IDFA
INTERNATIONAL
DAIRY FOODS
ASSOCIATION

Fall Board Meetings of the IDFA Executive Council and Industry Boards

Briefing Materials

October 1-3, 2019
Conrad Indianapolis | Indianapolis, Ind.

Agendas

Breakfast available beginning at 7:00 a.m.

Issues Briefing Meeting

Issues Briefing for Members of the IDFA Executive Council & Industry Segment Boards
Wednesday, October 2 | 8:00—11:30 a.m. | Vienna North & South

Agenda

Presiding:
Dan Zagzebski, Chair, IDFA Executive Council
Counsel: Danielle Quist, IDFA

Welcome & Roll Call ..... Dan Zagzebski
Antitrust Reminder ..... Danielle Quist
State of the Dairy Industry ..... Michael Dykes

Legislative Priorities ..... Dave Carlin
Trade ..... Beth Hughes
FMMO Reform ..... Dave Carlin
Natural Cheese ..... Dave Carlin
Child Nutrition Reauthorization ..... Tony Eberhard
Appropriations ..... Tony Eberhard
Labor/Immigration ..... Tony Eberhard
Transportation ..... Dave Carlin
Political Affairs ..... Colin Newman

Break

Regulatory Priorities ..... Cary Frye

Nutrition Policy ..... Cary Frye

- Dietary Guidelines for Americans
- FDA Voluntary Sodium Reduction Targets
- NYC National Sodium and Sugar Reduction Initiative

FDA Food Standards Modernization ..... Cary Frye/John Allan

Labeling Policy Updates ..... Cary Frye

- IDFA Resources for Nutrition Facts Label Rules

NCIMS/Grade "A" Program ..... John Allan

- Dual-grade Inspections
- Repackaging Cultured Grade "A" Products

International Standards ..... John Allan

- Defending Science-Based Codex Standards
- Codex Follow-up Formula Standard
- Front-of-Pack Nutrition Labeling

Bioengineered Food Disclosure Standard ..... Danielle Quist

Per-and Polyfluoroalkyl Substances (PFAS) ..... Danielle Quist

Litigation Updates ..... Danielle Quist

Communications ..... Matt Herrick

- Introduction to Team
- Dairy Delivers, Dairy Innovates, Dairy Nourishes
- Resources
- IDFA Laureate Award

Dairy Forum and McKinsey & Company ..... McKinsey & Company

- Research Study Preview

Closing Remarks and Housekeeping ..... Michael Dykes

Adjourn ..... Dan Zagzebski

Cheese Board Meeting

Wednesday, October 2 | 1:30 p.m.—3:00 p.m.
Vienna North

IDFA Staff Liaisons:
J. David Carlin, Senior Vice President, Legislative Affairs and Economic Policy
Cary Frye, Senior Vice President, Regulatory Affairs

Agenda

Presiding:
Louie Gentine, Chair, IDFA Cheese Board
Counsel: Danielle Quist, IDFA

Welcome and Roll Call ..... Louie Gentine
Antitrust Statement ..... Danielle Quist
Chairman's Remarks ..... Louie Gentine
Strategic Priority Review ..... Louie Gentine
Key Actions and Discussion ..... Dave Carlin/Cary Frye
Federal Milk Marketing Order Reform ..... Sue Taylor/ Kurt Epprecht
New Business ..... Louie Gentine

Adjourn ..... Louie Gentine

Notes

Ingredients Board Meeting

Wednesday, October 2 | 3:30 p.m.—5:00 p.m.
Vienna North

IDFA Staff Liaisons:
John Allan, Vice President, Regulatory Affairs and International Standards
Beth Hughes, Senior Director, International Affairs

Agenda

Presiding:
Andrei Mikhalevsky, Chair, IDFA Ingredients Segment Board
Counsel: Danielle Quist, IDFA

Welcome and Roll Call ..... Andrei Mikhalevsky
Antitrust Statement ..... Danielle Quist
Chairman's Remarks ..... Andrei Mikhalevsky
Strategic Priority Review ..... Andrei Mikhalevsky/Terry Brockman
Key Actions and Discussion ..... John Allan/Beth Hughes
Federal Milk Marketing Order Reform ..... Sue Taylor/ Kurt Epprecht
New Business ..... Andrei Mikhalevsky

Adjourn ..... Andrei Mikhalevsky

Notes

Ice Cream Board Meeting

Thursday, October 3 | 7:30—9:00 a.m.
Vienna North

IDFA Staff Liaisons:
Tony Eberhard, Vice President, Legislative Affairs
Danielle Quist, Senior Director of Regulatory Affairs and Counsel

Agenda

Presiding:
Mike Wells, Chair, IDFA Ice Cream Segment Board
Counsel: Danielle Quist, IDFA

Welcome and Introductions ..... Mike Wells
Antitrust Statement ..... Danielle Quist
Chairman's Remarks ..... Mike Wells
Strategic Priority Review ..... Mike Wells/Rich Draper
Key Actions and Discussion ..... Tony Eberhard/Danielle Quist
Vanilla Litigation Update ..... Danielle Quist
Federal Milk Marketing Order Reform ..... Mike Suever
New Business ..... Mike Wells

Adjourn ..... Mike Wells

Notes

Fluid Milk Board Meeting

Thursday, October 3 | 9:30—11:00 a.m.
Vienna North

IDFA Staff Liaisons:
J. David Carlin, Senior Vice President, Legislative Affairs and Economic Policy
Cary Frye, Senior Vice President, Regulatory Affairs

Agenda

Presiding:
Ed Mullins, Vice Chair, IDFA Fluid Milk Board
Counsel: Danielle Quist, IDFA

Welcome and Roll Call ..... Ed Mullins
Antitrust Statement ..... Danielle Quist
Chairman's Remarks ..... Ed Mullins
Strategic Priority Review ..... Ed Mullins
Key Actions and Discussion ..... Dave Carlin
Federal Milk Marketing Order Reform ..... Mike Suever
USDA Fluid Milk Programs ..... Dave Carlin
New Business ..... Ed Mullins

Adjourn ..... Ed Mullins

Notes

Yogurt & Cultured Products Board Meeting

Thursday, October 3 | 11:30 a.m.—1:00 p.m.
Vienna North

IDFA Staff Liaisons:
John Allan, Vice President, Regulatory Affairs and International Standards
Tony Eberhard, Vice President, Legislative Affairs

Agenda

Presiding:
Philippe Caradec, Chair, IDFA Yogurt & Cultured Products Board
Counsel: Danielle Quist, IDFA

Welcome and Roll Call ..... Philippe Caradec
Antitrust Statement ..... Danielle Quist
Chairman's Remarks ..... Philippe Caradec
Strategic Priority Review ..... Philippe Caradec/Trevor Farrell
Key Actions and Discussion ..... John Allan/Tony Eberhard
Live and Active Cultures (LAC) Seal Program ..... John Allan
Yogurt & Cultured Innovation Conference ..... John Allan/Tom Wojno
Federal Milk Marketing Order Reform ..... Mike Suever
New Business ..... Philippe Caradec

Adjourn ..... Philippe Caradec

Notes

IDFA Executive Council Meeting

Thursday, October 3 | 2:00 p.m.—4:00 p.m.
Vienna North

Agenda

Presiding:
Presiding: Dan Zagzebski, Chair, IDFA Executive Council
Counsel: Danielle Quist, IDFA

Welcome and Roll Call ..... Dan Zagzebski
Antitrust Statement ..... Danielle Quist
Minutes* (Action Required) ..... Stan Ryan
Chairman's Report ..... Dan Zagzebski
President's Report ..... Michael Dykes

- Strategic Priority Review
- Discussion of Key Horizontal Issues

Membership Dues and Program Update ..... Tom Wojno
Financial Overview ..... Neil Moran
Financial Report* (Action Required) ..... David Nelsen
Finance Committee * (Action Required) ..... David Nelsen
Nomination and Governance Committee* (Action Required) ..... Mike Reidy
New Business ..... Dan Zagzebski

Adjourn ..... Dan Zagzebski

IDFA
INTERNATIONAL DAIRY FOODS ASSOCIATION
Making a Difference for Dairy

Legislative Priorities

ISSUES BRIEFING FOR MEMBERS OF THE IDFA EXECUTIVE COUNCIL & INDUSTRY SEGMENT BOARDS

Fall 2019 Briefing Materials

Confidential
IDFA Legislative Policy Priorities
116th Congress
September 23, 2019

PRIORITY RANKING BY SEGMENT BOARD

A = High priority
B = Moderate priority
C = Lower priority

Issue Area	Status	Goals	Specific Actions	Priority M C IC Y I
IMPLEMENTATION OF THE 2018 FARM BILL	The 2018 farm bill (the Agriculture Improvement Act of 2018) was signed into law on December 20, 2018. USDA has implemented most of the bill's provisions, including many that are of interest to the dairy industry. However, the Food and Nutrition Service (FNS) has not yet announced how it plans to implement the new milk purchase incentive program for SNAP families.	Implement farm bill provisions that would extend the current Dairy Forward Pricing Program for Classes II, III & IV; Change the Class I mover from the higher of Class III & IV to the simple average of Class III & IV, with a $0.74 adjustor; Create a milk purchase incentive program in SNAP; and Improve risk management tools available to dairy producers (the new Dairy Margin Coverage Program)	Pursuant to a final rule issued on March 1, 2019, the Dairy Forward Pricing Program has been reinstated and will remain in effect until September 30, 2023. Similarly, a final rule implementing the Class I mover change was issued on March 11, 2019. The mover change effective date was May 1, 2019 - the effective date specified in the statute. IDFA is currently working with staff at FNS and in the Food, Nutrition and Consumer Services mission area, as well as other stakeholders, to implement the new SNAP milk purchase incentive program.	**A A A A A**

Issue Area	Status	Goals	Specific Actions	Priority M C IC Y I
FEDERAL MILK MARKETING ORDERS	The Agricultural Marketing Service (AMS) has commissioned Dr. Mark Stephenson from the University of Wisconsin to conduct a cost of processing study as a prelude to a possible federal order hearing to consider changes to current make allowances. Dr. Stephenson hopes to complete this study and provide a report to AMS before the end of 2019. To prepare for a possible federal order hearing, IDFA's economic policy committee has been meeting regularly to identify issues that it might wish to advance during a future hearing or pursuant to notice and comment rulemaking. Similar FMMO reviews are underway at NMPF and the American Farm Bureau Federation, and leaders from both organizations met with the economic policy committee in June in an effort to promote transparency and lay the groundwork for potential collaboration on shared priorities in the future.	IDFA's long-term goal is to modernize and reform the FMMO system. Work with our economic policy committee to identify incremental ways that the FMMO system can be improved that will put us on a "glide path" to more fundamental reform.	Since the beginning of the year, the economic policy committee has met in person three times to discuss possible FMMO reform measures. During its June meeting, the committee formed three working groups focused on Class & I & II issues; Class III & IV formula issues and Spot Market Rules. The committee convened in early September to hear reports from the three working groups and to begin to identify policy reforms around which there is broad member company consensus. The committee also agreed to establish a Longer-Term Issues working group that will work in parallel with the other three working groups.	**A A A A A**
CHILD NUTRITION REAUTHORIZATION AND MILK FLEXIBILITY	House and Senate committee leaders have indicated that they may consider legislation later this year to reauthorize federal child nutrition programs. Authorization for these programs formally lapsed on September 30, 2015 but with few exceptions, they continue	Enact a child nutrition reauthorization bill that includes IDFA's policy priorities: Reinstate reduced-fat	IDFA staff worked with our regulatory committee members to identify our child nutrition reauthorization priorities.	**A B C B C**

Issue Area	Status	Goals	Specific Actions	Priority M C IC Y I
	to operate without disruption through annual appropriations. In December 2018, USDA issued a final rule that permanently allows schools to offer low-fat flavored milk in the school lunch and breakfast programs, as well as in the Special Milk Program for Children and in the Child and Adult Care Food Program for participants ages 6 and older. In June 2019, Reps. Courtney (D-CT) and Thompson (R-PA) introduced legislation to codify the school milk changes made in the final rule. H.R.3125 currently has 42 bipartisan cosponsors (25 Ds/17 Rs). Reps. Thompson and Peterson (D-MN) introduced separate legislation (H.R. 832) in January 2019 that would allow whole milk to be served in the school meals program. The bill has 16 cosponsors and had been referred to the House Education and Labor Committee. A similar bill was introduced by Senator Pat Toomey (R-PA) with two cosponsors and has been referred to the Senate Agriculture Committee.	(2%) milk into the WIC program for kids 2 years and older; Allow WIC families to purchase yogurt in different container sizes "up to" 32 ounces; Preserve the ability of schools to offer low-fat (1%) flavored milk; and Increase the milk container size in high school competitive foods program. Separately, we are working with FNS to ensure that bottled water is not allowed as a substitute for milk in schools or displayed on the lunch line to interfere with selecting milk.	IDFA staff worked to recruit cosponsors for the Thompson/Courtney codification bill to improve dairy's position in the House Education and Labor Committee child nutrition reauthorization discussions. IDFA has met with the Senate Agriculture Committee staff and offices of senators serving on the committee to build support and recruit champions for IDFA's four child nutrition reauthorization priorities. IDFA staff worked with House and Senate sponsors of the whole milk in schools legislation to provide political, strategic, and technical support. IDFA staff continues to work with FNS staff to educate them on how some schools are illegally promoting bottled water as a substitute for milk. IDFA has asked FNS to more vigorously enforce its existing rules in this area.	

