

OCTOBER 25, 2022

INSIDE THIS ISSUE

- Update on Western Australia's Plastic Bans
- India Updates Direction on Retesting of Non-Conforming Imports
- EU Court Decision Issued regarding Country-of-Origin Labeling during Transport of Fresh Fruit
- Thailand Notifies Nutrition Labeling and Health Claims Regulations
- Changes to UK's Extended Producer Responsibility
- EFSA Publishes Risk Assessment Criteria and Updated Scientific Opinion of GE Plants

SPECIFIC ISSUES OF INTEREST TO THE CCB:

Update on Western Australia's Plastic Bans

- On October 1, Western Australia [updated](#) information provided online for [Western Australia's Plan for Plastics](#). On September 23, 2022, the Department of Water and Environmental Regulation invited comments on [stage 2](#) of the Plan. Regulations are now proposed to enter into force in February 2023. The ban targets plastic barrier and produce bags, and oxo-degradable plastics.
- Comments can be submitted by filling out a [questionnaire](#) until November 18, 2022.

GENERAL ISSUES OF INTEREST TO THE CCB:

India Updates Direction on Retesting of Non-Conforming Imports

- On October 21, the Food Safety and Standards Authority of India (FSSAI) updated its [Direction under Section 16\(5\)](#) of [Food Safety and Standards \(FSS\) Act, 2006](#) regarding the testing of non-conforming consignments of imported food by a referral laboratory.
- If an imported consignment fails conformity testing at the primary laboratory, the sample is referred to a referral laboratory for re-analysis. Previously, the sample was tested by the referral laboratory against all parameters specified in the FSS regulations. Under the new Direction, the referral laboratory will test the sample only against those parameters for which the primary laboratory found non-conformance with the FSS regulations and applicable safety parameters not tested by primary lab.

EU Court Decision Issued regarding Country-of-Origin Labeling during Transport of Fresh Fruit

- The European Court of Justice (ECJ) published its [decision](#) in the [case Agecontrol SpA vs. ZR, Lidl Italia Srl](#). The case deals with the interpretation and implementation of provisions pertaining to the product name and country of origin labeling of fresh fruit during transport, as established in [Regulation \(EC\) No 1234/2007 in respect of the fruit and vegetables and processed fruit and vegetables sectors](#) and [Regulation \(EC\) No 1234/2007 of 22 October 2007, the Single Market Regulation](#).
- The decision clarifies that a document bearing the product name and country of origin need not always accompany the product during transport from a seller company's distribution platform to the same company's point of sale. However, whenever such a document has been issued, it must then accompany the products at all stages of the marketing of those products, indicating the name and the country of origin of the products, irrespective of the fact that product labeling requirements are met.

A REPORT FOR
THE CALIFORNIA
CHERRY BOARD

Thailand Notifies Nutrition Labeling and Health Claims Regulations

- On October 17 and 18, the Thai Food and Drug Administration (Thai FDA) notified the [WTO TBT Committee](#) of a draft regulation related to nutrition labeling and notified the [WTO TBT Committee](#) and [WTO SPS Committee](#) of a draft regulation regarding health claims for food. An English language [summary](#) of the health claims regulation was provided with the notifications.
- The draft [Nutrition Labelling Regulation](#) (in Thai) replaces Thai Ministry of Public Health (MOPH) *Notifications No. 182 B.E. 2541 (1998), No. 219 B.E. 2544 (2001), and No. 392 B.E. 2561 (2018)*. Below is a summary based on the information provided in the notification.
 - The regulation requires nutrition labels on foods making nutritional or health claims, foods using food value in sales promotion, or foods explicitly notified by the Minister of Public Health.
 - Nutrition labels must be in Thai.
 - Imported foods that are not intended for direct sale to the consumer are exempt from these regulations.
 - According to point g(3) in the WTO notification, foods packaged at the point of sale may be exempt from the regulations.
- The draft [Health Claims in Food Regulation](#) (in Thai) governs the labeling of food with health claims, including nutrient function claims, other functional claims, and claims of reduction of disease risk. According to the summary:
 - Health claims must be in Thai and may additionally be expressed in other languages. Translations must be approved by the Thai FDA.
 - Health claims must be substantiated by current relevant scientific research.
 - Food products bearing a health claim must follow the labeling provisions as laid out in the regulation for the specific category of health claim.
- The draft regulation documents are not amenable to machine translation and not available in English.
- All regulations will enter into force 180 days after their publication in the government gazette. A transition period of three years shall be granted for labels not compliant with the two regulations at entry into force.
- Comments on the *Nutrition Labeling Regulation* can be sent to the U.S. TBT Inquiry Point at usatbtep@nist.gov. The WTO comment deadline is December 16, 2022.
- Comments on the *Health Claims in Food Regulation* can be sent to the U.S. TBT Inquiry Point at usatbtep@nist.gov or to the U.S. SPS Inquiry Point at us.spsenquiry@fas.usda.gov. WTO comment deadlines are December 16 and 17, 2022, respectively.

