

About the Authors



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Avoiding Food Fraud

Do food manufacturers really know what goes into their products? That sounds like a simple question. However, recent news stories about horse meat found in beef products from reputable companies such as Burger King, Nestle and Ikea raise questions not just about whether consumers know what is in a product, but whether manufacturers themselves are aware that they contain adulterated ingredients.

In the cases of the contaminated meat, it was not the manufacturers who were substituting horse meat in their products, but rather the suppliers who provided them with tainted ingredients. While manufacturers look for the most affordable way to produce a quality product, suppliers are sometimes providing them with adulterated products for the purpose of achieving their own financial gain. This is called food fraud.

Food fraud encompasses several types of economically motivated adulteration of food products, such as:

- Making unapproved enhancements
- Dilution
- Substitution of ingredients
- Mislabeling
- Non-disclosure of additives such as sulfites to hide deterioration
- Concealment of known damage or infection

This has become a hot issue both in the United States and abroad, and is not just limited to the recent horse meat scandal. For example, a Chinese milk scandal in 2008 found infant formula and other milk products were contaminated with melamine, which causes milk to appear to have higher protein content. The scandal led to 13 infant deaths from malnutrition. In Florida, a recent series of class actions against grocery chains alleges mislabeling of ultra-filtered honey which contains no pollen — and therefore no fingerprint to trace the product to a legitimate source. Acquiring adulterated or mislabeled food products can pose serious risks for companies in the food distribution

industry, including regulatory sanctions, product liability claims, consumer fraud actions and possible criminal liability.

Consumer advocacy groups and the FDA have responded in various ways to protect and educate consumers and the food industry about the potential for food fraud. Recently, the FDA finalized a regulation providing greater authority for the agency to prevent certain food products from entering the market. Under this rule, the FDA “can order an administrative detention if there is reason to believe that an article of food is adulterated or misbranded¹.” Previously, the agency needed evidence of contamination and mislabeling and also had to show that the adulteration posed grave health hazards. The new rule gives the FDA greater power to proactively prevent food fraud rather than only being able to react to food safety problems after they occur.

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In addition to the FDA’s new regulations, the U.S. Pharmacopeial Convention has established a Food Fraud Database as a repository for compiling ingredient fraud reports. “Beyond listing food fraud adulterants, the database provides a baseline understanding of the susceptibility or vulnerability of individual ingredients to fraud. In addition, it can be useful for those managing the risk of food fraud by providing a library of detection methods reported in peer-reviewed scientific journals².”

The University of Minnesota’s National Center for Food Protection and Defense is also launching two new databases that government organizations will use to prevent economically motivated adulteration, another term for food fraud. The first database will catalog all known instances of food fraud, while the second will identify ingredients which are most susceptible to adulteration. Both databases are being reviewed by the FDA, the USDA and the Department of Homeland Security. These databases will not be available to the general public, but will be a useful tool available only to the food industry.

While the government and advocacy groups are doing their part to help address the problem of food fraud, they alone cannot protect food companies or the public from every risk. Food manufacturers should proactively address the growing issue of food fraud by taking the following steps:

1. Companies must monitor the available food fraud databases. While these resources contain helpful information, they are merely passive tools. Manufacturers must actively avail themselves of the information in order for them to be effective.
2. Companies must be vigilant in confirming the source of the goods they are getting. For instance, don’t buy olive oil from a company located somewhere where there are no olive trees. That could be a signal of an adulterated product.

3. Companies should thoroughly investigate the history and reputation of their supply companies. That's not to say that a new or unfamiliar supply company should be rejected for that reason alone, but manufacturers should do their due diligence about any new suppliers.
4. Companies have to balance the desire to save costs with the risk of cutting corners and be cautious about cost saving. If a deal seems too good to be true, it should raise suspicions about product adulteration, deterioration or damage.
5. Companies should be particularly careful when acquiring the most commonly adulterated types of products such as olive oil, milk, meat and fish.
6. Companies should consider randomly testing ingredients obtained from suppliers — particularly new suppliers — and performing routine DNA tests on meat to confirm its source.
7. Companies should establish and document a firm policy clarifying the company's position on these issues to all employees, including that adulteration (or acquiring adulterated products) will not be tolerated.
8. When an issue does arise, companies must be prepared to act quickly! Even the most diligent companies can be caught off-guard by a new crisis. Therefore, food manufacturers should set up a system for addressing possible contamination and adulteration immediately.

Following these steps will help protect customers from harm, and companies from potential liability.

¹ Guidance for Industry: What You Need To Know About Administrative Detention of Foods; Small Entity Compliance Guide (March 2013), available at <http://www.fda.gov/Food/GuidanceRegulation/GuidanceDocumentsRegulatoryInformation/FoodDefense/ucm342588.htm>

² USP Food Fraud Database, <http://www.foodfraud.org/>