Issue Area	Status	Goals	Specific Actions	Priority M C IC Y I
CODIFY DEFINITION OF "NATURAL CHEESE"	On May 23, 2019, a Senate bill (S. 1669) was introduced which would codify a definition of "natural cheese" within federal statute. The Codifying Useful Regulatory Definitions Act ("CURD Act") has six bipartisan cosponsors (Sens. Johnson (R-WI), Wyden (D-OR), Risch (R-ID), Baldwin (D-WI), Braun (R-IN) and Sinema (D-AZ) and has been referred to the Health, Education, Pensions and Labor Committee. S. 1669 is identical to legislation that the Senate passed last December by voice vote. A companion bill was introduced in the House in late September and referred to the Energy & Commerce Committee. The lead sponsors are Reps. Kind (D-WI), Schrader (D-OR) and Long (R-MO).	Pass the CURD Act to ensure that cheesemakers can continue to use the term "natural cheese" on their product labels without threat of litigation.	IDFA and member company representatives are working to generate additional support for the CURD Act among key Senators and House Members. IDFA staff is asking state dairy products associations in key states to communicate their support for the legislation to their congressional delegations IDFA is also working closing with FDA to ensure that any additional technical consultation with Congress is supportive.	**C A C C C**
FY 2020 APPROPRIATIONS	The FY 2019 Consolidated Appropriations Act was signed into law on February 15, 2019. The bill includes $1.5 million for research for ice cream waste solutions and a $2 million increase in funding for FDA's Office of Nutrition and Food Labeling for standards of identity modernization. The House passed its version of the FY2020 agriculture appropriations bill on June 25, 2019. The bill preserved $1.5 million for ARS ice cream waste solutions research funding; increased funding for FDA's Office of Nutrition and Food Labeling by $3 million on top of FY2019's $2 million increase; and provided $1 million in new funding for the newly created SNAP fluid milk incentive purchase program.	Preserve the $1.5 million for ARS research for ice cream waste solutions Maintain the increased level of funding for FDA's Office of Nutrition and Food Labeling to provide FDA with sufficient resources to modernize standards of identity regulations. Secure $1 million to help USDA stand up the new SNAP milk	IDFA developed and executed a strategy to secure congressional support for IDFA's FY 2020 appropriations agenda. Part of this strategy was to host a strategic fly-in in February that was focused on IDFA's appropriations priorities. During the fly-in, our executive council members met with key congressional appropriators. Additionally, IDFA staff has engaged House and Senate appropriations committee staff	**A A A A A**

Issue Area	Status	Goals	Specific Actions	Priority M C IC Y I
	Meanwhile, the Senate Appropriations Committee passed its version of the FY2020 agriculture appropriations bill on September 19, 2019. The Senate bill protected the $1.5 million for ARS ice cream waste solutions as well as the FY19 increase in funding for FDA's Office of Nutrition and Food Labeling. $1 million in new funding was provided for the SNAP milk purchase incentive program.	purchase incentive program.	as well as the offices of more than14 House and Senate members who serve on the appropriations committees.	
FOOD WASTE	On July 25, 2019, Rep. Pingree (D-ME) and Rep. Newhouse (R-WA) introduced legislation (H.R. 3981) that would standardize food date labels. The bill establishes uniform quality and discard date nomenclature ("Best if used by" and "Discard by"). Food manufacturers would decide which products would care a quality or discard date. Identical legislation (S. 2337) has been introduced in the Senate by Sen. Blumenthal (D-CT). H.R. 3981 was referred to the House Energy & Commerce and Agriculture Committees, and S. 2337 is pending in the Health, Education, Pensions & Labor Committee.	Support uniform voluntary quality and safety related date labeling practices Support standardized nomenclature for voluntary quality dates. Oppose mandatory quality labeling Promote consumer education and milk and dairy product donations.	Advocate voluntary industry wide adoption of "best by" and "use by" dates. Coordinate IDFA's food waste position and advocacy effort with other perishable food trade associations (NAMI, United Fresh, AFFI)	**C C C C C**
ACCURATE LABELS ACT	IDFA supports efforts at the federal level to impose minimum scientific standards on federal and state labeling requirements related to the chemical composition of, and radiation emitted by, consumer products, including food products.	Preempt onerous state and local mandatory warning label and ingredient disclosure requirements (e.g., California's Prop 65)	As a member of the Coalition for Accurate Product Labels (CAPL), IDFA is working to identify and recruit bipartisan House and Senate lead sponsors for legislation that would accomplish this goal.	**B B B B B**

Issue Area	Status	Goals	Specific Actions	Priority M C IC Y I
OTHER NUTRITION AND FOOD POLICY ISSUES	FDA, USDA and Congress are considering programs and policies that broadly impact the dairy industry, including: • FDA voluntary sodium reduction targets for all foods and USDA sodium targets for school meals • The National Academies of Sciences, Engineering, and Medicine proposed revisions to the WIC food packages that included more size options for yogurt, but also decreasing the amount of milk offered. Congress had included language in recent appropriations bills that prevented FDA from proceeding with population wide sodium reduction measures before reviewing and updating relevant scientific evidence. The National Academies of Sciences, Engineering, and Medicine issued their report on Dietary Reference Intakes for Sodium and Potassium on March 5, 2019 so FDA may proceed with voluntary sodium reduction targets for foods. USDA's final rule (2017) for school meals will provide more time for gradual sodium reduction by retaining Sodium Tier I through the end of school year (SY) 2023-2024, continuing to Tier II in SY 2024-2025, and eliminating the Final Target that would have gone into effect in SY 2022-2023.	Represent the dairy processing industry in formulating policy and advocating for outcomes that are scientifically-based, non-market distorting and that use government resources efficiently Delay any further Tier II reductions in allowable school meal sodium levels. Maintain relationships with consumers, nutritionists and other organizations actively involved in food and nutrition policies. Remove or reduce the targets for cheese and other dairy products from FDA's voluntary sodium reduction goals.	IDFA legislative staff actively participates in several food industry coalitions, including: • Food and Beverage Issue Alliance • Sodium Coalition • Food Industry Association Executives IDFA is also working with the Sodium Coalition to fund a study that demonstrates to FDA, HHS and the Office of Management and Budget that the costs of FDA's voluntary sodium reduction would have a significant economic impact and should be considered under the regulatory process instead of guidance.	**B A C B B**

Issue Area	Status	Goals	Specific Actions	Priority M C IC Y I
TRADE	The U.S.-Mexico-Canada Agreement (USMCA) was signed on November 30, 2018. The Administration is seeking ratification before the end of 2019. The administration is currently working on phase 1 of a trade deal with Japan that will include agriculture. The specifics for dairy products have not yet been released nor has information on the details of phase 2. The administration has announced plans to negotiate trade agreements with the European Union and the United Kingdom. The administration has separately imposed Section 301 tariffs on $550B worth of Chinese goods. China has imposed retaliatory tariffs on $185B worth of U.S. products including dairy products such as whey, cheese and infant formula.	Congressional ratification of USMCA Increase dairy export opportunities by supporting the reduction of trade barriers including tariffs, SPS barriers, and restrictions on the use of common food names. Urge the administration to pursue trade agreements with key Asia-Pacific countries	IDFA coordinates with the US Dairy Export Council on issue advocacy with USTR, USDA, and Congress. We also participate in the North America Food & Ag Trade Group. Michael Dykes serves as a Cleared Advisor on the Agricultural Policy Advisory Committee. Beth Hughes serves as a Cleared Advisor on the Agricultural Trade Advisory Committee for Processed Foods. We have queried IDFA members and have provided the administration with a document detailing the key outcomes the U.S. dairy industry is seeking in a deal with Japan. We have provided the administration with a list of key negotiating objectives for potential bilateral trade agreements with the EU and the UK. We have met with the majority and minority trade counsels on the Senate Finance and House Ways &	**B A B B A**

Issue Area	Status	Goals	Specific Actions	Priority M C IC Y I
			Means committees. We continue to work with Members of Congress to pose questions to key administration officials and nominees at congressional hearings regarding the importance of exports to the US dairy industry. IDFA has endorsed the Trade Security Act of 2019 (S. 365 and H.R. 1008) led by Sens. Portman and Jones and Reps. Kind and Walorski to allow for congressional oversight in tariff policy. We communicate with the leadership of the Senate Finance and Judiciary, House Ways and Means and Judiciary Committees regarding GIs. At USDA's request, IDFA has worked with members to develop a target list of key markets that are ripe for bilateral trade agreements with the U.S. and that provide the best growth opportunities for U.S. dairy. This list has been provided to key USDA officials and is attached below.	

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TRANSPORTATION AND RURAL INFRASTRUCTURE	The 116th Congress may consider legislation to improve the country's transportation infrastructure when the current highway funding bill expires at the end of 2020. This may provide an opportunity for proponents of heavier truck weights to require USDOT to establish a pilot program to evaluate the safety of allowing 91,000 pound trucks on interstate highways. A June 2019 analysis by Blimling and Associates showed that dairy company transportation costs would decrease by hundreds of millions of dollars if the interstate truck weight limit was raised. Other issues that might be addressed as part of a larger highway funding measure could include the shortage of truck drivers and hours of service regulations.	Support congressional efforts to establish a state truck weight pilot program and to address the truck driver shortage issue	IDFA is a member of the Safer Hauling & Infrastructure Protection (SHIP) coalition, and IDFA staff is working with other coalition members to collect congressional signatures on a letter to the House Transportation and Infrastructure Committee leadership in support of a truck weight pilot program. IDFA also supports the DRIVE Safe Act (S. 569), bipartisan legislation aimed at addressing the truck driver shortage by creating an apprenticeship program for 18 to 21-year-old drivers to train and drive across state lines. In January 2019, IDFA joined the American Bakers Association in petitioning the Federal Motor Carriers Safety Administration (FMCSA) for a suspension of hours of service restrictions for drivers delivering food staples ahead of a natural disaster.	**B B B B B**
WHO POLICIES ON INFANT AND YOUNG CHILDREN FEEDING AND TAXES ON SUGAR-SWEETENED MILK PRODUCTS	In May 2016, the World Health Assembly (WHA) adopted guidance on new restrictions and prohibitions regarding the promotion and marketing of milk products including follow up formula, milk, cheese and yogurt for young children up to 3 years of age. The	Support the Trump administration's efforts to improve interagency communication, alignment and	IDFA continues to coordinate with member companies and other industry trade associations to educate and advocate with key administration officials,	**A A B A A**

Issue Area	Status	Goals	Specific Actions	Priority M C IC Y I
	WHA also approved an accompanying resolution that provides some protections for dairy products. It recognizes that the Codex Alimentarius Commission is the global standard-setting body for foods and beverages, not WHO, thereby helping to ensure that the more robust and transparent Codex process will be used for defining food and food-labeling standards. Adoption of this non-science based guidance by WHO member states would result in unintended health consequences for young children and may violate World Trade Organization (WTO) trade rules, including IP restrictions on brand owners. Codex Alimentarius is currently in the process of completing a Follow-up Formula Standard, which was not considered before WHO issued this draft guidance. WHO has also released a set of "best buy" policies for reducing risk of non-communicable diseases, including promoting the use of taxes to reduce consumption of sugar-sweetened beverages, including flavored milk products, despite the lack of evidence showing taxes effectively contribute to reducing NCDs. WHO is also pushing for use of nutrient profiling and has released guidance on front-of-pack nutrition labeling, both of which, if implemented without taking account of dairy's total nutritional package, could negatively impact dairy.	adoption of proactive measures to counteract WHO's actions. Encourage the administration to build alliances and conduct outreach with other WHO member states to ensure that the May 2016 guidance is not adopted by other countries and that it does not set a negative precedent for future WHO actions. Ensure the May 2016 guidance does not have negative trade impacts or violate WTO obligations. Ensure relevant agencies, including HHS, State, DOC and USTR are able to effectively monitor and engage proactively on other emerging WHO issues, including promotion of taxes.	congressional offices and committees. IDFA is the co-lead on this issue for the food industry trade association CEO group (the Goodstone Group) IDFA is a member of the Engaging America's Global Leadership Coalition (EAGL) which promotes strong U.S. leadership in international organizations and supports manufacturing and jobs. We will also work to ensure relevant agencies are appropriately resourced to engage on emerging WHO issues proactively.	

