the information collection provisions of FDA's regulations requiring that the agency receive prior notice before food is imported or offered for import into the United States. Interested parties must submit electronic or written comments by May 17, 2010.

FDA Requests Comments on Reportable Food Registry Information Collection

FDA published a [Federal Register Notice](#) to solicit comments on the information collection provisions of the agency's regulations that require registration for domestic and foreign facilities that manufacture, process, pack, or hold food for human or animal consumption in the United States. Interested parties must submit electronic or written comments by May 17, 2010.

FDA Requests Comments on Cosmetics Labeling Information Collection

FDA published a [Federal Register Notice](#) to solicit comments on information collection provisions in FDA's cosmetic labeling regulations. Interested parties must submit electronic or written comments by May 17, 2010.

Upcoming Meetings

House Appropriations Committee Hearing on Food and Nutrition Service Budget

On **March 18, 2010** at 1 p.m., the House Appropriations Subcommittee on Agriculture, Rural Development, FDA, and Related Agencies will hold a hearing on "FY2011 Budget for Food and Nutrition Service." Agriculture Undersecretary for Food, Nutrition and Consumer Services Kevin Concannon is scheduled to testify. The hearing will be in room 2362-A of Rayburn House Office Building.

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](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](#).

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

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