

FDA Public Meeting on Economically Motivated Adulteration  
May 1, 2009  
Summary of Comments  
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The members of the National Fisheries Institute (NFI) are concerned with situations of economic fraud in the industry – of which economically motivated adulteration (EMA) is just one piece. Fraud in the industry erodes consumer trust in the product category, creates unfair economic advantages for companies willing to perform illegal acts, and promotes an environment of “bending the rules” to succeed. In attempts to address the issue of fraud in 2007, NFI sponsored the formation of the Better Seafood Board (BSB). The purpose of the BSB is to educate buyers at the processor, distributor, retail, and restaurant levels of situations of economic fraud in the industry, to highlight companies that have committed to following the rules, and to call-out violators of the rules. All members of NFI have committed to fair and lawful business practices – one of which is to not adulterate product by artificially increasing the weight of the product with water. But not all members of the seafood community are members of NFI.

NFI’s approach to eliminate fraud from the industry first relies on a marketplace solution – that partners in the industry will not want to willingly participate in transactions of adulterated or illegal products. But active government enforcement of the rules is also necessary to convince the unscrupulous or uninformed that selling adulterated or misbranded products is against the law.

NFI supports the working definition of EMA as the fraudulent, intentional substitution or addition of a substance in a product for the purpose of increasing the apparent value of the product or reducing the cost of its production. In addition, we support the agency’s proactive approach to attempt to prevent future situations of EMA that present a public health risk. However, although we are sympathetic to budgeting and resource concerns, we cannot agree with the direction the agency is taking to focus entirely on situations of EMA that pose the greatest public health risk. We believe that the ability to predict situations of EMA that could result in public health situations can not be done with the total exclusion of other situations of fraud. This approach runs the risk of overlooking unanticipated situations.

We have argued that one predictor of EMA is to focus on known perpetrators of known fraudulent activities. In the seafood community, unfortunately, there still exist companies that are willing to bend the rules by misidentifying species of fish and by artificially representing the weight of products with added water in the form of glaze. By not taking the opportunity to enforce blatant acts of EMA, FDA is seen domestically and internationally as condoning the activities. Perpetrators of EMA do not distinguish between events that will pose harm to the consumer and those that will not. The

examples cited in the Federal Register Notice announcing this meeting clearly had results that were unintended by the perpetrators. Causing harm is the one sure way that the fraudulent scheme will be detected and the profits realized by the scheme will come to a crashing halt.