Issue Area	Status	Goals	Specific Actions	Priority M C IC Y I
SUGAR	We expect legislation to be introduced in the House and Senate later this year to reform the U.S. sugar program. These bills are unlikely to move forward on their own, but supporters could try to offer them as amendments to other legislative vehicles. Separately, Rep. Scott Perry (R-PA) has introduced a bill to completely repeal the U.S. sugar program. We do not expect this bill to move forward in the near term.	Eliminate import restrictions and production quotas.	IDFA continues to participate in the Sweetener Users Association (SUA) and the Alliance for Fair Sugar Policy.	**B C A A C**
IMMIGRATION	On January 17, 2019, Senator Dianne Feinstein (D-CA) and Representative Zoe Lofgren (D-CA) introduced legislation (S. 175/H.R. 641) to shield farmworkers from deportation and put them on a path toward earned legal status and eventual citizenship. Under the Agricultural Worker Program Act, farmworkers who have worked in agriculture for at least 100 days in the past two years may earn "blue card" status that allows them to continue to legally work in the Unites States. Farmworkers who maintain blue card status for the next three years or five years—depending on hours worked in agriculture—would be eligible to adjust to lawful permanent residence (green card).	Support passage of an agriculture guest worker program that will apply to non-seasonal, skilled immigrant workers. Such a program must have workable touchback, visa duration, E-Verify, and worker family provisions, among other priorities.	IDFA has established an Immigration Task Force that has developed specific policy goals for IDFA to pursue. We continue to coordinate with the dairy producer community on immigration issues and relevant developments in Congress. IDFA continues to utilize its Hill network to advance our immigration principles. IDFA is also leveraging our membership in the Agriculture Workforce Coalition (AWC) and Essential Worker Immigration Coalition (EWIC) in support of our policy priorities.	**B B B B B**

Issue Area	Status	Goals	Specific Actions	Priority M C IC Y I
STATE ISSUES	IDFA tracks state proposals on raw milk sales, beverage taxes, nutrition and labeling requirements, waste management, milk pricing and other issues of importance to processors.	Monitor and prevent onerous dairy legislation from passing in any state legislature. Prevent raw dairy product sales from becoming legal or more widespread in states that already permit the sale of raw dairy products. Oppose efforts to impose taxes on dairy products, including sweetened beverages.	We continue to work with IDFA members and in-state allies, including food retailer organizations, to oppose legislation that would negatively impact the dairy industry. We maintain a comprehensive list of state bills affecting the dairy industry and their status. We work with NMPF to communicate industry opposition to state raw milk bills.	**B B B B B**

IDFA
INTERNATIONAL DAIRY FOODS ASSOCIATION
Making a Difference for Dairy

Trade

LEGISLATIVE PRIORITIES

Fall 2019 Briefing Materials

*Remind Members of Congress about the importance of passing the **U.S.-Mexico-Canada Agreement** (USMCA). Please join us by contacting your U.S. Representative and U.S. Senators to urge their support for USMCA when it comes before Congress for a vote.*

Text HelpAg to 52886

Trade is vital to our industry, and ratification of USMCA by Congress is critical to our nation's trade relationships with Mexico and Canada.

USMCA COALITION

IDFA
INTERNATIONAL DAIRY FOODS ASSOCIATION

CHINA TARIFF IMPACT ON DAIRY

September 2019

After U.S. dairy product manufacturers and marketers invested years developing opportunities in China, it became the leading market for U.S. whey and was a growing customer for U.S. cheese. Retaliatory tariffs are derailing those efforts and costing the U.S. dairy industry millions in sales, market share and jobs. For more information, visit IDFA's Trade Toolkit at www.idfa.org/tradetoolkit

$500 Million

U.S. Dairy Exports to China 2018

WHEY

China bought 33% of U.S. whey exports by value in 2018. Overall, shipments added up to $174 million. Year-to-date through July 2019, with retaliatory tariffs still in place, exports declined by 46% year-over-year. **Between August 2018 and July 2019, U.S. sales to China dropped by 43%.**

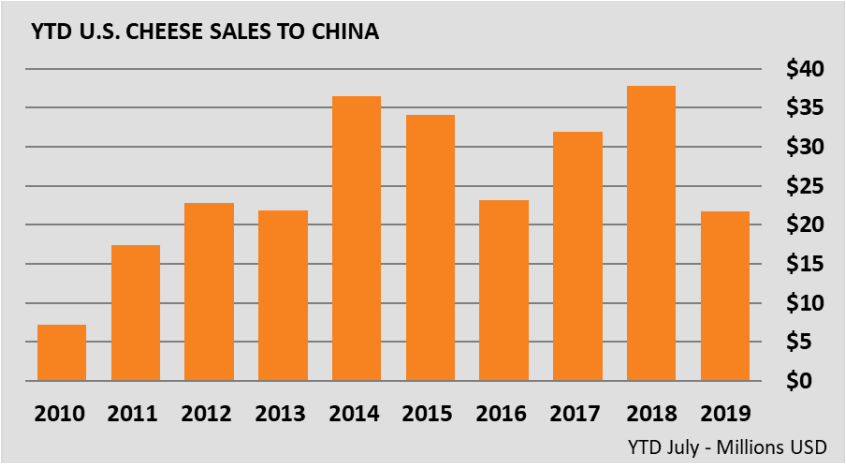
2018 U.S. EXPORTS TO CHINA

Product	Value	vs 2013
Whey	$ 174	-27%
SMP	$ 40	-82%
Cheese	$ 58	+25%
Lactose	$ 70	-32%
WPC/WPI	$ 60	+81%
Infant Formula	$ 38	+275%
Milk Food Preps	$ 9	+24%
Casein/Caseinates	$ 3	+1062%
Ice Cream	$ 3	-41%
Butter and AMF	$ 0	-97%
Other	$ 43	+21%
TOTAL	$ 500	-29%

Millions of USD, GTIS, Census Bureau

CHEESE

China is becoming a major market for cheese, with its total imports up by 20% annually over the past five years. With U.S. product pricier due to higher tariffs, Oceania sellers have been quick to fill the gaps. **Through July 2019, U.S. export value fell 42%. That's on top of a 39% loss in the second half of 2018.**



For more information, visit IDFA's Trade Toolkit at www.idfa.org/tradetoolkit

August 19, 2019

The Honorable Robert Lighthizer
United States Trade Representative
600 17th Street NW
Washington, DC 20003

The Honorable Sonny Perdue
Secretary
U.S. Department of Agriculture
1400 Independence Ave., S.W.
Washington, DC 20250

Dear Ambassador Lighthizer and Secretary Perdue:

The United States has an immediate opportunity to achieve another item on the U.S. trade agenda and negotiate a strong trade deal with Japan that brings significant benefits to the dairy industry. **With the recent conclusion of Japan's national elections, the next several months will be critical and on behalf of America's dairy industry, we urge the USTR to move quickly to secure an agreement that builds upon the best dairy components of the CPTPP and Japan-EU agreements. Without that, our industry stands to lose $1.3 billion in exports over a decade, costing dairy farmers $1.7 billion in farm income.**

Given that Japan is an established market with a growing demand for dairy products, the successful negotiation of a robust trade agreement with Japan will bring a much-needed boost to the economic health of the U.S. dairy industry and set our industry up on a path to compete effectively there moving forward. Securing robust dairy export opportunities with this overseas market will be critical to restoring confidence for our dairy farmers and processors across the country.

With per-capita consumption of dairy products in Japan increasing at four percent a year and domestic production unable to keep pace, the U.S. dairy industry stands ready to meet this demand with high-quality U.S. products. The U.S. exported $270 million in dairy products to Japan in 2018, making it our fifth largest overseas market with room for further growth. For instance, with a level playing field, the U.S. could roughly triple our cheese exports to that market over a decade[1]. That's particularly important because Japan is the second largest net importer of cheese in the world, importing nearly $1.3 billion in cheese in 2018.

Unfortunately, right now a level playing field isn't what we have. Instead, our largest export competitors have preferential trade deals with Japan while the U.S. does not, putting our industry at a significant disadvantage. The Japan-EU agreement and the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP) have allowed the European Union, New Zealand and Australia to position themselves to seize sales from the U.S. dairy industry.

It is clear that increasing our market access in Japan is urgently important to the U.S. dairy industry. That is why we are asking the USTR to act decisively in negotiations with Japan and secure an agreement that builds upon the best components of the Japan-EU agreement and the CPTPP.

Additionally, any negotiated agreement must combat the EU's efforts to monopolize the use of common name products through the misuse of geographical indications. Protecting the use of common names, particularly the use of generic cheese names, is a high priority in order to ensure that U.S. dairy products can continue to be sold unrestricted in markets across the globe. To that end, we urge USTR to build

[1] http://www.usdec.org/Documents/USDEC_Japan_Report.pdf

further upon the side letter precedents it so successfully initiated under the U.S.-Mexico-Canada Agreement in order to lock in market access assurances for the export access ultimately secured with Japan.

It is our hope that the U.S. will seize this opportunity presented by the conclusion of Japan's election. We have full confidence that you and your negotiating teams will deliver a trade agreement that secures the type of new market opportunities in Japan that we need to be fully competitive there and brings home robust benefits for America's dairy farmers and processors.

Sincerely,

National Milk Producers Federation
Arlington, Virginia

U.S. Dairy Export Council
Arlington, Virginia

Agri-Mark Family Dairy Farms
Andover, Massachusetts

American Dairy Products Institute
Elmhurst, Illinois

Associated Milk Producers Inc.
New Ulm, Minnesota

Bluegrass Dairy and Food, Inc.
Glasgow, Kentucky

Bongards' Creameries
Norwood Young America, Minnesota

California Dairies, Inc.
Visalia, California

Cayuga Milk Ingredients
Auburn, New York

Center for Dairy Excellence
Harrisburg, Pennsylvania

Colorado Dairy Farmers
Denver, Colorado

Commercial Creamery Co.
Spokane, Washington

Cooperative Milk Producers Association
Blackstone, Virginia

Dairy Farmers of America, Inc.
Kansas City, Kansas

Dairy Producers of New Mexico
Roswell, New Mexico

DairyAmerica
Fresno, California

Darigold, Inc.
Seattle, Washington

Edge Dairy Farmer Cooperative
Green Bay, Wisconsin

Ellsworth Cooperative Creamery
Ellsworth, Wisconsin

FarmFirst Dairy Cooperative
Madison, Wisconsin

First District Association
Litchfield, Minnesota

Foremost Farms USA Cooperative
Baraboo, Wisconsin

Georgia Milk Producers, Inc.
Watkinsville, Georgia

Glanbia Nutritionals, Inc.
Chicago, Illinois

Grassland Dairy Products, Inc.
Greenwood, Wisconsin

Hilmar Cheese Company, Inc.
Hilmar, California

Idaho Dairymen's Association
Twin Falls, Idaho

Idaho Milk Products
Jerome, Idaho

Illinois Milk Producers' Association
Bloomington, Illinois

Indiana Dairy Producers
Francesville, Indiana

International Dairy Foods Association
Washington, District of Columbia

International Ingredient Corporation
Fenton, Missouri

Iowa State Dairy Association
Ankeny, Iowa

James Farrell & Co.
Bellevue, Washington

Kansas Dairy Association
Hays, Kansas

Land O'Lakes, Inc.
Arden Hills, Minnesota

Leprino Foods Company
Denver, Colorado

Maryland & Virgina Milk Producers
Reston, Virginia

MCT Dairies, Inc.
Chatham, New Jersey

Michigan Milk Producers Association
Novi, Michigan

Milk Producers Council
Ontario, California

Milk Specialties Global
Eden Prairie, Minnesota

Minnesota Milk Producers Association
Buffalo, Minnesota

Mount Joy Farmers Co-op
Mount Joy, Pennsylvania

National All-Jersey Inc.
Reynoldsburg, Ohio

Nebraska State Dairy Association
Lincoln, Nebraska

North East Dairy Producers Association, Inc.
Geneseo, New York

O-AT-KA Milk Products Cooperative, Inc.
Batavia, New York

Ohio Dairy Producers Association
Columbus, Ohio

Oregon Dairy Farmers Association
Salem, Oregon

Prairie Farms Dairy
Edwardsville, Illinois

Premier Milk, Inc.
Ocala, Florida

Professional Dairy Managers of Pennsylvania
Harrisburg, Pennsylvania

Proliant Dairy Ingredients
Melrose, Minnsota

Sargento Foods Inc.
Plymouth, Wisconsin

Sartori Company
Plymouth, Wisconsin

Schreiber Foods
Green Bay, Wisconsin

Schuman Cheese
Fairfield, New Jersey

Select Milk Producers, Inc.
Artesia, New Mexico

South Dakota Dairy Producers Association
Madison, South Dakota

South East Dairy Farmers Association
Reston, VA

Southeast Milk, Inc.
Belleview, Florida

T.C. Jacoby & Company, Inc.
St. Louis, Missouri

Tillamook County Creamery Association
Tillamook, Oregon

United Dairymen of Arizona
Tempe, Arizona

Upstate Niagara Cooperative, Inc.
Buffalo, New York

Virginia State Dairymen's Association
Bridgewater, Virginia

Western Iowa Dairy Alliance
Orange City, Iowa

Western States Dairy Producers Association
Modesto, California

Wisconsin Cheese Makers Association
Madison, Wisconsin

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To: Economic Policy Committee

From: Dave Carlin

Date: September 16, 2019

Subject: Minutes of the September 5, 2019 Economic Policy Committee Meeting

At 10:00 am CDT, Committee Chair Sue Taylor convened the economic policy committee at the Hilton O'Hare Airport in Chicago. After the roll call (a participant list appears at the end of the minutes), Ms. Taylor and Vice Chair Mike Suever welcomed attendees and thanked them for their work to date to develop and evaluate a list of proposed policy changes to the FMMO system and the CME rules.

