



January 17, 2006

Division of Dockets Management
Food and Drug Administration
5630 Fishers Lane
Room 1061
Rockville, MD 20852

**Re: Docket No. 2000p-0586 – Cheeses and Related Cheese Products;
Proposal to Permit the use of Ultrafiltered Milk**

Dairy Farmers of America, Inc. (DFA) appreciates the opportunity to submit comments regarding the Food and Drug Administration's (FDA) proposal to amend its regulations to permit the use of fluid ultrafiltered (UF) milk in the production of standardized cheeses and related cheese products. DFA, based in Kansas City, MO, is a farmer owned food company operated as a cooperative for the purpose of marketing the milk production of its 20,000+ dairy farmer member/owners. DFA in carrying out the milk marketing function for its members own and operate 8 cheese production plants, have joint ownership of another 2 cheese production facilities and in the course of business, from both internal production and outside purchases sell annually approximately \$1.5 billion of cheese and related cheese products.

DFA commends FDA for their recognition that use of fluid UF in the cheese making process does not alter the characteristics of final product. DFA supports completely the amendment of regulations to permit the use of fluid UF in the manufacture of standardized cheese and related cheese products. DFA wants to make clear however that it **does not** support the use of dried UF milk and/or dried UF milk that has been rehydrated to a fluid state in the production of standardized cheese and related cheese products. To that point DFA encourages FDA to utilize the definition of UF milk as set forth in the proposal to prevent deviations from the interpretation of fluid UF milk.

DFA expresses major opposition to the requirement put forth in the proposal that when using liquid UF in the cheese making process, it would be declared in the ingredient statement of the finished food as "ultrafiltered milk". DFA submits the following in support of our opposition:

- In the proposal "FDA tentatively concludes that fluid UF milk can be used in standardized cheeses while maintaining the essential characteristics of these cheeses specified in the individual standards of identity in part 133". The end product is essentially the same when produced with and without the use of fluid UF milk and as such ingredient labeling would not be meaningful.

- The proposal allows for the use of fluid UF milk in cheese making without labeling as such if the ultrafiltration process takes place in the plant where the cheese is made but requires labeling if the ultrafiltration takes place outside the plant where the cheese is made. DFA contends that there is no valid basis for the distinction of the labeling requirement when the fluid UF milk is outsourced as part of the cheese making process.
- DFA purchases a substantial volume of cheese and cheese related products from other cheese manufacturers, brokers, and on the Chicago Mercantile Exchange (CME). It would be virtually impossible to transact business in these environments if the cheese negotiated for purchase had to be identified as made from outsourced fluid UF milk to comply with label regulations.
- DFA maintains substantial inventories of standardized cheese and cheese related products in cold storage facilities both within the plant where the cheese is manufactured as well as in outside contract warehouses. The requirement to segregate those inventories based on the use of outsourced UF milk in product manufacturing and to maintain higher inventory levels of the two products to meet packaging needs would, decrease efficiency and add costs that ultimately destroys the economics that this proposal portends to create.
- DFA know of no test that could distinguish the difference between cheeses produced with no fluid UF milk, produced with fluid UF milk created in the plant where the cheese was made, and/or produced with outsourced fluid UF milk thereby making the enforcement of the labeling requirement impossible.
- DFA produces a number of shredded cheese blends for customers that may include four or more standardized cheese products. The product inventory segregation, multiple label inventories, and confusion with customers regarding the fact that the product is no different but the labeling is different presents additional rationale for FDA reconsidering this labeling issue.
- DFA, in its operation of several cheese manufacturing facilities, understands the benefits associated with the use of fluid UF milk on a daily basis to adjust the components of milk going to the cheese making process. The variation seasonally in the levels of components in milk coming from the farm, variation daily in farm milk availability, combined with the availability and cost of fluid UF milk all play into decisions of whether or not to use fluid UF milk in cheese making each and every day. The labeling requirement completely destroys any opportunity to take advantage of this technology when there is concurrence that the end products are indistinguishable
- FDA has proposed that milk filtered within the cheese making facility is considered "milk" for the purposes of labeling. Dairy farmers and their milk marketing organizations are continually challenged with urban sprawl and other factors continuing to push the milk production areas further and further from the consumer marketplace. One of the ways of absorbing these added costs of getting dairy products to the consumer would be the ultrafiltration of milk within the production areas with the resulting savings in transportation costs from shipping less fluid volume to the cheese making facilities. The labeling requirement proposed for fluid UF milk not produced within the cheese manufacturing plant greatly compromises this possibility. No matter where it is filtered,

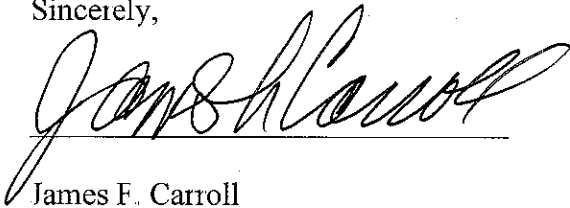
the resulting fluid UF milk is the same and produces a product that is indistinguishable thereby rendering the ingredient labeling requirement unnecessary.

- DFA in the production of standardized cheeses utilizes, as approved, outsourced dried milk, condensed milk, skim milk powder, etc ...along with the incoming farm milk supply all covered by the designation of "milk" on the ingredient label and for all of the reasons stated above contend that outsourced fluid UF milk should be treated the same.

For the reasons identified above, DFA urges FDA, in establishing the final rule, to delete the proposed ingredient labeling requirement for outsourced UF milk.

If DFA can be of any assistance with additional information or explanation of the positions expressed in these comments please contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "James F. Carroll", written over a horizontal line.

James F. Carroll
VP Quality Assurance & Regulatory Affairs – Fluid Operations
Dairy farmers of America, Inc