

National Milk Producers Federation

National Milk Producers Federation • 2101 Wilson Blvd., Arlington, VA 22201 • 703-243-6111 FAX 703-841-9328

Agri-Mark, Inc.
Arkansas Dairy Cooperative Association
Associated Milk Producers, Inc.
California Dairies, Inc.
Cass-Clay Creamery, Inc.
Continental Dairy Products, Inc.
Cooperative Milk Producers Assn.
Country Classic Dairies, Inc.
Dairy Farmers of America, Inc.
Dairymen's Marketing Cooperative, Inc.
Dairyalea Cooperative Inc
Ellsworth Cooperative Creamery
Farmers Cooperative Creamery
First District Association
Foremost Farms USA
Land O'Lakes, Inc.
Lone Star Milk Producers, Inc.
Mantowoc Milk Producers Coop.
MD & VA Milk Producers Cooperative Association, Inc
Michigan Milk Producers Assn.
Mid-West Dairymen's Company
Milwaukee Cooperative Milk Producers
Niagara Milk Cooperative, Inc.
Northwest Dairy Association
Prairie Farms Dairy, Inc
St. Albans Cooperative Creamery, Inc
Scioto County Co-op Milk Producers' Assn.
Select Milk Producers, Inc
Southeast Milk, Inc.
Swiss Valley Farms, Co
Tillamook County Creamery Assn
United Dairymen of Arizona
Upstate Farms Cooperative Inc

July 31, 2003

Dockets Management Branch (HFA-305)
Food and Drug Administration
5630 Fishers Lane, Room 1061
Rockville, MD 20852

RE: Docket No. 98N-0359

Dear Sir/Madam:

The following comments are being submitted on behalf of the National Milk Producers Federation (NMPF) to FDA's Request for Comments; Program Priorities in the Center for Food Safety and Applied Nutrition (CFSAN) (Docket No. 98N-0359). NMPF, headquartered in Arlington, VA, develops and carries out policies that advance the well-being of U.S. dairy producers and the cooperatives they collectively own. The members of NMPF's 35 cooperatives produce the majority of the U.S. milk supply, making NMPF the voice of 60,000 dairy producers on Capitol Hill and with government agencies. NMPF member cooperatives also manufacture a number of dairy products regulated by FDA, including milk, cheese, ice cream, and butter, so CFSAN's priorities are of interest to NMPF.

Overall, NMPF believes that CFSAN's priorities are appropriate and those items listed as "A" priorities should be the area of focus for CFSAN. Food safety and food security are certainly areas that need a great deal of priority and CFSAN has done a good job of devoting resources to these necessary areas. These activities will be equally important in the next fiscal year and any activities related to food safety and food security should remain as "A" list priorities.

There is one area of "A" list priorities, however, in which NMPF believes CFSAN has done an inadequate job. This is in the area of food labeling compliance and enforcement. While not necessarily related to food safety or security, food labeling is very important to ensure consumers are not being misled by the products they purchase. As CFSAN attempts to "do the most good for consumers," a recommitment to ensuring that foods are appropriately labeled is necessary. In fact, CFSAN acknowledges this by including compliance/enforcement of labeling as an "A" list priority and identifying "better informed consumers" as a top priority in the new strategic plan for 2004.

98N-0359

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Jerry Kozak, President/Chief Executive Officer

James P. (Tom) Camerlo, Chairman

One example of CFSAN's poor performance in labeling compliance/enforcement is in the area of imitation dairy products. There are many non-dairy foods in the market place that use standardized dairy terms as the name of their food. These non-dairy products have continued to blatantly violate the current standards of identity and labeling regulations. As a result of CFSAN's lack of activity to enforce the current regulations, more and more imitation dairy products have been introduced. Examples of these products include vegetable-based beverages purporting to be milk, cheese, sour cream, butter, and yogurt. NMPF has sent numerous letters to CFSAN and met repeatedly with CFSAN staff to discuss these egregious violations. Although we reach agreement in meetings that some of the products are mislabeled, no enforcement action has been seen and these products continue to violate the current regulations. NMPF encourages CFSAN to keep compliance/enforcement as an "A" priority. NMPF also encourages CFSAN to take the steps necessary to bring these imitation dairy products into compliance with current labeling regulations as soon as possible. Lack of enforcement will only allow these products to proliferate and merely adds to consumers being misled.

NMPF believes that the area of dairy product and raw milk imports continues to be a problem for State Regulatory Agencies to address. As such, CFSAN's current "B" priority of updating the Federal Import Milk Act Compliance Policy Guide should be upgraded to an "A" priority item. This Compliance Guide is the result of outdated regulations and should be updated to better reflect the current practices in the dairy industry. In addition, the current requirements under the Federal Import Milk Act do not reflect the regulations enforced in the U.S. As the Compliance Policy Guide is updated, CFSAN should ensure that foreign entities that ship milk into the U.S. under the Federal Import Milk Act are not given preferential treatment over the domestic dairy industry.

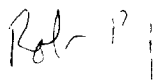
NMPF believes that CFSAN has placed appropriate priority to the implementation of a new National Drug Residue Milk Compliance Program by placing it as a "B" priority and would suggest that this remain a "B" priority for 2004. The current requirement to test every tanker of milk for animal drug residues, coupled with other voluntary testing already conducted by States and industry result in over 4.5 million tests for animal drug residues being conducted each year. Any new program implemented by CFSAN will not add significant numbers to this testing and will not provide any additional data than already exists. NMPF suggests that CFSAN's resources could be better placed elsewhere and that this program should be a low priority item.

NMPF believes that CFSAN has placed the equivalence determination with Canada and the EU appropriately in the "B" priority level. Much of FDA focus in the new security regulations is to better track and regulate imported products, including dairy products. A determination of equivalence with either Canada or the EU will make this effort even more daunting. Furthermore,

NMPF has concerns that, in this era of free trade, equivalence should not be determined in an effort to only allow for more trade. Equivalence should only be determined if the foreign government regulations are, in fact, doing all of the regulatory work that the U.S. regulatory agencies conduct. If U.S. farmers and manufacturers are required to meet a set of regulations to produce and process dairy products, then farmers and manufacturers in other countries must be required to do the same if they intend on competing in the U.S. market place.

Thank you for the opportunity to submit these comments. If you have any questions or would like additional information, please contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert D. Byrne".

Robert D. Byrne, Ph.D.
Vice President, Regulatory Affairs