After an antitrust reminder by Dave Carlin, IDFA president and CEO Michael Dykes thanked the working group chairs for seeking input from all parts of IDFA's diverse membership. He encouraged attendees to contribute to the discussion and urged them to speak up if they disagreed with a proposed policy change. He noted that IDFA's membership includes both cooperatives and proprietary processors, and that therefore it should be possible for this group to fully develop a set of proposals that can gain broad industry support. He closed by noting that it has been nearly 20 years since the FMMO system was last reformed and he urged committee members to consider whether the system should be updated to recognize industry innovations and to make it work better for all stakeholders.

Ms. Taylor reminded committee members that three working groups had been formed to study sets of issues that had been identified during the June 11, 2019 committee meeting and that the chairs of these working groups would be reporting on their group's progress today. The working groups were asked to look closely at each issue and put it in one of three categories: 1) Consensus that that the policy should be changed or maintained; 2) No consensus on whether the policy should be changed (i.e., status quo); or 3) Further study is needed before a conclusion can be reached. She noted that the purpose of today's meeting was to provide all committee members with a chance to comment on the working group proposals before an update is presented to the IDFA segment boards and executive council in early October.

Class I & II Issues Working Group

Working Group Chair Mike Suever thanked the members of the working group for their efforts. He reminded committee members that the group focused most of its time on two issues that could be addressed in the short-term, and that work on other broader issues had been deferred until another working group is formed to consider longer-term issues, including issues related to potential changes to the number of milk classes and current pricing and pooling requirements.

The first issue that the working group considered was whether a change to the Class II differential was warranted. Evan Kinser presented data collected by Blimling that showed that the differential had not

changed significantly from when it was established in 1997. Based on this data, the working group recommends that the differential not be changed at this time. The committee briefly discussed the working group recommendation and no dissenting views were expressed.

The working group also explored issues related to Class II timing. The group agreed that it would be problematic to establish advanced pricing for Class II butterfat. Instead, they propose that the advanced Class II skim milk price be eliminated. Mr. Kinser explained some of the potential benefits to the market if this change were to occur, including improved risk management options for market participants. Furthermore, Blimling's research showed that this change would likely have a minimal impact on the skim price going forward.

During discussion of this proposal, the committee agreed to focus today's meeting on the economic merits of each proposed policy change. Questions regarding "how" a particular proposal might ultimately be advanced (e.g., as part of a federal order hearing, via notice and comment rulemaking or legislatively) will be deferred until a later date. Based on committee input, it was agreed that there was consensus to support elimination of the advanced Class II skim milk price. The committee also discussed the possibility of changing the advanced Class I pricing system, but there was no consensus to move this proposal forward.

In concluding his report, Mr. Suever said that he hoped the committee would agree to establish a working group to focus on longer term issues affecting the industry, including those issues mentioned above. Scott McGinty agreed, urging the committee to focus on ways to encourage greater Class I innovation and to reverse the long-term decline in fluid milk consumption. He noted that Class I utilization has declined over the past two decades from 40 percent to approximately 25 percent and said that further research was needed to determine how the loss in demand has contributed to reductions in the value of the Class I differential and premium that are being contributed to the pool today. He also urged the group to explore whether certain types of regulated plants are doing better than others which might help the group determine whether particular regulatory changes would be beneficial. The committee also briefly discussed possible reasons for the decline in fluid milk consumption and agreed that the committee's focus going forward should be on economic and regulatory issues, rather than consumer trends or marketing changes which are already being considered by other stakeholders.

At the conclusion of this discussion, Ms. Taylor asked committee members whether they wished to discuss any additional Class I or II issues. No additional proposals were put forward.

Spot Market Rules Working Group

Following a lunch break, working group chair Kurt Epprecht began his report by noting that the Chicago Mercantile Exchange (CME) rules have not been updated for some time and that the working group had focused on possible rule changes that would better reflect current industry practices.

There was general agreement that the following certificate of analysis (COA)/pathogen testing protocol should be used for any cheese blocks traded on the CME, subject to additional verification and review by member company quality assurance departments.

ORGANISM	RESULT	METHOD
COLIFORM	< 10 cfu/g	AOAC/FDA BAM
YEAST & MOLD	< 100 cfu/g	AOAC/FDA BAM
STAPHYLOCOCCUS AUREUS	< 10 cfu/g	AOAC/FDA BAM
E. COLI (pathogenic)	Negative	AOAC/FDA BAM
SALMONELLA	Negative (375 g)	AOAC/FDA BAM
LISTERIA	Negative (5 X 25 g)	AOAC/FDA BAM

The committee also discussed whether barrel cheese traded on the exchange should be subject to a pathogen testing protocol. Some members expressed opposition to such a requirement, citing concerns regarding hold times and testing costs. Other members proposed that composite testing for barrels be allowed to address some of these issues. It was also noted that adoption of a protocol could help both buyers and sellers by ensuring that barrel cheese traded at the CME meets certain quality assurance standards. They also noted that it might be better for the industry to develop a set of proposed testing requirements rather than waiting for the CME to move forward with its own proposal. The counter to the establishment of barrel pathogen testing was that there is a kill step in the production of processed cheese, making pathogen testing less critical than for blocks which are ready to eat. Ultimately, the group agreed to continue studying this proposal before deciding how to proceed.

The group also discussed the pros and cons of establishing a melt test for barrels. There is currently no alignment regarding whether such a test should be required and what the parameters would be even if there was agreement on the need for such a test. The committee agreed with the working group recommendation to continue to study this issue to see if an appropriate melt test can be developed. Mr. Epprecht suggested that the Center for Dairy Research at the University of Wisconsin might be commissioned to develop such a test, and that we should continue to collect information from member companies regarding existing melt tests that are already being utilized.

With respect to color, the working group recommended that annatto should be the color standard for blocks traded on the CME. The group believes that adding this color standard would reduce confusion on packaging and give buyers confidence that the product they are purchasing will meet their color expectations. It was agreed that committee members would be given additional time for internal discussions before a decision regarding the working group recommendation on this topic is made.

The working group also recommended that products traded on the CME should come from plants that are GFSI compliant or SQF Level 2 certified, and that sellers be required to provide evidence of such certification upon request. No committee member expressed opposition to this proposal.

The working group noted that it had also discussed whether to recommend changing current freight differentials. There was no working group consensus for any changes to existing CME allowances so no proposal on this topic was put forward for consideration.

The working group had also discussed whether to recommend eliminating the CME barrel market. The working group did not reach a consensus view on this issue, and the committee agreed to postpone further discussion of the topic until later in the meeting so that the views of the Class III & IV formula issues working group could also be considered.

Finally, the committee briefly discussed possible standards and pathogen testing products for Class IV products. It was agreed that further study of these issues was needed before the committee could develop a recommended position.

At the conclusion of the presentation, Dr. Dykes urged the committee to continue to develop specific policy recommendations for the segment boards to consider. He also noted that given the level of committee engagement on this topic, he expected that the boards would generally support any recommendations made by the committee. One committee member who is also a member of the National Milk Producers Federation noted that its FMMO and CME pricing rules task force was scheduled to meet again on October 13 and that the group was close to developing consensus in support of a melt test requirement and GFSI compliance standards. Mr. Epprecht closed the discussion by urging all committee members to express their views on these issues so that we have input from a wide range of market participants before reaching any final conclusions.

Class III & IV Formula Issues Working Group

Working group chair Sue Taylor began her report by thanking the working group members for their efforts to date. She noted that the working group had met twice by conference call. Additionally, several members participated in additional subgroups to advance review of survey rules, yield assumptions and Class IV issues. She also noted that the working group had reviewed a deck presented by Bill Curley (Blimling) outlining alternatives to end-product price formulas. These alternatives included competitive pay prices, flexible make allowances, and deregulating Class III and IV. After discussion, the working group declined to pursue further development of those concepts and proceeded to align on a set of pricing principles which Ms. Taylor also asked the committee to consider and review:

Minimum Regulated Pricing Principles for Manufacturing Classes

Regulated minimum milk prices must be set at levels that contribute to orderly marketing of milk.

- *This necessitates that the regulated minimum milk prices for manufacture of hard manufactured products be set at levels that clear the market.*
- *To do so, the minimum regulated price of milk must be set at a level that does not exceed returns achievable under good management practices by the regulated manufacturers.*
- *Additionally, Class III and IV, if retained as separate classes, should be approached in a consistent manner so that the market, rather than government policy, makes milk allocation decisions.*

Application in end-product price formulas:

- *Valuation should be based upon most generic commodities represented in class.*
- *Commodity prices should not exceed those achievable in marketing areas to which they apply.*
    - *Yields should be set at levels that can be reasonably achieved in actual plant environments using good manufacturing practices after recognizing farm to plant losses.*

Following a brief committee discussion of these principles, Ms. Taylor stated that the working group had agreed that final consideration of some policy recommendations should be deferred pending the results of the manufacturing cost survey currently being conducted by Dr. Mark Stephenson. She also noted that political considerations may drive the timing of a federal order hearing on these topics until after the 2020 elections, so the committee still has time to develop and discuss additional policy proposals.

Ms. Taylor then reviewed the working group's recommendations regarding possible changes to the end-product price formulas. She stated that the working group recommended retaining the National Dairy Products Sales Report (NDPSR) survey for price discovery purposes. The committee supported this recommendation.

Ms. Taylor also noted that the working group had considered a proposal to add mozzarella to the Class III formula but that the group had decided to recommend that cheddar remain as the sole Class III driver. The committee expressed divergent views on whether mozzarella should be added, and it was suggested that additional research should be undertaken to determine how the size of the relevant mozzarella market compares to the overall category.

The working group did not reach consensus regarding whether the treatment of whey in the Class III formula should be changed, or whether to add skim milk powder to the Class IV formula. The committee agreed to continue to study both issues.

James De Jong, who chaired the Price Survey Rules Subgroup, reported that the working group had considered a possible expansion of the reportable sales rules to 45 or 60 days. It was noted by some milk powder manufacturers that the time required to consummate export sales of powder products often exceeds the current 30-day limit and that therefore, reportable volume is reduced, particularly for milk powders, including whey. Some committee members suggested that the 30-day limit might still be appropriate for cheese and butter products so the committee agreed to recommend that the CME adjust its reportable sales rule for nonfat dry milk and whey to 45 days, but that further study was needed before any additional time adjustments would be recommended for other products.

The committee then discussed whether 640-pound blocks should be added to the NDPSR survey, as well as whether barrels should be eliminated from the survey. Further consideration was postponed pending additional research that Blimling will undertake regarding the reportable volumes and geographic dispersion of each of these forms so that the committee can better understand the implications of any changes to the current survey.

With respect to whey, the working group recommended that there be further study of a proposal to expand the NDPSR survey to include Grade A sweet whey powder. Dr. Dykes has agreed to contact ADPI to see if they have information regarding the price differential between Extra Grade and Grade A whey powder. Blimling will also review which whey products are currently priced off the NDPSR and the CME spot market.

The working group has also discussed possible changes to the geographic price surface. At present, there does not appear to be consensus to advance any proposed changes in this area.

