

Lawsuit faults FDA for failing to address mercury levels in seafood

Jessica Estepa, E&E reporter

Published: Monday, March 10, 2014

Two groups today filed [suit](#) against the Food and Drug Administration, accusing the agency of failing to respond to a petition regarding mercury levels in seafood.

In 2011, the Center for Science in the Public Interest and the Mercury Policy Project requested that the agency create regulations that would require informational labeling on packaged seafood. The labels would reflect 2004 recommendations made by FDA and U.S. EPA that warned against the consumption of certain kinds of fish by children and women who are pregnant, may be pregnant or are nursing.

The [petition](#) also asked that consumption recommendations on unpackaged, fresh seafood be presented in a "user-friendly" format, such as signs at the counter. Further, the groups sought mercury level and consumption limit information on labels for species that have moderate or high levels of mercury that weren't listed in the 2004 advisory.

"It seems to us to be a win-win, for the consumers, for the seafood industry, for the agency," said Sarah Klein, a senior attorney with the center's food safety program.

But, 2 ½ years later, the agency has yet to make a decision on the petition, despite a 180-day deadline, per its own policies.

According to the lawsuit, FDA last sent a letter to the groups in August 2012, saying that it had not yet reached a decision because its review and analysis of the petition hadn't been completed.

The lawsuit -- filed with the U.S. District Court for the District of Columbia by Earthjustice, which is representing the groups -- asks for a court-mandated deadline.

Klein said she hopes today's lawsuit will encourage the agency to finally take action.

"It's perplexing and disappointing that they haven't done so already," she said. "All we're asking them to do is memorialize their own advice."

Consumer Advocates Sue FDA to Require Better Information About Seafood Mercury Levels

BY [NEWS DESK](#) | MARCH 11, 2014

The latest lawsuit brought against the U.S. Food and Drug Administration concerns the levels of mercury in the seafood we eat.

The Center for Science in the Public Interest and the Mercury Policy Project petitioned FDA in July 2011 to require signs in supermarkets and labels on packaged seafood that give consumers information on the relative amounts of mercury in fish and other seafood.

Title 21 of the Code of Federal Regulations [requires](#) the agency to respond to petitions within 180 days of their receipt, which means a response was due by Jan. 14, 2012. But FDA never responded, so the groups have now filed a lawsuit in federal court to set a deadline for the agency to do so.

"FDA has repeatedly acknowledged the link between seafood consumption and exposure to methylmercury in the United States, and yet it has not improved the availability or clarity of information about mercury in

seafood for people ... so that they can make informed decisions regarding seafood consumption,” reads [the complaint](#) filed Monday by non-profit public interest law organization Earthjustice on behalf of the advocate groups.

“The public — and especially at-risk groups such as pregnant women and heavy fish eaters — urgently need updated information,” said Michael Bender, director of the Mercury Policy Project. “It is unconscionable that FDA continues to drag its feet when the latest science indicates a far greater methylmercury exposure risk than when the agency developed its fish consumption advisory in 2004.”

The groups are concerned that FDA’s “[What You Need to Know About Mercury in Fish and Shellfish](#)” from 2004 is not reaching the general public. Labels and point-of-purchase signs, they argue, would better help consumers to reduce their risk of mercury exposure.

“Consumers deserve to have the information they need to enjoy heart-healthy seafood while avoiding dangerous mercury,” said Caroline Smith DeWaal, CSPI’s director for food safety.

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March 10, 2014, 06:16 pm

Activists sue FDA over mercury disclosures in seafood

By Benjamin Goad

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Consumer protection and environmental advocacy groups filed a lawsuit Monday, accusing the Food and Drug Administration of failing to act in response to calls for more public information about mercury levels in seafood.

The legal action follows a petition filed by the group Earthjustice three years ago, urging the FDA to require signs at supermarket seafood counters to tell shoppers about the amounts of mercury in fish.

The petition, filed on behalf of the Center for Science in the Public Interest and the Mercury Policy Project, also calls for labels on packaged seafood.

