



THE ASSOCIATION FOR
**DRESSINGS
& SAUCES**

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July 7, 2003

Dockets Management Branch (HFA-305)
Food and Drug Administration
5630 Fishers Lane, Room 1061
Rockville, MD 20852
E-mail: www.fda.gov/dockets/ecomments

RE: Administrative Detention of Food for Human or Animal
Consumption Under the Public Health Security and Bioterrorism
Preparedness and Response Act **Docket No. 02N - 0275**

The Association for Dressings and Sauces (ADS) appreciates the opportunity to provide input regarding the Food and Drug Administration's (FDA) proposed regulation: Administrative Detention of Food for Human or Animal Consumption Under the Public Health Security and Bioterrorism Preparedness and Response Act of 2002 (the "Bioterrorism Act"), which was published in the May 9, 2003, *Federal Register* (68 *Federal Register* 25241). ADS is an international association of manufacturers of dressings for salads, mayonnaise, mustard and specialty sauces and their suppliers. A list of our members is enclosed.

ADS supports FDA's efforts to ensure the security of the food supply. However, we believe that the proposed regulations to implement the administrative detention provision of the Bioterrorism Act have the potential to cause harm to a business if the information gathered by the FDA is not credible or is incomplete. We, therefore, urge the FDA to establish high standards for what constitutes "credible evidence or information." Also, every effort should be made to ensure that information regarding detainment of a product is accurate, publicized only when necessary in an effort to protect public health. Such publicity should be transmitted in a clear, unemotional and factual manner without unduly or inaccurately raising public concern. The Agency also should be aware that if the public is told a product has been detained but is then subsequently found to be non-violative, the reputation of the company will likely be damaged due to the public perception that the product was somehow unsafe because it had been detained. Information that detained product has been released seldom reaches the public.

Proposed section 1.378 states that government employees commissioned or deputized by FDA may order a detention. ADS believes that only employees of the FDA should be allowed to order and administer a detention, which would aid in the credibility of the process.

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Proposed section 1.391 requires an authorized FDA representative to approve the detention order. The authorized representative is defined as an FDA District Director or in whose district the detained article of food is located or an FDA official senior to such director. ADS strongly supports the FDA District Director or senior official's approval of the detention order and is opposed to granting authority beyond those not included in the definition of "authorized representative." We also believe this will aid in the credibility of the process.

According to proposed section 1.391, the approval for the detention order may be obtained from an authorized FDA representative, either in writing or orally, followed by written confirmation. ADS believes the owner of the article of food should have access to the written approval granted by the authorized FDA representative, in addition to the detention order in order to ensure such owner has all of the necessary information to address any potential concerns. This written confirmation should also include what information upon which the administrative detention was based; what actions will be taken with the product; and the expected time period for which the product will be held.

Proposed section 1.392(a) "requires FDA to issue the detention order to the owner, operator, or agent in charge of the place where the article of food is located. If the owner of the article of food is different from the owner, operator, or agent in charge of the location of the food, FDA must provide a copy of the detention order to the owner of the article of food if the owner's identity can be determined readily." ADS believes that it is imperative that the FDA provide a copy of the detention order to the owner of the article of food. The owner must be made aware of the detention in order to be aware of the stated reason for the detention, determine a corrective course of action or to determine if an appeal will be filed. With the proposed recordkeeping and facility registration regulations, identifying the owner of the article of food should not be a difficult task. These comments also apply to proposed section 1.392(b) regarding detention of food located in a vehicle or other carrier.

Proposed section 1.406 indicates that in those instances where credible evidence or information supporting a detention order consists of "classified information," the FDA will not release the classified information. It is stated that the presiding officer would provide notice of the "general nature" of the information. ADS believes that the owner/claimant of the article of food should have access to all information or credible evidence that caused the FDA representative to conclude the article being detained posed a threat to human or animal health. ADS is concerned that "general nature" information will be insufficient for the owner/claimant to respond, and therefore, resolve the issue.

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We appreciate your consideration of these comments.