Ms. Taylor reported that a Yields subgroup had also been formed but that issues related to this topic were still under review. She noted that yield data for whey and Class IV products had been requested from the University of Wisconsin and South Dakota State University. She also stated that additional work needs to be done before the committee can consider whether the allocation of fat in cheddar production should be shifted to assume a higher cheddar yield and lower cream recovery.

Establishment of a Longer Term Issues Working Group

Following up on the committee's earlier discussion of the need to examine longer term milk pricing issues, Mr. Suever suggested that a separate working group be formed and that subgroups be established to consider issues related to particular regions of the country or classes of milk. It was agreed that this working group could be formed now and that it could work in parallel with the other three working groups. At its initial meeting, the group will determine its scope of work (i.e., what issues it wants to consider) and form subgroups as necessary. Furthermore, it was agreed that the group be allowed to consider issues related to any class of milk. Ms. Taylor nominated Mr. Suever to chair this working group and he agreed to do so. Almost all meeting attendees expressed interest in joining the group, and other economic policy committee members will also be invited to participate.

Ms. Taylor thanked committee members for attending the meeting. She also urged attendees to brief their company's board member regarding the committee's work before the October board meetings.

There being no further discussion, the committee adjourned at 3:00 pm CDT. Committee members with questions or comments regarding these minutes may contact Dave Carlin at (202) 220-3502 or dcarlin@idfa.org.

Participating Committee Members

Chris Adamo, Danone North America
Troy Ammann, Agropur
Ken Bailey, Darigold, Inc.
James De Jong, Glanbia Nutritionals
Derek DeGroot, Hilmar Cheese Company
Christian Edmiston, Land O'Lakes
Catherine de Ronde, Agri-Mark
Kurt Epprecht, Great Lakes Cheese
Trevor Fleege, Agropur
Mike John, Maryland and Virginia Milk Producers
Bruce Matson, Dean Foods
Scott McGinty, Aurora Organic Dairy
Joe Oberweis, Oberweis Dairy
Mike Suever, HP HoodSue Taylor, Leprino Foods
Rob Vandenheuvel, California Dairies

Guests

Chris Allen, Dairy Farmers of America
Calvin Gregorich, Grasslands
Dave Kurzawski, International FCStone
Jennifer Trudeau, Grasslands
Brandon Webb, Kraft Heinz

IDFA Staff and Consultants

Michael Dykes

Dave Carlin
Tony Eberhard
Phil Plourd, Blimling
Bill Curley, Blimling
Evan Kinser, Blimling

1250 H Street NW, Suite 900
Washington, DC 20005
P: 202.737.4332 F: 202.331.7820
WWW.IDFA.ORG

To: Economic Policy Committee
From: Dave Carlin
Date: June 24, 2019
Subject: Minutes of the June 11, 2019 Economic Policy Committee Meeting

At 10:00 am CDT, Committee Chair Sue Taylor convened the economic policy committee at the Hilton O'Hare Airport in Chicago. After the roll call (a participant list appears at the end of the minutes), Ms. Taylor and Vice Chair Mike Suever welcomed attendees and thanked them for participating in the effort to establish a priority list of policy issues for the committee to work on during 2019 and 2020. They reminded committee members of the joint collaborative effort between IDFA and the National Milk Producers Federation (NMPF) that led to the enactment of a change to the Class I mover and an extension of the Dairy Forward Pricing Program in the 2018 farm bill, and they urged participants to build on this success by identifying other industry priorities that we could work to advance over the next two years.

After an antitrust reminder by Dave Carlin and a welcome from IDFA president and CEO Michael Dykes, the committee heard presentations from representatives of two other organizations that are conducting their own reviews of the federal milk marketing order (FMMO) system. Tom Balmer, NMPF executive vice president, stated that NMPF has recently created a task force to discuss possible changes to the FMMO system and CME pricing regulations, as well as other broader issues that could affect producer prices (e.g., feed costs, milk fat prices, whey sales to China). NMPF intends to focus on issues where there is likely to be consensus among industry stakeholders, and they hope to host an initial task force meeting sometime in July 2019. John Newton, chief economist for the American Farm Bureau Federation (AFBF) then presented regarding AFBF's FMMO working group which is holding its first meeting in Washington later this week at which IDFA representatives and other stakeholders will present. The working group has been directed to identify FMMO guiding principles with respect to current milk pricing and revenue pooling provisions and is also considering changing the implication of a no vote on a FMMO final rule so that it results in rejection of the amendments rather than termination of the Order in its entirety. AFBF leadership has also asked the working group to focus on "politically feasible ideas". Dr. Newton also noted that supply management proposals are specifically outside of the jurisdiction of the working group, and that the working group will make policy recommendations to AFBF's voting delegates at their annual meeting in January 2020. A copy of Dr. Newton's PowerPoint presentation is attached.

Following a brief question and answer period with each presenter, Ms. Taylor thanked Mr. Balmer, Dr. Newton and his AFBF colleague, Michael Nepveux, and excused them from the remainder of the meeting. Dr. Dykes then kicked off the group discussion regarding policy priorities by reminding participants of the broad policy goals that the IDFA boards adopted in 2017:

IDFA supports a dairy policy environment that not only ensures fresh, high quality, nutritious, and affordable dairy products for consumers but also promotes category growth and provides opportunities for the entire American dairy sector (including processors and producers) to grow and prosper over the long term. Ways to achieve this include:

- Improving the safety net for dairy farmers and providing the industry with tools that allow forward pricing for all classes of milk
- Simplifying the Federal Milk Marketing Order (FMMO) system
- Supporting expansion into global markets
- Reducing the regulatory burden on our industry; and
- Encouraging policies that promote efficiency and innovation

Dr. Dykes encouraged committee members to identify policy priorities that would solve specific problems with the current FMMO system to the benefit of both processors and producers. Building on the success of IDFA's collaboration with NMPF during the last farm bill, he encouraged committee members to identify a few "incremental" issues that IDFA could pursue with other industry stakeholders in the shorter-term that would put the industry on a glidepath to more fundamental FMMO reform in the longer-term. Given IDFA's diverse membership, which includes both proprietary processors and cooperatives, IDFA should be in a strong position to select priorities around which industry consensus can be built. A copy of Dr. Dykes' PowerPoint presentation is attached.

Ms. Taylor asked committee members if there were any new issues that they would like to add to the issues list that had been circulated to committee members in advance of the meeting (see attached). The only additional short-term issue that was identified was whether the committee would support changing the federal order rules to allow an Order to remain operational after producers reject the final rule in an Order proceeding. The committee also discussed more voting "flexibility" for individual producers as was mentioned by Dr. Newton during his presentation. After discussion, meeting participants agreed that IDFA should oppose proposed changes to FMMO hearing voting rules. No additional short-term issues were identified. The committee also agreed that the broad principles set forth above should guide our shorter-term work such that the committee should only move forward with specific policy proposals that are consistent with the broader principles.[1]

Accordingly, the committee discussed each of the identified specific issues in detail and selected a subset of those issues to be further considered and developed by designated working groups comprised of committee members. These working groups will convene as necessary over the next few months to consider the problem areas within the scope of the working group's jurisdiction, and how a proposed policy change would solve the stated problem. The working group will then develop recommended policy positions and brief the IDFA executive council and segment boards in October.

Following substantive discussion by the meeting participants of each of the issues on the issues list, it was agreed that three working groups would be established now, and that a separate working group focused on longer-term goals, including issues related to potential changes to the number of milk classes and current pricing and pooling requirements, could be convened later.

[1] For purposes of the committee's work, the final principle is being interpreted to include policies that promote growth, as well as efficiency and innovation.

The first working group will focus on **Class III & IV formula issues**. Specifically, this group will consider the following issues and prioritize which issue(s) to recommend be pursued in the shorter-term:

- Make allowances
  - Current cost assumptions are based upon a cost study of 2006 manufacturing costs. USDA has commissioned an update that should be available later this summer.
  - Should we advocate for a simplified (non-formal rulemaking) approach to make allowance updates in the future?
    - Mandate USDA commission and publish updated manufacturing cost study every "x" years.
    - Either mandate that the formulas be updated automatically with the cost study data or that USDA proceed through a notice and comment process to update the make allowances upon issuance of the updated cost study.
- Commodity drivers
  - Products
    - Is cheddar still the appropriate commodity reference for Class III cheese?
    - Is sweet whey still the appropriate commodity reference for Class III other solids?
    - Should straight AA butter be used to value whey cream?
    - Should SMP be added to the Class IV formula?
  - Forms (blocks, barrels, 640s, etc.)
  - Survey rules
    - Reportable sale prices
      - Recency of price establishment
    - Relevant geography
      - National vs Western
- Yields
  - Are the formula yields appropriate?
    - Particularly, should the assumption that all whey fat not captured in cheddar is recaptured after cheesemaking and made into AA butter be changed?

The following meeting participants agreed to serve on the Class III & IV formula issues working group: Sue Taylor (Working Group Chair); James De Jong; Rob Vandenheuvel; Mike Brown; Chris Herlache; Ken Bailey; Trevor Fleege; Derek DeGroot; LaVerne Gregorich; Christian Edmiston; Bill Curley (Blimling liaison); and Dave Carlin (IDFA staff liaison)

The second working group will focus on **Class I & II issues**. Specifically, this group will consider the following issues and prioritize which issue(s) to recommend be pursued in the shorter-term:

- FMMO structural reforms
  - Class structures
    - If the four Class system is maintained, what are the correct price relationships across Classes?
      - IV to II differential?
      - Class I differentials?
  - Should advance pricing of Class II SNF be reconsidered?

- Organic milk risk management options

The following meeting participants agreed to serve on the Class I & II issues working group: Mike Suever (Working Group Chair); Chris Adamo; Chris Herlache; Bruce Matson; Scott McGinty; Evan Kinser (Blimling liaison) and Tony Eberhard (IDFA staff liaison). Kyle Powell was also added to the working group roster at the request of Mike Brown.

The third working group will focus on **Spot market rules**. Specifically, this group will consider the following issues and prioritize which issue(s) to recommend be pursued in the shorter term.

- CME spot trading rules / specs
  - Primary interest is around the cheddar complex, but other commodities traded on the CME spot market are within scope.
- Steps that the CME could take to improve liquidity in the spot markets

The following meeting participants agreed to serve on the Spot market rules working group: Kurt Epprecht (Working Group Chair); James De Jong; Allison Specht; Chris Herlache; Ken Bailey; Trevor Fleege; LaVerne Gregorich; Phil Plourd (Blimling liaison); and Tony Eberhard (IDFA staff liaison). Gregory Anderson was also added to the working group roster at the request of Mike Brown.

Dr. Dykes encouraged the meeting participants to recruit other IDFA members with relevant expertise to serve on the economic policy committee as well as on each of the working groups.

There being no further discussion, the committee adjourned at 4:00 pm CDT. Committee members with questions or comments regarding these minutes may contact Dave Carlin at (202) 220-3502 or dcarlin@idfa.org.

Participating Committee Members

Chris Adamo, Danone North America
Ken Bailey, Darigold, Inc.
Mitch Bowling, Abbott
Mike Brown, Kroger
James De Jong, Glanbia Nutritionals
Derek DeGroot, Hilmar Cheese Company
Kurt Epprecht, Great Lakes Cheese
Chris Herlache, Schreiber Foods
Bruce Matson, Dean Foods
Scott McGinty, Aurora Organic Dairy
Jim Sartori, Sartori Company
Mike Suever, HP Hood
Sue Taylor, Leprino Foods
Rob Vandenheuvel, California Dairies

Guests

Christian Edmiston, Land O'Lakes
Trevor Fleege, Agropur
LaVerne Gregorich, Grasslands
Mary Ledman, Rabobank
Allison Specht, Abbott
Jennifer Trudeau, Grasslands

IDFA Staff and Consultants

Michael Dykes
Dave Carlin
Tony Eberhard
Phil Pflourd, Blimling
Bill Curley, Blimling
Evan Kinser, Blimling

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Making a Difference for Dairy

