

Mexico, D.F. July 8th, 2003.

Administrative Detention – Docket No. 02N-0275

Joseph Levitt
Director, Center for Food Safety and Applied Nutrition
Dockets Management Branch (HFA 305)
Food and Drug Administration
5630 Fisher Lane, Room 1061
Rockville, MD 20852

Dear Mr. Levitt:

The National Agricultural Council (NAC thereafter) is conformed by near 150 Members; it's partners are Agricultural and Cattle Producer's Organizations of Mexico.

As associates has Farm Services Suppliers Organizations and Agricultural and Livestock industry enterprises, who enforces and compliment sectorial activities. Our organism is the most important at national level; it's members contribute with 70% of Gross Domestic Agricultural Product, 85% of Gross Domestic Livestock, 70% of Gross Domestic Agricultural and Livestock Industry related Products and 75% of Total Agricultural Exports.

On behalf of the NAC we are submitting these comments on the proposed regulation implementing a section in Title III of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002 (the Bioterrorism Act) regarding **administrative detention**.

- The definition of perishable food should be reviewed and extended to cover foods with a shelf life of 120 days or less since many foods with a shelf life of greater than seven days may suffer loss or significant reduction in marketability, if detained for more than 7 days.
- We ask for the detentions be done by the actual process of merchandise's disposition, in order to avoid the increase of the storage's costs and the risk of robbery or damage of the merchandise.
- Whatever the detention's motives, we ask for specific criteria on the basis of which the detention will be made. It is necessary that the agency examines carefully the "credible evidence" standard in order to place the highest priority possible on the establishment of clear evidentiary standards and procedures,

2002N-0275

EMC77¹

to reduce the incidence of erroneously held product and protect the private property and rights of the regulated industry.

- The proposal makes no provision for compensating affected parties for the costs they may suffer due to erroneous detentions. We believe that if exist any suspect about some food and the detention of the product is made and after the investigation results that the suspect was false, the FDA should cover the damages caused.
- Administrative detention should be made by an official at the regional FDA director level and that state officials should only detain products if approved by the respective regional FDA directors or higher level FDA officials.
- We ask for reduce the maximum time of detention for 15 days and specify how many days the FDA has to send the acceptance or rejection of the merchandise.
- To ensure that FDA act in at least as expeditious manner for non-perishable foods, we recommend that FDA expedite its decision making following an informal hearing to require judgment on appeal within two days after a hearing is held like for perishable food.
- It would be appropriate to treat all foods in the same manner as perishable for appeal purposes.

The NAC strongly believes that enhanced security of the U.S. food supply is crucial for the continued safety of U.S. consumers and their confidence in the food imports.

The NAC wishes to reiterate that we fully support measures to ensure that we can deliver food safe, secure produce to American consumers. However, we do not feel that the current administrative detention proposal will be an effective mechanism to accomplish the desired objectives of the FDA.

Our members stands ready to work with the FDA in implementing a system that would fully take advantage of existing resources and in sharing our first hand knowledge of current exporting procedures to help the FDA to develop an efficient system that could enhance security of the U.S. Food supply system.

Sincerely,

Armando Paredes Arroyo Loza
President

Alfredo Moises Ceja
Vicepresident, Foreign Trade



Nacional Agricultural Council

Fax Cover

Number of pages including cover 3

For:	Dockets and Management Branch (HFA 305)
Organization:	Food and Drug Administration
From:	Mr. Armando Paredes, President Nacional Agricultural Council
Subject:	The Bioterrorism Act Title III section 303 Administrative Detention Under the Public Health Security and Bioterrorism Preparedness and Response Act of 2002
Date:	July 8th, 2003

To whom it may concern:

Attaach to this fax cover we send comments about The Bioterrorism Act Title III section 303 Administrative Detention Under the Public Health Security and Bioterrorism Preparedness and Response Act of 2002.

Sincerely

***Armando Paredes President
Nacional Agricultural Council***

Xola 914
Col Narvarte
03020 México, D.F

Tels 5639 3004 / 5639 3008 / 5639 3009 / 5639 3010
Fax 5639 3048 / 5639 3055
E-mail: presidencia@cna.org.mx www.cna.org.mx

02N-0275

EMC 77