Changes to UK's Extended Producer Responsibility

- On October 6, the United Kingdom (UK) updated its online guidance on "[Packaging waste: prepare for extended producer responsibility](#)", first published in June 2022 to reflect upcoming changes to the extended producer responsibility (EPR) system (*BCI Monitor 6-7-22*). The guidance is targeted at individual businesses, subsidiaries, or groups:
 - with an annual turnover of £1 million or more in the past year, and
 - responsibility for more than 25 tons of packaging in a calendar year, and
 - carrying out packaging activities, including importing products in packaging, selling packaged goods labelled with your own brand, and using 'transit packaging' to protect goods during transport.
- The online guidance explains in detail who needs to prepare for the expected entry into force of new extended producer responsibility (EPR) regulations in 2024, how to prepare, and how data should be collected and submitted. The following information provided in the online guidance is of potential interest to the California Cherry Board:
 - Importers may need to act if importing products in primary, secondary, or shipment packaging
 - Importers discarding packaging may need to submit "Nation Data" which is defined as information about the country in the UK in which your packaging has been sold, hired, loaned, gifted, or discarded. Data for 2023 must be submitted by December 1, 2024.
 - The regulations apply to packaging that is supplied to consumers and businesses.
 - Guidance is provided on how to submit information about reusable packaging.
 - Guidance is provided on how parent companies, groups, and subsidiaries can comply with the regulations.

- The guide reflects government actions laid out in a [Summary of consultation responses and Government responses](#) related to a [2021 consultation](#) on a redesigned EPR system. The new EPR system will revise [The Producer Responsibility Obligations \(Packaging Waste\) Regulations 2007](#) (as amended) in 2024:
 - An EPR Statutory Instrument (SI) will be introduced in Spring 2023, with proposed entry into force in Summer 2023, and implementation starting in 2024.
 - A Data Reporting SI will be published in 2022, covering data collection and reporting obligations for producers between January 1, 2023 and the entry into force of the EPR SI which will contain identical reporting obligations. The data will provide the basis for calculating packaging waste management fees producers will pay in 2024.
- Proposed changes to the EPR system include:
 - Producers to pay 100% of the costs of managing household packaging waste
 - Payments to local authorities and councils (local councils in Northern Ireland) for collection of household packaging waste
 - Modulated fees to incentivize the use of recyclable packaging
 - Mandatory labelling of packaging for recyclability with a single labeling format (see below for further information)
 - Annual packaging waste recycling targets to 2030
 - Requirement for certain producers to report the nation data for packaging placed on the market (see above)
- The labeling requirements for recyclable packaging are detailed on page 29 of the [summary document](#):
 - The 'Recycle Now' recycle mark must be used.
 - Relevant wording 'Recycle' or 'Do not recycle' must be added to the label.
 - All packaging types except plastic films and flexible packaging require a label by March 31, 2026. Plastic films and flexible packaging require a label by March 31, 2027.
- Compostable and biodegradable packaging must bear the 'do not recycle' label.

EFSA Publishes Risk Assessment Criteria and Updated Scientific Opinion of GE Plants

- On October 18, the European Food Safety Authority (EFSA) [announced](#) its publication of [Criteria for risk assessment of plants produced by targeted mutagenesis, cisgenesis and intragenesis](#) on behalf of the European Commission (EC), proposing six criteria to use in the risk assessment of plants produced using the specified genetic engineering (GE) techniques.
- Additionally, EFSA published on October 18 an [Updated scientific opinion on plants developed through cisgenesis and intragenesis](#), evaluating the safety and risk of plants developed through these GE techniques. EFSA [originally published](#) its opinion on plants developed through these GE techniques in 2012; however, with the development of new genomic techniques (NGTs) in the last decade, the EC requested that EFSA develop an updated scientific opinion.
 - EFSA found no new risks identified in cisgenic and intragenic plants obtained with NGTs, leaving the 2012 assessment's conclusion that similar hazards can be associated with cisgenic and conventionally bred plants, while novel hazards can be associated with intragenic and transgenic plants valid.
- On December 12, 2022, EFSA will hold a [stakeholder event](#) on *The safety of plants derived from New Genomic Techniques: looking into future risk assessment challenges*. Stakeholders can register at [this link](#) until December 9.
- Between April and July 2022, the EC held a [public consultation](#) regarding its initiative to develop a legal framework for plants produced by NGTs following the 2021 study. The EC will publish a draft regulation in the second quarter of 2023 to start the legislative procedure (*BCI Monitor 5-3-22*).