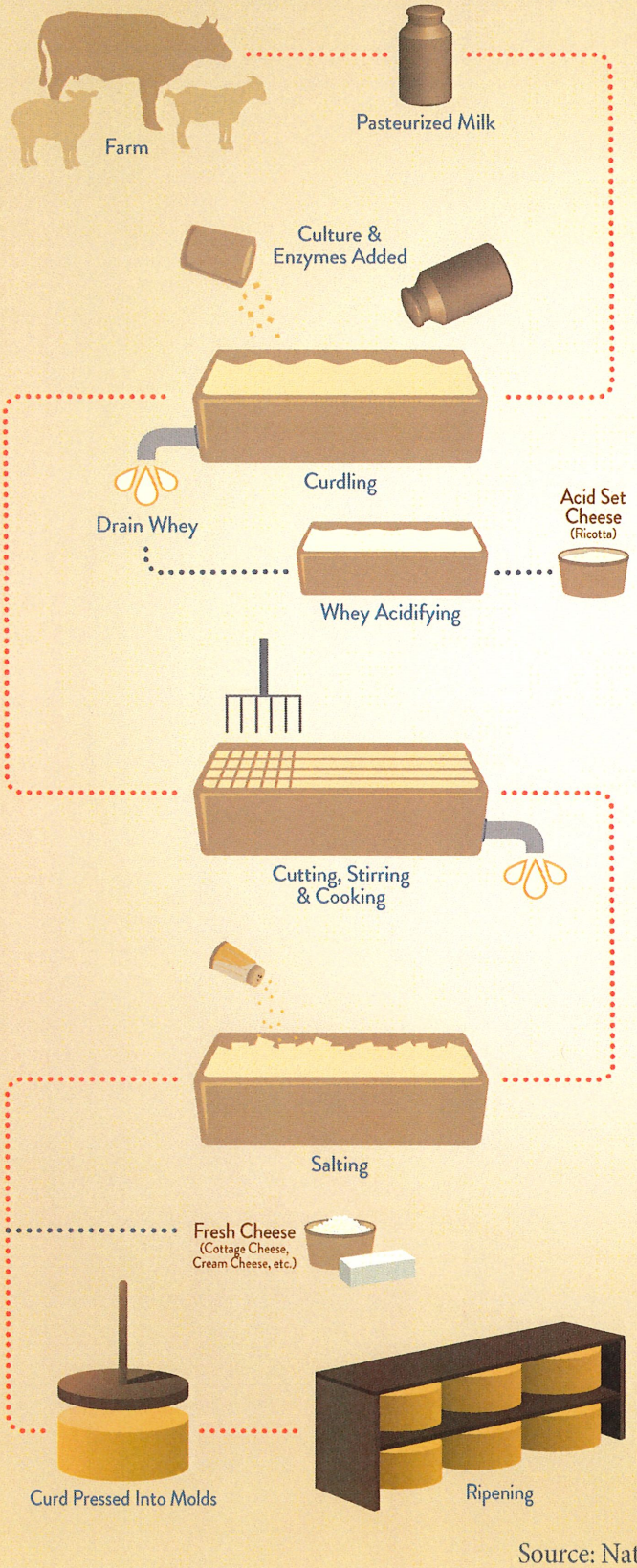
Natural Cheese

LEGISLATIVE PRIORITIES

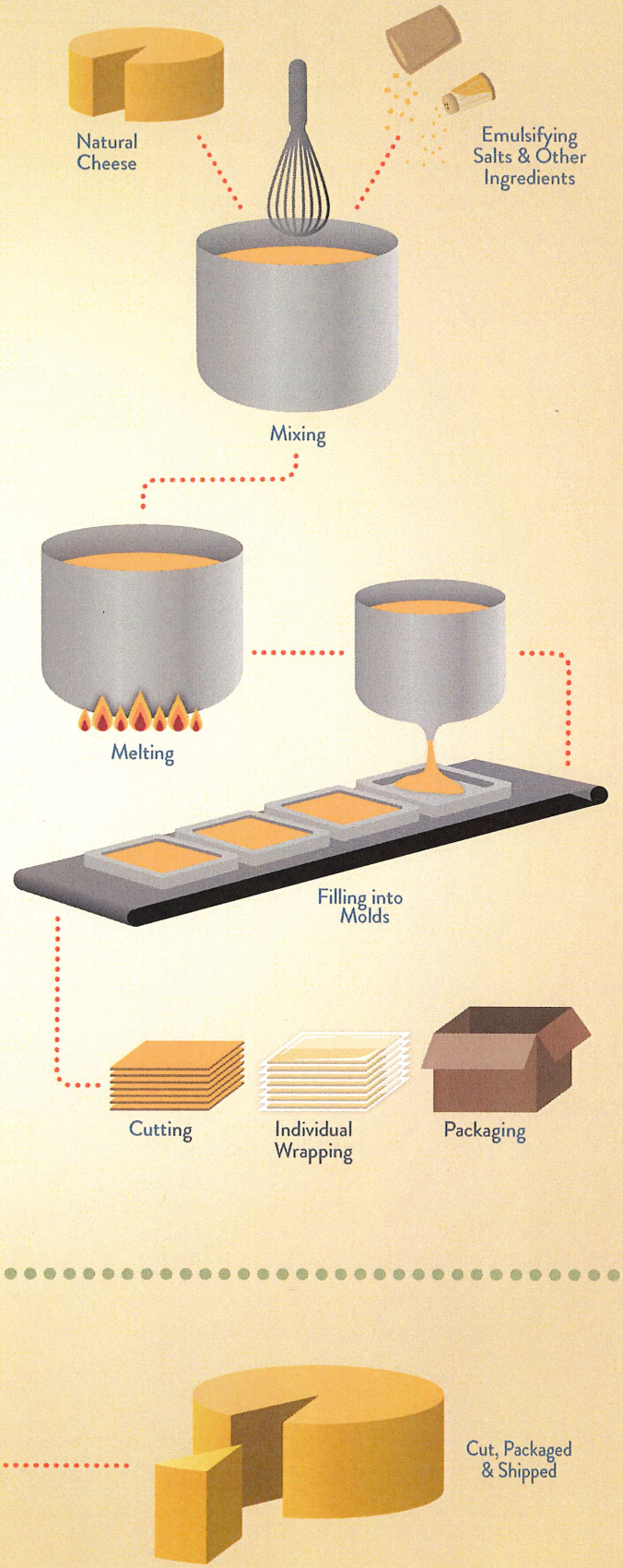
Fall 2019 Briefing Materials

What is Natural Cheese...

Natural Cheese
Traditional Cheese Making



Process Cheese



Source: National Cheese Institute

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Frequently Asked Questions

IDFA
INTERNATIONAL DAIRY FOODS ASSOCIATION
Making a Difference for Dairy

What is "natural cheese"?

The term "natural cheese" has been widely used for many decades in the U.S. to identify cheeses made directly from milk and distinguish those products from process cheeses. It describes cheese that is made from milk to which salt, enzymes and flavorings can be added. It is the result of the fermentation of milk by adding starter culture. Some examples of natural cheeses are:

- Cheddar cheese
- Swiss cheese
- Feta cheese
- Cream cheese
- Havarti cheese
- Parmesan cheese
- Gruyere cheese
- String Cheese

What is the difference between process and "natural cheese"?

The primary difference between "natural cheese" and process cheese is that natural cheese starts with milk and process cheese is made by combining and further processing various natural cheeses. Some examples of process cheeses are:

- Pasteurized process cheese
- Pasteurized prepared cheese product
- Gouda process cheese
- Cheddar cheese spread
- Cold pack cheese
- Cold pack cheese food

How does the federal government currently define "natural cheese"?

Currently FDA regulations do not provide a specific definition for the meaning of "natural cheese." But the use of the term "natural cheese" to distinguish between categories of cheese is long standing and also widespread. In fact all three branches of the federal government have long distinguished between "natural cheese" and "process cheese." For example, FDA regulations refer to the term "specific varieties of natural cheese" in the standard of identity for "spiced flavored standardized cheese" (21 CFR § 133.193). USDA Agricultural Marketing Services has also published a pamphlet called "How to Buy Cheese" in which it describes "natural cheese."

Is the federal government considering a universal definition for the term "natural"?

Yes. FDA has a longstanding policy for the use of the food labeling claim "natural" which requires that nothing artificial or synthetic (including colors regardless of source) is included in, or has been added to, the product that would not normally be expected to be there. The FDA has grappled with the issue of defining "natural" for several years for all food products due to consumer confusion over the meaning of the term. As a first step to possibly enact a regulatory definition, FDA published a notice in the Federal Register (Docket No. FDA-2014-N-1207 November 12, 2015) requesting information and comments on the use of the term "natural" in labeling of human food products.

January 18, 2018

Is the term "natural cheese" different than FDA's efforts to define "natural" claims?

Yes, the cheese industry is asking for the term "natural cheese" to be established for use in identifying certain cheeses (e.g., "natural cheddar cheese" or "natural cheese – cheddar cheese").

Unlike the claim "natural" or "100% natural" the term "natural cheese" does not imply that the food contains no artificial or synthetic ingredients. It simply refers to a category of cheese that is made just from milk.

Why is there a need to codify the "natural cheese" definition?

Defining natural cheese will clarify its specific meaning and narrow the scope of FDA's work in defining "natural" as a product composition or purity claim. Defining "natural cheese" will make it clear to consumers what this means for cheeses and what to expect when they purchase cheese.

Are there other terms, like "natural cheese" that are already defined in statute?

The Federal Food, Drug, and Cosmetic Act (FD&C Act) already has a number of definitions including butter, nonfat dry milk and more recently in 2002 Congress added catfish and ginseng definitions.

If the term is codified in law, will Congress be deluged by other industries seeking something similar?

No. Our request for a statutory definition for "natural cheese" is similar to past requests related to catfish or ginseng where a unique circumstance prompted a request that a definition be added to the FD&C Act.

Do we really want to make this change in statute instead of through FDA?

Yes. The cheese industry believes it is important to get the definition into law as quickly and efficiently as possible. Adopting it via statute ensures that it applies immediately.

What stakeholder groups support this effort?

The International Dairy Foods Association helped craft this definition and the National Milk Producers Federation is supportive of legislation codifying a "natural cheese" definition.

Codifying Useful Regulatory Definitions Act ("CURD Act")

Section-by-Section Summary

The CURD Act would amend the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321 or "the Act") to define the term "natural cheese" as a new definition (ss) in section 201 of the Act.

Section 1 Short Title
This legislation is titled the "Codifying Useful Regulatory Definitions Act" or "CURD Act."

Section 2 Findings
The findings explain how defining the term "natural cheese" will benefit consumers and note the longstanding use of this term by cheesemakers.

Section 3 Definition of Natural Cheese

Subsection (a):
This subsection identifies the types of cheeses covered by the "natural cheese" definition, as well as the permitted basic ingredients and processing techniques that would be used to make a cheese that meets the definition of "natural cheese." There are two paths for a cheese to be labeled as natural cheese per (ss)(1):

1. A cheese will be considered "natural cheese" if it is covered by existing federal standards of identity per (ss)(1)(B) or
2. Certain non-standard cheeses can qualify as "natural cheese" if they meet a standard based on the Codex General Standard for Cheese (Codex Standard 283-1978) per (ss)(1)(A)(i) or (ii) and (iii)

Subsection (a) also states that the term "natural cheese" does not encompass process cheeses, process cheese foods, process cheese spreads, cold pack cheeses and grated American cheese food as currently defined in the Code of Federal Regulations (CFR) or any successor regulations per (ss)(2).

Finally, this subsection defines "milk" in (ss)(3) in the same way that the term is defined in 21 CFR section 133.3 (i.e., "the lacteal secretion, practically free from colostrum, obtained by the complete milking of one or more healthy cows..."). The bill definition also specifically includes milk from lactating animals other than cows.

Subsection (b):
This subsection amends Section 403 of the Act to clarify that "natural cheese" is a factual descriptor of a category of cheese and may not be used to make a product claim that is inconsistent with regulations, guidance or policy statements issued by the Secretary of Health and Human Services.

Subsection (c):
This subsection would expressly preempt non-federal definitions of the term "natural cheese".

New CURD Act Incorporates FDA Recommendations

In extensive months-long technical assistance with the Food and Drug Administration (FDA), CURD Act sponsor Senator Ron Johnson (R-WI) was provided with several recommendations from FDA on how to improve the bill. These recommendations have been incorporated into an improved version of the CURD Act that will ensure that FDA can implement the legislation as intended. Below are the areas in the CURD Act where the FDA sought improvement, along with the corresponding changes that Senator Johnson has made to the bill to address FDA's suggestions.

Improved Definition of "Natural Cheese":
The FDA advised that the term "natural cheese practices" was vague and problematic with respect to enforceability. In response, Senator Johnson modified the CURD Act to require more specifics relating to the types of cheese covered, permitted basic ingredients, and processing techniques that would be used to make a cheese that meets the definition of "natural cheese." Specifically, per FDA's suggestion, the new bill text includes modified language from the Codex General Standard for Cheese (Codex Standard 283-1978) to define the term "natural cheese" in section (ss)(1)(A)(i) and (ii).[1]

Senator Johnson has also agreed to delete the term "natural cheese" from section (B) to address FDA concerns that "natural cheese" is not formally defined within the standards of identity included in Title 21 of the Code of Federal Regulations (CFR).

Finally, in response to an FDA comment that U.S. regulations do not define the Codex term "semi-hard cheese" and "extra-hard cheese" these terms were changed to "semi-soft cheese" and "hard cheese" which are defined in the CFR.

