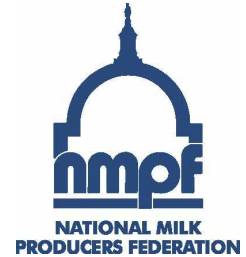




International Dairy Foods Association
Milk Industry Foundation
National Cheese Institute
International Ice Cream Association



November 10, 2009

The Honorable Tom Harkin
Chairman
Senate Committee on Health, Education,
Labor and Pensions
U.S. Senate
Washington, D.C. 20510

The Honorable Michael Enzi
Ranking Member
Senate Committee on Health, Education,
Labor and Pensions
U.S. Senate
Washington, D.C. 20510

Dear Chairman Harkin and Ranking Member Enzi,

We would like to express our support for S. 510, the "FDA Food Safety Modernization Act", and thank you and your staff for the priority you are giving this legislation as you consider the bill in committee. S. 510 has been in development in the Senate for almost two years, and it reflects bipartisan support from a broad spectrum of consumer groups and the food industry.

As you proceed to mark up S. 510, we would like to bring to your attention several dairy specific issues that arose during consideration of the House-passed bill (H.R. 2749) and to offer some specific language that we believe would improve both S. 510 and H.R. 2749.

The dairy industry has an excellent food safety record, with less than 1 percent of all food-borne disease cases, as reported by the Center for Disease Control and Prevention, associated with pasteurized milk and dairy products. Unfortunately, this reputation is tainted by the much higher incidence of food related illnesses from raw, unpasteurized milk and other raw milk products. According to the CDCP, 71% (137 of 193 cases) of the reported food borne illnesses from dairy products were attributable to consuming under-pasteurized or raw milk, including one death. This is all the more remarkable when you consider that raw milk consumption is a small, but growing portion of total dairy consumption.

The lack of regulation and increased availability of raw milk for direct human consumption contrasts with the overall superior food safety record of all dairy products and perhaps causes consumers to substitute less-nutritious products. In fact, the Center for Science in the Public Interest recently issued a report that listed cheese as being in the top ten of dangerous foods. Yet, the reason cheese placed so high was primarily due to incidents from cheese made from unpasteurized milk. (Ice cream also made CSPI's list but primarily because of the use of another raw product, uncooked eggs in home preparation.)

Before pasteurization became widely utilized during the 1920s, human consumption of raw milk was one of the major sources of food borne illnesses and one of the primary causes of infant mortality. As the consumption of raw milk by humans became widely recognized as a significant cause of human illness and death, the states and FDA subsequently developed and implemented a highly effective, nation-wide system that is responsible for the industry's enviable food safety position.

For over 55 years, FDA's Pasteurized Milk Ordinance (PMO) has been the national standard for the safety of grade A milk and dairy products. The PMO requirements have been adopted by all U.S. states and territories, and cover all aspects of hazard analysis, planning and monitoring from farm to plant to delivery of finished dairy products, including mandatory quarterly inspection and frequent product sampling and testing. These extensive requirements are constantly improved and updated through a

coordinated program between FDA and the states and have resulted in the very low numbers of food safety problems that we see today. The same cannot be said of raw milk and dairy products produced from raw milk that are not subject to additional safety measures such as aging (60 days in case of cheeses). These products are not covered by the PMO, are illegal in many states, and would not be covered by any of the new food safety requirements in S. 510 or H.R. 2749.

It is important to the health of the American public, and for the continued confidence in the dairy industry, that the new food safety legislation bolster the success of the PMO program and applies any new FDA requirements to raw milk and raw dairy products not subject to additional safety measures as described above. To do otherwise, would be to penalize the many dairy farms and plants who are producing the safe and wholesome pasteurized dairy products, while disregarding the growing public health threat from raw milk consumption and raw dairy products in commerce.

To accomplish this we have three specific suggestions that we would like you to consider during consideration of S. 510:

1. Require farms and facilities that produce and distribute raw milk for human consumption and raw dairy products not aged for 60 days prior to sale to register and adhere to the same requirements as all farms and facilities that produce and distribute pasteurized dairy products. Unpasteurized raw milk products pose a significant food safety hazard, but these facilities are not required to comply with the food safety plans, record keeping and access, and other important FDA regulations that are triggered by registration.
2. Recognize that the state inspections under the PMO already meet and exceed the FDA's inspection frequency, and that facilities in compliance with the PMO have food safety plans in place that meet the hazard analysis, preventive controls, and monitoring requirements in S. 510. Recognizing the PMO as meeting these requirements would allow the FDA to focus its limited resources on those facilities that do not receive regular inspections at the state level and would help ensure that the FDA targets resources to higher risk, rather than duplicate state functions under the PMO.
3. We oppose FDA registration fees for public health inspection. Dairy farms and plants under the PMO already pay state licensing and inspections fees in excess of \$10 million annually. These state inspections reduce the burden on FDA, and the state fees should be credited against any new registration fees that are not currently in S. 510, but are contained in H.R. 2749. It should also be noted that in H.R. 2749 the registration fees would apply to dairy farms that pasteurize milk for local bottling, but the fees do not apply to farms that bottle for direct human consumption or sell raw milk products not aged for 60 days.

Federal food safety efforts must not only be effective, but also efficient and fair. To truly be effective for the dairy industry, legislation must address the problems and inequities created by the sale and consumption of raw milk. To be efficient, federal food safety efforts must be harmonized with the already effective PMO regulatory scheme. And, to be fair, dairy facilities should not have to pay twice for the same services when these services are being provided by state public health programs with over 50 years of experience or pay more than other food facilities.

We appreciate your consideration of these suggestions and look forward to working with you and your staffs on these important issues.

Sincerely,



Connie Tipton
President and CEO
International Dairy Foods Association



Jerry Kozak
President and CEO
National Milk Producers Federation