

Conducting Effective Marketplace Surveys and National Investigations: 2010 Multistate Seafood Investigation



NCWM ANNUAL MEETING

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JUDY CARDIN

CHIEF, WISCONSIN WEIGHTS AND MEASURES

Seafood Investigation - Background



- The Better Seafood Bureau, a division of the National Fisheries Institute, a trade association, presented: “The Economic Integrity of Seafood” at the January, 2009 NCWM Interim. The presentation detailed a widespread problem with ice glazing being included in the net weight of seafood.
- A federal GAO report, published in February, 2009 recognized seafood fraud problems, including net weight problems, and called on federal agencies to collaborate on finding solutions



05/18/2009

Seafood Investigation-Background



- NIST and NCWM sponsored a “Seafood Fraud Forum” in May 2009 to discuss and address issue. Participants included:
 - FDA
 - FTC
 - USDA
 - Customs Border Protection-Office of International Trade
 - US Dept. of Commerce National Marine Fisheries
 - NAAG
 - Seven States

Seafood Investigation-Background



- Industry described widespread mislabeling of frozen seafood products sold to the food service industry with ice glazing included in the net weight.
- Wisconsin Weights and Measures presented inspection results indicating significant problems with some retail sales, including some packages with ice glazing comprising as much as 25% of the labeled weight.

Seafood Investigation-Background



- A two pound bag of shrimp with 25% glazing included in the weight, selling for \$24, defrauds the buyer by \$6.
- Consumers purchase \$22.7 billion of seafood to eat at home, and food services purchase \$46.6 billion every year. If 2% of the weight of the \$69.3 billion of seafood purchased annually is ice, annual loss would be \$1.4 billion

Seafood Investigation-Background



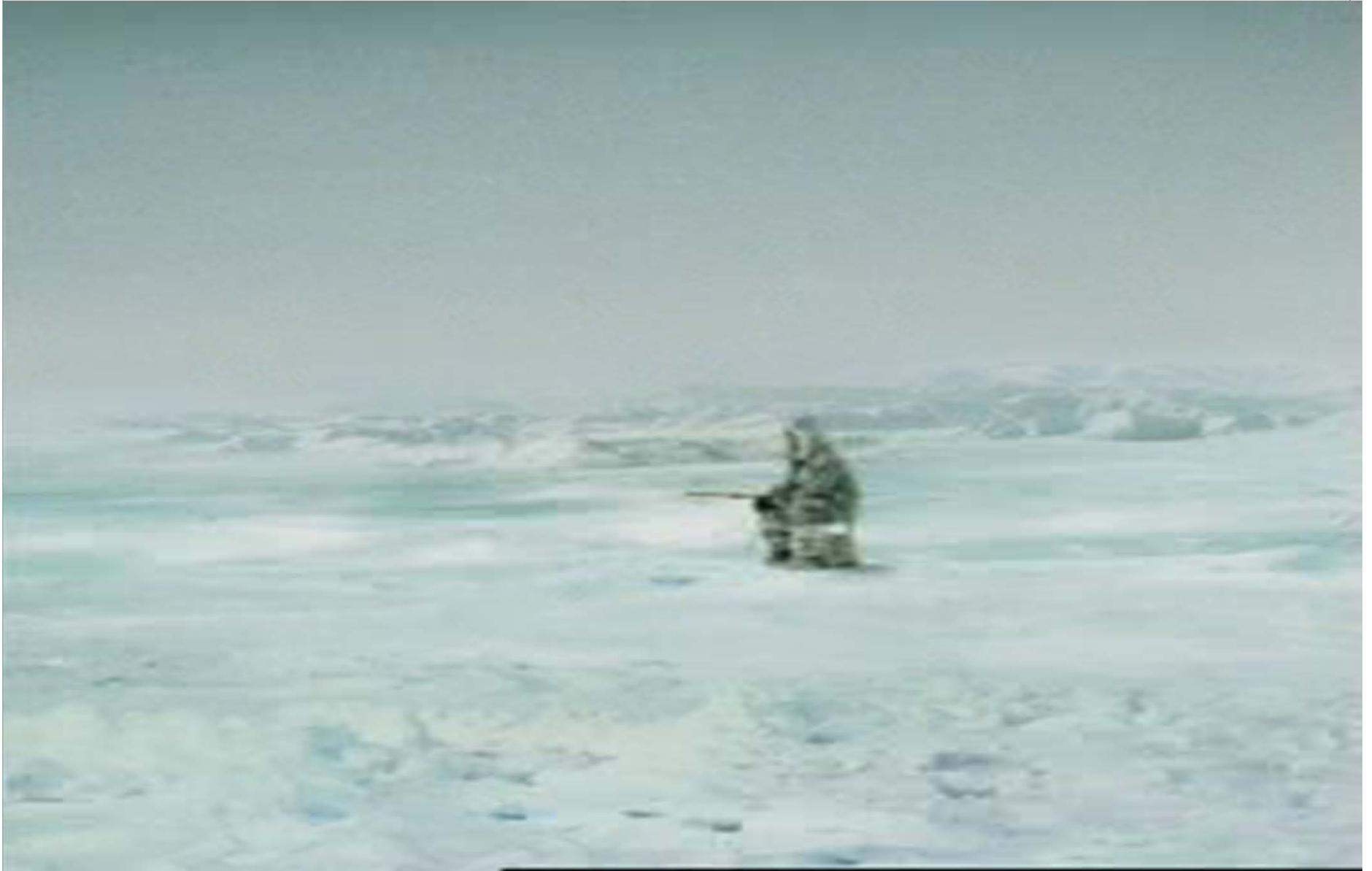
- Seafood Forum participants recognized that due to resource issues, limited compliance testing was occurring at both the federal and state level. Participants agreed that a regulatory work group should look at compliance options. I agreed to lead the work group.
- The Seafood Short Weight Fraud Work Group, comprised of state and regulatory officials, began work in September 2009.