Additional Clarity for Term "Milk of Lactating Animals or from Other Dairy Ingredients":
To address FDA's request for clarity, as noted above, the text from the Codex General Cheese Standard was used to describe the permitted types of milk and dairy ingredients for natural cheese. Additionally, a new term for "milk" was added in (ss)(3) that references the CFR definition for milk that also includes milk from other lactating animals.

Ensuring "Natural Cheese" Is Understood as a Category of Cheese:
FDA recommended that language in section (z) be changed so that it was clear that the term "natural cheese," when used in labeling, would refer to a category of cheese and not be mistaken as a claim of "natural" or "all natural." At FDA's suggestion, text was added in section (z) to clarify that the term "natural cheese" will be used as "a factual descriptor of a category of cheese."

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[1] Codex standards developed by the Codex Alimentarius Commission are a framework of the Joint Food Standards Programme established by the Food and Agriculture Organization of the United Nations (FAO) and the World Health Organization (WHO), for the purpose of protecting the health of consumers and ensuring fair practices in the food trade.

II

116TH CONGRESS
1ST SESSION

S. 1669

To amend the Federal Food, Drug, and Cosmetic Act to define the term natural cheese.

IN THE SENATE OF THE UNITED STATES

MAY 23 (legislative day, MAY 22), 2019

Mr. JOHNSON (for himself, Mr. WYDEN, Mr. RISCH, Ms. BALDWIN, Mr. BRAUN, and Ms. SINEMA) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

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A BILL

To amend the Federal Food, Drug, and Cosmetic Act to define the term natural cheese.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Codifying Useful Regulatory Definitions Act" or the "CURD Act".

SEC. 2. FINDINGS.

Congress finds as follows:

(1) There is a need to define the term "natural cheese" in order to maintain transparency and con-

sistency for consumers so that they may differentiate "natural cheese" from "process cheese".

(2) The term "natural cheese" has been used within the cheese making industry for more than 50 years and is well-established.

SEC. 3. DEFINITION OF NATURAL CHEESE.

(a) DEFINITION.—Section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321) is amended by adding at the end the following:

"(ss)(1) The term 'natural cheese' means cheese that is a ripened or unripened soft, semi-soft, or hard product, which may be coated, that is produced—

"(A) by—

"(i) coagulating wholly or partly the protein of milk, skimmed milk, partly skimmed milk, cream, whey cream, or buttermilk, or any combination of such ingredients, through the action of rennet or other suitable coagulating agents, and by partially draining the whey resulting from the coagulation, while respecting the principle that cheese-making results in a concentration of milk protein (in particular, the casein portion), and that consequently, the protein content of the cheese will be distinctly higher than the protein level of the blend of the

above milk materials from which the cheese was made; or

"(ii) processing techniques involving coagulation of the protein of milk or products obtained from milk to produce an end-product with similar physical, chemical, and organoleptic characteristics as the product described in subclause (i); and

"(iii) including the addition of safe and suitable non-milk derived ingredients of the type permitted in the standards of identity described in clause (B) as natural cheese; or

"(B) in accordance with standards of identity under part 133 of title 21, Code of Federal Regulations (or any successor regulations), other than the standards described in subparagraph (2) or any future standards adopted by the Secretary in accordance with subparagraph (2)(I).

"(2) Such term does not include—

"(A) pasteurized process cheeses as defined in section 133.169, 133.170, or 133.171 of title 21, Code of Federal Regulations (or any successor regulations);

"(B) pasteurized process cheese foods as defined in section 133.173 or 133.174 of title 21, Code

of Federal Regulations (or any successor regulations);

"(C) pasteurized cheese spreads as defined in section 133.175, 133.176, or 133.178 of title 21, Code of Federal Regulations (or any successor regulations);

"(D) pasteurized process cheese spreads as defined in section 133.179 or 133.180 of title 21, Code of Federal Regulations (or any successor regulations);

"(E) pasteurized blended cheeses as defined in section 133.167 or 133.168 of title 21, Code of Federal Regulations (or any successor regulations);

"(F) any products comparable to any product described in any of clauses (A) through (E);

"(G) cold pack cheeses as defined in section 133.123, 133.124, or 133.125 title 21, Code of Federal Regulations (or any successor regulations);

"(H) grated American cheese food as defined in section 133.147 of title 21, Code of Federal Regulations (or any successor regulations); or

"(I) any other product the Secretary may designate as a process cheese.

"(3) For purposes of this paragraph, the term 'milk' has the meaning given such term in section 133.3 of title

21, Code of Federal Regulations (or any successor regulations) and includes the lacteal secretions from animals other than cows.''.

(b) LABELING.—Section 403 of the Federal Food Drug and Cosmetic Act (21 U.S.C. 343) is amended by adding at the end the following:

''(z) If its label or labeling includes the term 'natural cheese' as a factual descriptor of a category of cheese unless the food meets the definition of natural cheese under section 201(ss), except that nothing in this paragraph shall prohibit the use of the term 'natural' or 'all-natural', or a similar claim or statement with respect to a food in a manner that is consistent with regulations, guidance, or policy statements issued by the Secretary.''.

(c) NATIONAL UNIFORMITY.—Section 403A(a)(2) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 343–1(a)(2)) is amended by striking ''or 403(w)'' and inserting ''403(w), or 403(z)''.

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Child Nutrition Reauthorization

LEGISLATIVE PRIORITIES

Fall 2019 Briefing Materials

April 2019

IDFA CHILD NUTRITION REAUTHORIZATION POLICY PRIORITIES

Reinstate Reduced Fat (2%) Milk for All WIC Mothers and Children

- The Special Supplemental Nutrition Program for Women, Infants, and Children, also known as WIC, provides nutritious foods to supplement the diets of low-income pregnant, postpartum, and breastfeeding women, as well as infants and children up to age 5.
- Data demonstrate the low-income families who depend on WIC want to consume more milk, need milk's 9 essential nutrients, and are going outside of WIC to buy their desired milk varieties because of current WIC regulations.
- In 2014, USDA issued regulations (79 CFR 246) that, among other things, prohibited any milk variety other than low-fat (1%) and non-fat in WIC packages for any participant age two and older, unless a participant has certain medical conditions. The net result of these actions is that WIC participants consume fewer of the nutrients they need.
- Americans in general and WIC participants in particular do not consume the amount of milk recommended by the most recent Dietary Guidelines for Americans. Many WIC participants prefer reduced fat (2%) or whole milk and have been using their own money to purchase these varieties instead of using WIC.[1] Moreover, a 2015 study found that many stores in Hispanic-majority and low-income neighborhoods were less likely to carry low-fat (1%) or non-fat milk, which combined with WIC's milk restrictions, result in less milk consumption by WIC families.[2]
- The benefits of WIC families consuming milk's nine essential nutrients are well known, while recent studies show no correlation between intake of full fat dairy foods and obesity or heart disease.
- Congress should affirmatively allow all WIC participants to have access to reduced fat (2%) milk to ensure that more mothers and children in WIC receive the benefits of milk's vital nutrients.

Allow WIC Families to Purchase Yogurt in Different Container Sizes "Up To" 32 Ounces

- Yogurt was added to the WIC food package in 2015 as it has been identified as a nutrient dense food that helps participants meet the program's nutrient recommendations and helps provide variety because it is available in different flavors than milk and cheese.
- Current WIC rules allow program participants to swap one quart of milk for 32 ounces of yogurt. Some states have interpreted this rule restrictively and only allow WIC families to purchase one 32-ounce container of yogurt.
- To encourage WIC participants to consume yogurt, WIC-approved yogurt should be available in container sizes and flavors that best meet the needs of WIC families and are widely available in grocery stores.
- Since the majority of yogurt is sold in single serving containers, (such as 4 ounce, 5.3 ounce and 6 ounce cups) and in a wider variety of flavors not available in larger 32 oz. quart containers, permitting WIC benefits to be redeemed for smaller containers of yogurt "up to" 32 ounces would allow for the full nutritional benefits of yogurt to be realized.

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[1] Comments of Elizabeth Herrera to the Committee to Review WIC Food Packages, April 1, 2016. Video available at: http://nationalacademies.org/hmd/Activities/Nutrition/ReviewWICFoodPackages/2016-MAR-31/Videos/Public%20Comment%20Session/22-Public-Comment-Video.aspx

[2] Rimkus L et al. "Disparities in the Availability and Price of Low-fat and Higher-fat Milk in US Food Stores by Community Characteristics." J Acad Nutr Diet, 2015.

Maintain Low-fat (1%) Flavored Milk as an Option in the School Meals and Competitive Foods Programs

- Milk is a nutrient dense product that contains 9 essential nutrients and vitamins – including calcium, vitamin D and potassium, which are 3 of the 4 nutrients identified by the 2015 Dietary Guidelines for Americans as lacking in the diets of most Americans.
- In 2012, schools were told that they could no longer serve low-fat (1%) flavored milk. This rule change had significant unintended consequences on children's milk consumption. In the first two years after low-fat (1%) flavored milk was removed from the school meals programs, 1.1 million fewer school students drank milk – resulting in 187 million fewer half-pints of milk being consumed (despite public school enrollment growth).
- While non-fat flavored milk was still offered in schools, kids were less likely to drink it because it didn't taste like the milk they drank at home. The vast majority of flavored milk sold at retail is whole, reduced fat (2%) or low-fat (1%).
- Chocolate milk is the most popular choice for students, accounting for approximately 60% of milk sold in schools in the 2017-2018 school year. Importantly, flavored milk contains all of the same essential nutrients and vitamins as white milk.
- Moreover, added sugars in flavored milks offered at schools have been reduced by over 50 percent from 16.7 grams to 7.5 grams over the past 10 years. Flavored milk also has 44 fewer calories per 8 ounce serving than it did ten years ago.
- USDA's recent rules change again allows schools to serve low-fat (1%) flavored milk to their students. Congress should codify this rule to help ensure that kids continue to have access to nutritious and good-tasting milk options.

In the High School Competitive Foods Program, Permit Low-fat (1%) and Non-Fat Flavored and Unflavored Milk to be Sold in Containers Up To 16 Fluid Ounces in Size

- Under current regulations, high schools may only offer low-fat (1%) and non-fat flavored and unflavored milk a la carte and in vending machines in containers up to 12 ounces in size, while diet sodas and low-calorie sports drinks and caffeinated beverages may be offered in 20 ounce containers.
- This puts milk at a competitive disadvantage when high school students are deciding what beverage to purchase after school or to supplement a school meal.
- Allowing high schools to offer slightly larger low-fat (1%) and non-fat milks, up to 16 fluid ounces, in the competitive foods program will encourage kids to choose a healthier beverage option that will help them consume the 3 servings of dairy that is recommended by the most recent Dietary Guidelines for Americans.

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Labor/Immigration

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1250 H Street NW, Suite 900
Washington, DC 20005
P: 202.737.4332 | F: 202.331.7820
WWW.IDFA.ORG

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IDFA Supports Reasonable Agricultural Guestworker Program

General IDFA Immigration Position

The U.S. dairy industry, which supports nearly 3 million U.S. jobs, and generates more than $39 billion in direct wages to Americans, face challenges in attracting and retaining an adequate workforce. Meanwhile, dairy operations run year-round and must invest in training its workforce. IDFA strongly supports addressing these issues through a new agricultural guestworker program that will function for non-seasonal, skilled immigrant workers.

Touchbacks

IDFA is opposed to including touchback provision in an agricultural guestworker program as touchback requirements are highly disruptive to dairy operations, which are year round businesses. IDFA opposes the 60 day touchback requirement in the Agricultural Guestworker Act as it is far too long. If a touchback provision is necessary, IDFA supports touchback periods that are reasonable and minimize disruptions to plant and farm operations.

Visa Duration

IDFA supports longer agricultural guestworker visa terms as its members must invest significant time and money to train its employees. The acceptability of any visas duration depends greatly on the workability of other visa requirements, such as the presence of touchback provisions. Just as a shorter ag worker visa duration becomes an economic burden for many dairy employers, touchback provisions can make a visa program impractical. IDFA is generally supportive of the Agricultural Guestworker Act's visa duration, but IDFA would prefer a longer visa duration and no touchback provision.

E-Verify

IDFA believes that a mandatory E-Verify requirement should only be put in place after a workable, robust agricultural guestworker program is first instituted that provides a legal workforce that meets the labor demands of the dairy industry. Additionally, IDFA support of any E-Verify program is contingent on there being strong safe harbor provisions that protect employers who, through no fault of their own, receive incorrect eligibility information from an employee. IDFA supports the safe harbor provisions in the Agricultural Guestworker Act.

