



INTERNATIONAL JELLY & PRESERVE ASSOCIATION

SUITE 500-G
5775 PEACHTREE DUNWOODY RD
ATLANTA, GEORGIA 30342
(404) 252-3663
Fax (404) 252-0774
E-mail ijpa@assnhq.com

Founded in 1918 as
National Preservers Association

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Dockets Management Branch (HFA-305)
Food and Drug Administration
5630 Fishers Lane, Room 1061
Rockville, MD 20857

RE: Docket No. 98N-0359; Program Priorities
in the Center for Food Safety and Applied
Nutrition

The International Jelly and Preserve Association (IJPA) appreciates the opportunity to provide input regarding FDA's Center for Food Safety and Applied Nutrition's (CFSAN) program priorities for the year 2004, as requested in the June 5 *Federal Register (FR)* notice (68 *FR* 33727). IJPA is a national trade association representing the manufacturers of jellies, jams, preserves and nonstandardized fruit spreads, and the suppliers of goods and services to the industry, including ingredient suppliers of fruit, sweeteners and pectin. A list of manufacturer members is enclosed.

We applaud the Agency for continuing to provide interested parties the opportunity to participate in the CFSAN priority-setting process. IJPA has routinely offered the insight of the fruit spread industry on such priorities since the Agency began this initiative in 1998. (See IJPA's most recent comments dated September 14, 2001). We agree one of the Center's primary goals is ensuring the security of the nation's food supply. Earlier this year, FDA issued proposed regulations regarding facility registration and prior notice of imported foods as mandated by the Public Health Security and Bioterrorism Preparedness and Response Act of 2002 (the "Bioterrorism Act"). Most recently, proposals regarding records establishment and maintenance and administrative detention were released also as required by the Bioterrorism Act. The fruit spread industry understands the need for such regulations and supports their intent. However, we urge the Agency to ensure the final regulations are reasonable, timely, and provide the necessary balance between FDA's authority in matters related to protecting the food supply and the rights of the food industry.

A priority of equal importance to food security is food safety. As part of the on-going efforts regarding food safety, the coordination on foodborne disease outbreaks should be a priority. Too often a food is wrongly implicated in a foodborne disease outbreak because of the lack of coordination among state and Federal agencies investigating the outbreak. Accurate and timely information regarding such outbreaks is in the best interest of all involved, and most importantly, the consumer.

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Produce safety also continues to be important. The prevention of microbial contamination at the grower and packer levels will decrease the incidences of foodborne illnesses associated with fresh produce and related products.

However, as our earlier comments stated, there are other important, on-going functions on which the Agency should focus its efforts, namely the continued maintenance and administration of the food standards program, national uniformity, promoting international harmonization, preventing economic fraud and enforcing product labeling. We still strongly believe these areas deserve CFSAN's attention and a place on the "A" list of priorities.

It is evident from comments received on the Agency's Advance Notice of Proposed Rulemaking (ANPRM) on food standards (60 *FR* 67492; December 29, 1995) that a number of existing standards presently serve as barriers to the utilization of new technologies and required ingredients to improve existing products. As a result, petitions have been prepared and filed in several important product categories to affect needed amendments to recognize the advances in food technology and the need for flexibility.

IJPA submitted detailed comments on the ANPRM, pointing out the general benefits of maintaining core food standards and the beneficial interplay between those standards and the general standard adopted by FDA under the Nutrition Labeling and Education Act, 21 CFR 130.10. On March 31, 1997, the Association also submitted a Citizen Petition that reflected the consensus reached within the fruit spread industry on how FDA should proceed in implementing the ANPRM with respect to the standards of identity of interest to this industry. The petition requested that the standards for artificially sweetened jellies and jams be repealed because these standards were obsolete and unnecessary. IJPA's efforts to repeal obsolete standards should be supported by FDA, but almost seven years later; no action has been taken by the Agency, despite the fact that the Association offered a solution to streamline the standards for these products. IJPA continues to discuss with FDA personnel other means of expediting the petition, but no FDA action has been forthcoming. At a minimum, we believe the Agency should be required to provide annual updates on standards petitions so that petitioners are aware of the status and can advise their constituents accordingly.

Further, we should not lose sight of the original intent of the ANPRM, as its goal is important. Standards need to be updated and modernized in keeping with current technological innovations and consumer needs. We believe this remains a key goal and should be included in the 2004 priorities.

Similarly, national uniformity among federal and state agencies should be an "A" list priority for CFSAN in FY 2004. There should be a single set of food safety regulations interpreted in the same way by both federal and state regulators. A uniform set of regulations and interpretations will eliminate the confusion that currently exists as industry strives for compliance at the local and Federal levels.

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The modernization and maintenance of United States (U.S.) food standards and national uniformity of regulations are also important as the U.S. participates in the Codex Alimentarius process. In order for the U.S. to be an effective player within Codex, U.S. standards must be science-based, reflective of current practices and be national in scope, which will give the U.S. a strong basis for negotiation. It is, therefore, critical that the U.S. positions on several Codex standards be thoroughly reviewed by industry to assure that current industry practices are reflected. We, therefore, encourage more timely communications between FDA and industry.

In the increasingly global marketplace, the promotion of international harmonization is imperative, and the U.S. should take a leadership role in the Codex process. It is crucial that U.S. positions be shared with other countries in a timely manner so meaningful discussions can occur during Codex committee meetings.

Economic fraud also should be a CFSAN priority because of its importance to both consumers and industry. FDA must continue to pursue and prosecute fraudulent activities. Individuals and companies engaged in such activities are just as likely to have little regard for the welfare and safety of the public and should not be allowed to operate. FDA's efforts in this regard should be to enforce the existing statutory provisions.

Related to economic fraud is the accurate labeling of products. IJPA has alerted the Agency to several instances of economic fraud with respect to the inaccurate labeling of jams and jellies. The standards of identity for these products require that the total soluble solids content of finished fruit preserves, jams and jellies be not less than 65%. However, there are products available on the market that have considerably lower total soluble solids content, but they are labeled as jams and jellies. This constitutes economic fraud because such products contain more moisture (water) and less fruit and/or sweeteners, which are expensive ingredients in the production of jams and jellies. The manufacturers of these products have a significant economic advantage over compliant products on the market. It is, therefore, important for FDA to enforce the accurate labeling of products.

In conclusion, IJPA appreciates the opportunity to provide comments on CFSAN's 2004 priorities. While we agree that food security and food safety should continue to be CFSAN's top priorities, the Agency is also responsible for other important functions as outlined in these comments. Thus, we encourage the Agency to balance its resources accordingly.

Sincerely,



Pamela A. Chumley
President

Enclosure