Seafood Investigation-Background



- The work group determined that a nationwide investigation of retail ice glazed seafood was the best approach.
- Since this was a regulatory investigation, not a marketplace survey, NCWM would not be able to lead the project.
- Wisconsin agreed to lead the investigation.

How hard could it be?



Elements of an Effective Marketplace Survey or National Investigation



- Clarify Purpose, Goals, and Roles
- Define Scope
- Plan and Establish Timeline
- Invite States to Participate-Clear Expectations
- Train
- Conduct Inspections and Submit Reports
- Compile Summary Data
- Communicate Investigation Findings
- Monitor Progress: Achieving Purpose and Goals

Clear Purpose, Goals and Roles



- Purpose and Goals: Prevent significant economic harm to consumers and honest businesses by:
 - Conduct tests and take enforcement actions as part of the independent multi-state investigation-States and Federal Regulatory Agencies
 - Promote national awareness of the problem-States, NCWM, and NIST
 - Encourage on-going state and national seafood training and testing- States, NCWM, and NIST

Define Scope of Investigation



Test consumer commodity packages of ice glazed seafood with a weight of 2 lbs or less. Inspectors can test at retail and/or distribution centers. Inspectors should test standard and random weight packages, and both store packed and factory packed product.

Plan and Establish Timeline



Plan the critical steps necessary to achieve goals, and establish a timeline with dates and deadlines for each step:

- ✓ Send e-mail to State Directors inviting participation
- ✓ Plan, communicate and conduct training
- ✓ Send e-mail to participating State Directors including inspection, investigation and reporting protocol

Plan and Establish Timeline



- ✓ Conduct testing
- ✓ Send reporting reminder to State Directors
- ✓ Compile results
- ✓ Communicate investigation results to NCWM and participating State Directors
- ✓ Issue NCWM and state press releases
- ✓ Assess and Monitor progress on achieving purpose and goals

Invite States to Participate



- Purpose
- Scope
- Timeline and directions for inspections and reporting
- Sample reports and tools to assist inspectors and state directors
- List of equipment needed
- Copy of training presentation

Conduct Training



- Training- funding is critical issue
- NIST sponsored training in Topeka KS in January 2012. Training included:
 - Handbook 133 test procedures- classroom and hands on
 - Inspection tools: Screening tares, Ice Glazed Package Worksheet, and Ice Glazed Package Test Report form
 - Investigation Protocol: purpose, goals, roles, reporting and timeline

Inspections and Reports



Investigation Dates: January 18 - February 12, 2010.

Scope of Investigation: Testing consumer commodity packages, size 2 lbs. or less, of ice glazed seafood. Inspectors can test at retail and/or distribution centers.

Enforcement: States should order product off sale and take any other enforcement actions considered appropriate.

Reporting: Use state test report forms, or the attached audit and Glazed Seafood Package test reports (also distributed at the training). Please send reports/results by **February 18, 2010**.

Send a copy of **test reports** and a **copy of the package label** for all **failed** lots to: (FDA Address)

Send either a copy of **all audit forms and test reports**, or a completed "Seafood Investigation Summary of Results" (attached) to:
(My Address)

Inspections and Reports



Equipment Needed:

Scale and weights to verify accuracy

Continuous cold water flow

Means to determine 17 to-20 degree angle

Receiving Pan

No. 8 Sieve:

- 20 cm (8 in) for packages 453 g (1 lb) or less.
- 30 cm (12 in) for packages more than 453 g (1 lb)

Stopwatch: 2 minute drain time (critical measurement)

Training Summary:

Attached is a PDF of a PowerPoint "Summary of Ice Glazed Seafood Training". This will help you and inspectors that did not attend the training understand the clarifications to the HB 133 procedures and other requirements for the investigation.

Inspections and Reports



Audit and Test Reports and Procedures

Due to the nature of ice glazing, NIST HB 133 procedure requires 100% destructive testing of packages selected for the enforcement sample. Attached are audit procedures and an audit worksheet for inspectors to record audit results. The audit procedures help identify seafood that is likely to be short weight, and helps prioritize which lots should be tested using HB 133 procedures.

Test Report and Worksheet

Testing glazed seafood is quite different than typical package checking. Attached are a "Glazed Seafood Package Report" and a "Glazed Seafood Enforcement Sample Worksheet". The package report form is modified specifically for glazed seafood, and can be used as a test report if you wish. The worksheet, a tool for inspectors, is a summary of the test steps and a simple recording chart for HB 133 glazed seafood test results.

Compile Summary Data to Report



Summary Information for Communicating Investigation Results:

- Background and Purpose
- Investigation Timeframe
- States that Participated
- Summary Inspection Results

Summary Data: Inspection Results



- Inspection Results:
 - Number of packages ordered off sale - over 21,000 packages
 - Ice glazing percentages found: packages weights that included almost 40% ice
 - Examples of economic harm:
 - ✦ Packages found that would have shorted consumers by more than \$9.
 - ✦ Prices charged per pound for ice: up to \$23

Communicate Investigation Findings



- NCWM Press Release- March, 2010
- State Press Releases-March and April 2010
- Press Interviews
- E-mails to State Directors

NCWM Press Release: National Investigation Exposes Fraud in Frozen Seafood Labeling



Consumers and businesses may be paying up to \$23 per pound for ice when purchasing frozen seafood products. This according to a national investigation earlier this year that revealed some packers are including the weight of ice glazing in the labeled weight for the seafood.

A coating of ice glaze is applied to frozen seafood prior to packaging to preserve the quality during storage and distribution. This practice is acceptable, but state and federal laws prohibit including the weight of the ice in the labeled weight of seafood. Many packers meet this requirement, but the results of the investigation suggest a significant market share do not.