Sincerely,



Pamela A. Chumley

Pamela A. Chumley
Executive Director

Enclosures



The Association for Dressings & Sauces **Manufacturer Member List**



Advanced Food Products
Annie's Naturals
Bear Creek Country Kitchens
Bruce Foods Corporation
Cains Foods, Inc.
Carriage House Companies, Inc.
Chelton House Products, Inc.
Clements Foods Company
The Clorox Company
Creative Foods, LLC
Fish House Foods, Inc.
Food Specialties Company, Inc.
Furst-McNess Company
G&L Food Products, LLC
Gold Pure Food Products Company, Inc.
Golden State Foods
Green Garden Food Products, Inc.
Griffin Foods Company
Hartville Kitchen Foods, Inc.
Intercorp Excelle Foods, Inc.
Ken's Foods, Inc.
Kimlan Foods Company, Inc.
Kraft Foods, Inc.
The Kroger Co.
Leo's Italian, Inc.
Lighthouse, Inc.
Louisiana Fish Fry Products
M.A. Gedney Company
McCormick & Co., Inc.
Mega Alimentos, S.A. de C.V.
Morehouse Foods, Inc.
Morningstar Foods Company
Mrs. Clark's Foods, Inc.
North Coast Processing, Inc.
Olds Products Company
Ott Food Products Company
Pacific Harvest Products, Inc.
Piknik Products Company, Inc.
Plochman, Inc.
Q & B Foods, Inc.
Reily Foods Company
Richelieu Foods, Inc.
Safeway, Inc.
Sara Lee Dressings & Sauces
The C.F. Sauer Company
Seaforth Creamery, Inc.
Seminole Foods
Silver Spring Gardens, Inc.
T. Marzetti Company
TEC Foods, Inc.
Thor-Shackel Horseradish Company
Tulkoff Food Products, Inc.
Unifine Richardson B.V.
Unilever Bestfoods NA
Wing's Food Products
Van Law Food Products, Inc.
Ventura Foods, LLC
The Wizard's Cauldron, LTD.



The Association for Dressings & Sauces

Supplier Member List



A & B Process Systems
Access Marketing
Accurate Ingredients, Inc.
Admix, Inc.
AG Processing, Inc.
Ajinomoto USA, Inc.
Alcoa Closure Systems International
Anchor Glass Container Corporation
Archer Daniels Midland Company
Arla Foods Ingredients, Inc.
AVEBE America, Inc.
Baltimore Spice, Inc.
Bender-Goodman Company, Inc.
Blanver USA
Brown Produce Company
Bunge Foods
Butter Buds Food Ingredients
CP Kelco
Cargill Foods
Chemicolloid Laboratories, Inc.
Chianti Cheese Company
Chr. Hansen, Inc.
Citrus and Allied Essences Ltd.
Commercial Creamery Company
ConAgra Foods
Constar International, Inc.
Continental Custom Ingredients, Inc.
Corn Products International
Cryovac Sealed Air Corporation
Curwood, Inc.
Cutler Egg Products, Inc.
DairyChem Laboratories, Inc.
Danisco USA, Inc.
Degussa Texturant Systems
Demeter (1993), Inc.
Eatem Foods Company
Edlong Flavors
Elite Spice, Inc.
Enercon Industries Corporation
Exactapack, LLC
FMC Biopolymers
Fabri-Kal Corporation
Fleischmann's Vinegar Co., Inc.
Fort Dearborn Company
Frencharoma Imports Company, Inc.
French's Ingredients
Ful-Flav-R Food Products Co., Inc.
G.C. Hahn & Company
G.S. Dunn & Company, Ltd.
Gilroy Foods
GRAFCO PET Packaging Technologies
Grain Processing Corporation
Grande Custom Ingredients Group
Gum Technology Corporation
Haliburton International Corporation
Harvest States Oilseed Refining
Hassia USA, Inc.
Ingredetec, Inc.
Inovatech Egg Products
International Flavors & Fragrances, Inc.
ISP Food Ingredients
Johnson Diversey
Jungbunzlauer, Inc.
Kalsec, Inc.
Kerr Group, Inc.
Kerry Seasonings
Leone Industries
LifeWise Ingredients, Inc.
Liquid Container/Plaxicon
MasterTaste
Michael Foods, Inc./Papetti's
Mission Flavors & Fragrances, Inc.
Montana Specialty Mills, LLC
Morton Salt
Mr. Chips, Inc.
Nakano Foods
National Starch & Chemical Company
NewBio, Inc.
Opta® Food Ingredients
PTX Food Corp.
Pechiney Plastic Packaging, Inc.
Phoenix Closures, Inc.
Pompeian, Inc.
Portola Packaging, Inc.
Presco Food Seasonings, Inc.
Pretium Packaging
Progressive Plastics, Inc.
Provesta Flavor Ingredients
Purac America
Quest International
Red Arrow Products Co., LLC
Rhodia, Inc.
Ring Container Technologies
Ripon Pickle Company, Inc.
Rodem, Inc.
ROPAK Corporation
Roquefort Association, Inc.
Sakai Spice (Canada) Corporation
Saputo Cheese USA, Inc.
Sartori Food Corporation
Schreiber Foods, Inc.
Schroeder North America Corporation
Scott Turbon® Mixer, Inc.
Sensus America, LLC
Sidel Filling Systems/HEMA Technology
Silliker Laboratories Group, Inc.
Smyth Companies, Inc.
Sokol and Company
Sonstegard Foods Company
Sparboe Foods
Staley/Tate & Lyle
SupHerb Farms
T. Hasegawa Flavors
TIC Gums, Inc.
Todhunter Foods
TricorBraun
Triumbari Containers, Ltd.
Valley Sun Products of California
Van Drunen Farms
Vegetable Juices, Inc.
Weatherchem Corporation
Winpak, Inc.
Wisconsin Spice, Inc.
Wiskerchen Cheese, Inc.