



LEGISLATION, REGULATIONS & STANDARDS

EFSA Launches Glyphosate Consultation

The European Food Safety Authority (EFSA) and the European Chemicals Agency (ECHA) have begun consultations seeking scientific evaluations of glyphosate. “The classification of chemicals is based solely on the hazardous properties of a substance and does not take into account the use or likelihood of exposure to the substance,” the [announcement](#) notes. “Exposure is considered as part of the risk assessment of pesticide active substances, a process led by EFSA.” Glyphosate is currently approved for use the European Union until December 2022, and EFSA and ECHA anticipate finalizing their conclusions “in the second half of 2022.” [Comments](#) will be accepted until November 22, 2021.

USDA Announces Codex Meeting on Nutrition and Foods for Special Dietary Uses

The U.S. Department of Agriculture (USDA) has [announced](#) a public meeting to receive comments on the U.S. positions for the Codex Alimentarius Committee meeting on Nutrition and Foods for Special Dietary Uses. The public meeting, which will be held October 19, 2021, will include discussions on a draft guide for ready-to-use therapeutic foods and the establishment of nutrient reference values-requirements for those aged 6-36 months.

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For additional information about Shook’s capabilities, please contact



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LITIGATION

Consumer Alleges “Veggie” Products Lack Vegetables

A plaintiff has filed a putative class action alleging that Kellogg Sales Co. misleads consumers as to the quantity of vegetables in its MorningStar “Veggie” products, including “Veggie Burgers,” “Veggie Dogs,” “Veggitizers” and “Veggie Chik’n.” *Kennard v. Kellogg Sales Co.*, No. 21-7211 (N.D. Cal., filed September 17, 2021). Kellogg represents its products as “Veggie,” the complaint asserts, “but this representation is false or at least highly misleading because the predominant non-water ingredient in all of the Veggie Products is not vegetables—or even vegetable-based—but instead, grain or oil.”

The consumer also argues that the “Veggie” products violate California law “by using product names that include the term ‘VEGGIE’ while failing to disclose the percentage of vegetables in the products, which have a material bearing on the price and consumer acceptance of the Veggie Products.” The plaintiff alleges violations of California consumer-protection statutes as well as breach of warranties and seeks class certification, a corrective advertising campaign, destruction of misleading labels and materials, restitution, damages and attorney’s fees.

Court Dismisses Vanilla Claims Against Aldi

A New York federal court has dismissed allegations that Aldi Inc. misled consumers about the contents of its vanilla almond milk product. *Parham v. Aldi Inc.*, No. 19-8975 (S.D.N.Y., entered September 21, 2021). The complaint asserted that the almond milk contained a “comparatively high level of vanillin” and “a trace or *de minimus*’ amount of vanilla,” allegedly misleading consumers as to the primary flavoring agent of the product.

A magistrate judge provided the court with a recommendation, noting that a “reasonable consumer would understand that the word ‘vanilla’ on the front of the carton describes how the Product tastes, not what it contains, especially in circumstances where the ingredients listed on the Product container do not mention vanilla at all.” Further, the magistrate stated, “Five other courts in this district have recently addressed nearly identical arguments regarding other vanilla-flavored products. All five courts rejected claims that the labeling of vanilla-flavored products was misleading because the vanilla flavor did not come predominantly



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ABOUT SHOOK

Shook, Hardy & Bacon is widely recognized as a premier litigation firm in the United States and abroad. For more than a century, the firm has defended clients in some of the most substantial national and international product liability and mass tort litigations.

Shook attorneys are experienced at assisting food industry clients develop early assessment procedures that allow for quick evaluation of potential liability and the most appropriate response in the event of suspected product contamination or an alleged food-borne safety outbreak. The firm also counsels food producers on labeling audits and other compliance issues, ranging from recalls to facility

or exclusively from natural vanilla.” The court, finding “no clear error in Judge Aaron’s recommendation,” agreed that the claims should be dismissed.

inspections, subject to FDA, USDA and FTC regulation.



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