NCWM Press Release



Judy Cardin, Weights and Measures Chief for the Wisconsin Department of Agriculture, Trade and Consumer Protection, organized the multi-state investigation. The National Institute of Standards and Technology assisted with training for state officials to ensure uniform inspection techniques. Seventeen states including Alaska, California, Colorado, Connecticut, Florida, Illinois, Iowa, Kansas, Maine, Michigan, Minnesota, Missouri, North Carolina, New York, Ohio, Washington and Wisconsin participated in the seafood investigation in January and February of this year.

NCWM Press Release



According to Cardin, most of the states reported significant overcharges due to incorrect package weight. “Over 21,000 consumer packages of seafood were removed from sale during the 4-week investigation,” said Cardin. “In some cases, inspectors found ice comprising up to 40% of the product weight. A consumer purchasing one of these packages would be overcharged more than \$9.00.”

NCWM Press Release



There is concern among industries that reduced funding for weights and measures inspection programs may be tilting the playing field in favor of the dishonest businesses. The National Fisheries Institute, a seafood industry association, requested action by weights and measures officials to address frozen fish and seafood labeling. “Unfortunately a few unscrupulous companies are looking for ways to increase profits by defrauding consumers with deceptive practices, making it impossible for honest businesses to compete,” said Lisa Weddig, NFI Director of Regulatory and Technical Affairs. “Consumers, retailers and restaurants shouldn’t have to pay seafood prices for ice.”

NCWM Press Release



Randy Jennings, Chairman of the National Conference on Weights and Measures said the seafood investigation is an example of government agencies working together effectively. "The weights and measures inspector is perhaps the least known element of daily commerce in the United States, but serves to protect buyers and sellers in every transaction," said Jennings. "Inspectors are highly trained professionals ensuring accuracy of scales, gas pumps, taxi meters, package weights, price scanners, fuel quality, and much more." He said consumers should contact their state weights and measures authority if they suspect fraud.

Press Releases- Media Results



- Media stories nationally and internationally. Stories in most large media markets, including:
 - ABC World News With Diane Sawyer
 - Los Angeles Times
 - Chicago Tribune series
 - Boston Globe series
 - Numerous seafood trade publications

Monitor Progress on Goals



- Sent Ice Glazed Seafood Testing Power Point training presentation to numerous state directors.
- Seafood Forum follow-up meeting at July, 2010 NCWM Annual Meeting
 - Well attended by industry and regulatory representatives
 - Several states that had not participated in the investigation indicated they were now testing seafood
 - I reported on investigation results and answered questions
 - Steve Wilson with the US Dept. of Commerce's National Marines Fisheries Services described changes in their test procedures that would align them better with NIST HB 133 procedures
 - NIST announced it would conduct training on best packaging practices for seafood sellers.

Progress on Goals: Associated Press Report March 2012



Jay Lindsay, Associated Press, reported March 12, 2012: "We've decided we're going to take on the economic fraud concern," said Steven Wilson, chief quality officer at the National Marine Fisheries Service's seafood inspection program.

Inspectors at his agency find some kind of economic fraud in at least 40 percent of all products submitted to them voluntarily. And in at least eight out of 10 of those cases, inaccurate weights are the problem, he said.

"If we focus on the net weight issues we'll drop that 40 percent to very, very minor percentages," Wilson said.

Investigation Results-

Associated Press Report March 2012



The law says a package labeled as 10 pounds of fish must contain 10 pounds of fish, with the ice glaze as extra, uncounted, weight. But the only way to know whether the ice is being counted is with labor-intensive inspections that match the fish weight with the weight advertised on the package.

That happened in 2010, when an investigation by 17 states showed customers were often charged for the ice in seafood packaging, sometimes as much as \$23 per pound. In the four-week investigation, 21,000 packages of seafood were removed from shelves.

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Questions?