



THE VOICE OF FOOD RETAIL

Feeding Families  Enriching Lives

December 1, 2014

Division of Dockets
Management (HFA-305),
Food and Drug Administration
5630 Fishers Lane, Rm. 1061
Rockville, MD 20852.

RE: Environmental Protection Agency and Food and Drug Administration Advice About Eating Fish: Availability of Draft Update

Docket ID: FDA-2014-N-0595

Dear Sir or Madam,

In March 2004, the Food and Drug Administration (FDA) and the U.S. Environmental Protection Agency (EPA) (the Agencies) jointly released a document entitled “What You Need to Know About Mercury in Fish and Shellfish”. On June 11, 2014, the EPA and FDA published “Advice About Eating Fish: Availability of Draft Update,” that contains both advice and supplemental questions and answers for those who want to understand the advice in greater detail. FMI appreciates the opportunity to comment on the draft update.¹

The Food Marketing Institute (FMI) proudly advocates on behalf of the food retail industry. FMI’s U.S. members operate nearly 40,000 retail food stores and 25,000 pharmacies, representing a combined annual sales volume of almost \$770 billion. Through programs in public affairs, food safety, research, education and industry relations, FMI offers resources and provides valuable benefits to more than 1,225 food retail and wholesale member companies in the United States and around the world. FMI membership covers the spectrum of diverse venues where food is sold, including single owner grocery stores, large multi-store supermarket chains and mixed retail stores. For more information, visit www.fmi.org and for information regarding the FMI foundation, visit www.fmifoundation.org

As the voice of the food retail, FMI is committed to ensuring that the industry’s interests are considered when new rules and regulations are being promulgated. Health and nutrition is of the utmost importance to retailers, and for years, FMI and its members have recognized the need to help consumers navigate the abundance of health, wellness and nutritional offerings within today’s supermarket. The supermarket industry is committed to providing consumers with nutrition information and has been held up as a model for other segments of the food industry to follow. FMI and our food retail partners are continuously looking for new ways to

¹ Fed. Reg. Vol. 79. 13584 (June 11, 2014).

provide consumers with important information based on sound, scientific studies. Significant research has shown that seafood is a vital part of a healthy diet – a message that should be made clear in the updated guidance.

FMI agrees that the guidance should include minimum seafood consumption advice opposed to a weekly maximum.

The Agencies' draft advice reflects a monumental shift in encouraging pregnant and nursing women to consume a *minimum* of 2-3 seafood meals each week (versus 2004 advice which included a weekly *maximum* of seafood). Like ours, your role is to provide easy-to-understand information about food and nutrition and the irrefutable benefits of foods such as seafood. This information should be accurate, straightforward and encouraging to consumers. Earlier seafood advice has been shown to deter pregnant women from eating seafood, raising concerns about the unintentional negative health consequences for babies and their mothers. FMI believes that there is an overall misperception that by placing a "maximum" consumption limit on certain types of seafood, the conclusion is that "none" is better when, in fact, there are essential benefits for pregnant and breastfeeding women. In our experience, when only provided with a message of "limit consumption to X amount" consumers tend to under-consume fish in order to avoid any risk of mercury.

FMI believes that a simplified chart highlighting the different seafood recommendations would help consumers see at-a-glance which species to avoid, and which ones they could safely consume to reach the minimum while staying below the maximum recommended levels. We believe an easy-to-read chart would improve clarity and utility of the advice and would be useful for supermarkets to present to consumers in an understandable and influential way.

FMI believes that the updated guidance should be based on the most recent science.

FMI appreciates the Agencies' decision to update the 2004 advice to be consistent with current science and the most recent U.S. Dietary Guidelines for Americans (DGAs). In the *Dietary Guidelines for Americans 2010*, HHS and USDA recommend that "women who are pregnant or breastfeeding consume at least 8 and up to 12 ounces per week of a variety of seafood per week, from choices lower in methyl mercury" taking into account evidence relating to fish consumption to improved infant health and developmental outcomes.² FMI agrees it is important that advice on seafood consumption be harmonized across Federal Agencies. Inconsistent advice can cause confusion and undermine the public health objectives that the advice is intended to accomplish.

² A review of the evidence taken into account in the development of the fish consumption recommendation in the *Dietary Guidelines for Americans 2010* can be found on pages 239-241 in the "Report of the Dietary Guidelines Advisory Committee on the Dietary Guidelines for Americans," 2010, at <http://www.cnpp.usda.gov/DGAs2010-DGACReport.htm>

FMI agrees that seafood consumption provides important health benefits for the general public, and as such, the updated guidance should be clear and concise to ensure the general public, not just the target audience, is able to understand the information.

Consistent with the *Dietary Guidelines for Americans 2010*, the draft updated advice would recommend that pregnant women, women who might become pregnant, and breastfeeding mothers eat at least 8 and up to 12 ounces per week of a variety of fish lower in mercury within their calorie needs. The top ten species of fish and shellfish account for over 90 percent of the seafood eaten, and all ten species are considered low in mercury and are safe, healthy foods during pregnancy.

We believe that clear and concise language is needed from the Agencies to encourage pregnant women to increase seafood intake while understanding the few varieties that should be avoided. It is imperative that the final FDA advice be clear and encouraging so that pregnant women—and their caregivers—feel confident that seafood is an important part of a well-balanced diet.

We ask you to take these comments into consideration and revise existing draft guidelines to focus on the benefits of seafood, and encourage all consumers, including pregnant and nursing women, to make seafood a more meaningful part of their diet.

If you have questions about these comments or would like additional information, please feel free to contact Stephanie Barnes at sbarnes@fmi.org or 202-220-0614.

Sincerely,

A handwritten signature in cursive script that reads "Stephanie Barnes". The ink is dark and the signature is fluid and legible.

Stephanie K. Barnes

Regulatory Counsel