The groups say FDA officials had, under the agency’s own rules, 180 days to respond to the petition but ignored the deadline in violation of federal law.

“FDA’s failure to respond to our petition is frustrating and disappointing,” said Earthjustice attorney Summer Kupau-Odo. “Citizens expect that the public health agency charged with ensuring that food is safe and properly labeled will respond to their valid food safety concerns in a timely manner, especially when the health of some of the most vulnerable members of our community—infants and children—is at risk.”

Mercury in seafood, linked to industrial deposits into the ocean, has been linked to health problems in fetuses and small children, including lowered IQ, learning disabilities and nervous system problems.

“The public—and especially at-risk groups such as pregnant women and heavy fish eaters—urgently need updated information,” said Michael T. Bender, director of the Mercury Policy Project, a project of the Tides Center.

Read more: <http://thehill.com/blogs/regwatch/court-battles/200392-activists-sue-fda-over-mercury-disclosures-in-seafood#ixzz2vfMtJSFy>

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Consumer Groups Sue FDA Over Mercury in Seafood

March 11, 2014 by [Linda Larsen](#) [Leave a Comment](#)

Earthjustice, along with Center for Science in the Public Interest and the Mercury Policy Project, are [suing](#) the FDA for “failing to respond to a July 2011 petition in which the groups asked the FDA to give consumers clear, accurate, and accessible information about toxic mercury in the seafood they eat.” At this time, the [latest recommendations](#) for pregnant women eating shellfish are to avoid certain species, and eat up to 12 ounces a week of other fish. Those recommendations were set in 2004.

The [lawsuit](#) asks for a court-ordered deadline for the FDA to respond to its request that signs be required at seafood counters and on seafood labels to let consumers know how much mercury is in the fish they buy. The FDA had 180 days, three years ago, to respond to the petition, but did not.

Mercury content in seafood is a concern and has been for years. Airborne mercury comes from coal-fired power plants and gold mining. It falls into the ocean, where it is converted into methyl mercury, which is a neurotoxin. That concentrates in fish and shellfish. Methylmercury exposure is linked to lowered IQ, learning disabilities, and impaired cognitive functioning.

Michael T. Bender, director of the Mercury Policy Project said in a statement, “the public – and especially at-risk groups such as pregnant women and heavy fish eaters – urgently need updated information. It is unconscionable that FDA continues to drag its feet when the latest science indicates a far greater methylmercury exposure risk than when the Agency developed its fish consumption advisory in 2004.”

That [brochure](#), called “What You Need to Know About Mercury in Fish and Shellfish,” established guidelines for seafood consumption. Unfortunately, it tells pregnant women to eat canned tuna, which is now the largest source of mercury exposure for most Americans, and doesn’t give healthier alternatives.

Caroline Smith DeWaal, Food Safety Director for Center for Science in the Public Interest said, “Consumers deserve to have the information they need to enjoy heart-healthy seafood while avoiding dangerous mercury – particularly if they are pregnant or feeding young children. It’s FDA’s responsibility to provide that information, and it’s long past time for the agency to do so.”

<http://foodpoisoningbulletin.com/2014/consumer-groups-sue-fda-over-mercury-in-seafood/>

FDA action on mercury disclosures on seafood heads to court

Tuesday March 11 2014

The issue of federal advisories for methylmercury contamination on seafood labels and at point-of-sale headed to court Monday when consumer groups sued FDA for failing to respond to their 2011 petition on the matter.

On July 5, 2011, the Center for Science in the Public Interest (CSPI) and the Mercury Policy Project (MPP) petitioned FDA to write regulations that, among other things, would require mercury advisories on packaged seafood labels and consumption advisories at point of sale of fresh seafood. Families are being deprived of mercury information regarding seafood sold in grocery stores and fish markets, the groups say.

<http://www.agra-net.com/portal2/fcn/home.jsp?template=newsarticle&artid=20018103139&pubid=ag096>