At-Will Employment Provisions

IDFA supports including at-will employment flexibility in an agricultural guestworker program to allow workers who complete the job for which they were petitioned to continue to work in an at-will status for the duration of their work authorization period with a different U.S. employer. However, at-will employment flexibility for agriculture guestworker visas will only function well if paired with workable

touchback requirements. The Agricultural Guestworker Act includes useful at-will flexibility for H-2C visa holders, but IDFA is opposed to the touchback requirements.

Wage Requirements

IDFA supports wage requirements, such as those included in the Agricultural Guestworker Act, that give preference for wages based on state or federal minimum wages, not the Department of Labor prevailing wage calculation. IDFA would oppose any wage requirements based on the Labor Department's prevailing wage.

Employer Provided Transportation and Housing

IDFA supports giving employers the option of providing housing and transportation for their workers without burdening employers with additional mandates as the labor market should be allowed to dictate employer/employee benefit structures. IDFA supports the transportation and housing provisions in the Agricultural Guestworker Act.

Guestworker Signup Requirements

IDFA strongly supports allowing agricultural guestworkers to pre-certify to join a new visa program as ag workers currently present in the U.S. must be provided a flexible signup process. However, IDFA is opposed to requiring current agricultural workers to leave the country prior to acquiring a visa. If a touchback requirement could be fulfilled, for example, by workers going to their local home-country consulate, IDFA would be supportive. As the Agricultural Guestworker Act's pre-certification process requires that workers travel outside of the U.S., IDFA opposes the bill's guestworker signup requirements in their current form.

Status of Ag Worker Visa Family Members

The dairy industry must operate year-round, making its labor requirements inherently different than seasonal operations. The non-seasonal nature of dairy work means that these laborers cannot return home to see their families for extended periods. Accordingly, IDFA supports an agricultural guestworker program that provides temporary legal status for the spouses and minor children of non-seasonal agricultural guestworkers. It should be noted that the Immigration and Nationality Act currently permits the admission of the spouses and minor children of alien workers on H-2A, H-2B, and other "H" visas who are accompanying the worker to the U.S. IDFA supports changing the current Agricultural Guestworker Act to address this issue.

Green Card Eligibility

IDFA is primarily focused on creating a legal means for foreign workers to meet the labor demands of the U.S. dairy industry.

Definition of Agricultural Labor or Services

IDFA strongly supports making dairy processing and manufacturing jobs eligible for an agricultural guestworker visa program. IDFA supports the Agricultural Guestworker Act definition of "agricultural labor or services" that would include dairy processing and manufacturing jobs.

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Transportation

LEGISLATIVE PRIORITIES

Fall 2019 Briefing Materials

S.H.I.P.

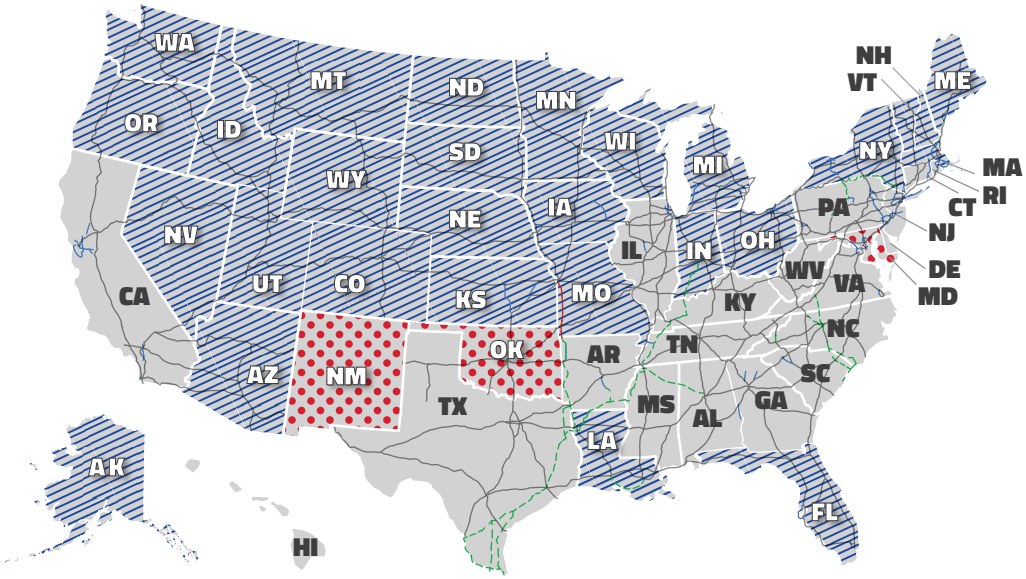
SAFER HAULING & INFRASTRUCTURE PROTECTION

MAKE OUR ROADS SAFER

THE PROBLEM

- The weight limit for trucks on Interstate Highways is **80,000 lbs.**
- But all **50 states allow trucks carrying more to drive on local roads**—past schools, homes, and playgrounds[1].
- Trucks are forced to travel the country on these local and state routes—instead of utilizing the Interstate highways— ultimately contributing to **traffic and congestion, burning more fuel, and generating more greenhouse gas[2].**
- This 80,000 lbs. limit has been in place since 1982 despite **major advancements** in vehicle **safety** and **paving technology.**

It's time to bring trucking into the 21st century and allow states to raise their weight limits on Interstate Highways. Trucks perform better with a 6-axle, 91,000-lbs. configuration.



50 STATES

allow trucks above the 80,000 lbs. federal gross vehicle weight (GVW) limit on their roads through permits, pilot programs, or federal exemptions.[3]

MANY STATES ALLOW TRUCKS ABOVE 80,000 LBS. ON PORTIONS OF THEIR FEDERAL INTERSTATE HIGHWAYS AS WELL.

- STATES THAT ALLOW TRUCKS ABOVE GVW ON LOCAL AND STATE ROADS BY RIGHT OR PERMIT
- STATES THAT ALLOW TRUCKS ABOVE 91,000 LBS. ON PORTIONS OF INTERSTATE HIGHWAYS
- STATES THAT ALLOW TRUCKS ABOVE THE FEDERAL GVW UP TO 90,000 LBS. ON PORTIONS OF INTERSTATE HIGHWAYS.
- INTERSTATE HIGHWAYS

Modernizing the truck weight limit on Federal Interstate Highways will:

- Make roads safer for our families
- Minimize congestion on state and local roads
- Reduce infrastructure costs, saving taxpayer dollars
- Reduce fuel consumption and greenhouse gases emissions
- Create savings for American manufacturers that can be reinvested into our communities

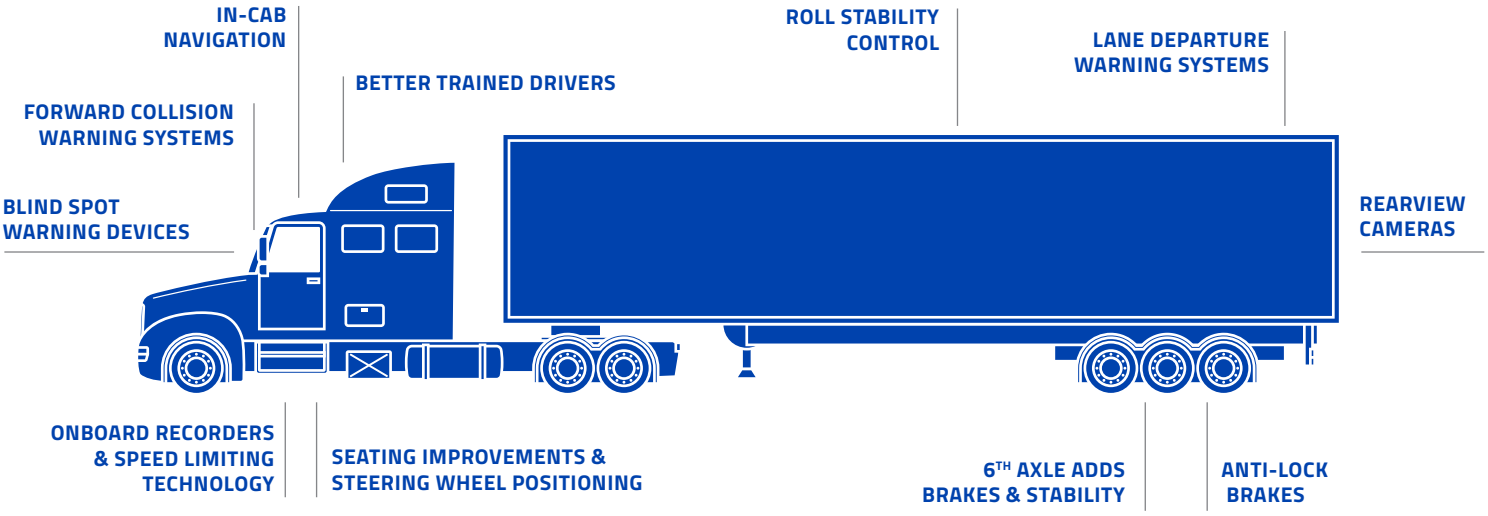
[1]U.S. DOT "Compilation of Existing State Truck Size and Weight Laws" May 2015, pps. 18-206

[2]American Transportation Research Institute "Energy and Emissions Impacts of Operating Higher Productivity Vehicles Update: 2008" March 2008

[3]U.S. DOT "Compilation of Existing State Truck Size and Weight Laws" May 2015, pps. 18-206

TAKE ACTION TODAY AT SHIPCOALITION.ORG

Current federal truck weight limits were set in 1982. Despite 35 years of advancements in paving and safety technology, our laws have not changed. It's time to modernize.



MYTH	FACT
Increasing the GVW limit will compromise safety.[1]	→ A ten year pilot in Idaho found there was no heightened safety risk. And the U.S. DOT concluded that the six-axle truck had better braking.[2,3]
Heavier trucks will damage roads and bridges, increase maintenance costs and create bigger federal deficits.[4]	→ The Minnesota Department of Transportation found that the addition of a sixth axle created a 37% reduction in road wear and an overall reduction in the number of trips needed to transport products.[5] → Modern trucks, for the SHIP pilot, are also federal bridge formula compliant.[6]
Heavier trucks means bigger trucks.	→ Increasing the weight limit will not mean longer, higher or wider trucks—just more productive trucks. → A six-axle configuration has the same overall dimension as trucks currently traveling the Interstate carrying 80,000 lbs.[7]
Heavy trucks are energy hogs.[8]	→ According to two separate studies, modern trucks result in lower fuel costs and fewer greenhouse gas emissions. The average fuel savings was 1 to 2 gallons per trip and greenhouse gas emissions were estimated to decrease by as much as 11% per trip.[9]

[1] Coalition Against Bigger Trucks at http://www.cabt.org/about-us/

[2] http://www.capitalpress.com/Idaho/20150615/us-house-passes-idaho-truck-weight-bill

[3] US DOT Comprehensive Truck Size & Weight Limits Study Technical Reports, Vol. 2 "Highway Safety and Truck Crash Comparatice Analysis Technical Report", June 2015, p. 65

[4] Coalition Against Bigger Trucks at http://www.cabt.org/about-us/

[5] Minnesota Department of Transportation "Minnesota Truck Size and Weight Project" June 2006, p.ES-3

[6] Interstate Highway Truck Weights- White Paper- Maine DOT September 20,2010

[7] http://www.overdriveonline.com/legislation-proposed-to-allow-91000-pound-trucks-on-u-s-highways/

[8] Valentine, Katie "Big Trucks Emit Huge Amounts of Carbon Every Year. The EPA Is About to Do Something About It." June 2, 2015.

[9] US DOT Comprehensive Truck Size & Weight Limits Study Technical Reports, Vol. I "Technical Summary Report", June 2015, p. ES 11

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Regulatory Priorities

ISSUES BRIEFING FOR MEMBERS OF THE IDFA EXECUTIVE COUNCIL & INDUSTRY SEGMENT BOARDS

Fall 2019 Briefing Materials

IDFA'S 2019 REGULATORY POLICY PRIORITIES
UPDATED - SEPTEMBER 2019

Issues Area	New Committee Assignment	Status	Goals	Actions
FDA Multi-Year Nutrition Innovation Strategy **Dairy Standards Modernization**	Standards and Labeling Committee Standards Modernization Task Force	FDA announced a Multi-Year Nutrition Innovation Strategy in March 2018 that will include several areas where it believes there is opportunity to improve public health and encourage innovation – claims on labels, information about ingredients in food, and standards of identity. Modernizing food standards of identity in one of the five key strategy areas. Other issues include: - Modernizing Claims; "healthy" - Modernizing Ingredient Labels - Implementing the Nutrition Facts Label and Menu Labeling - Sodium Reduction	• Advocate for FDA to modernize standards of identity that will allow for greater innovation and flexibility in manufacturing to meet consumer demands for dairy products. • Urge FDA to finalize updated yogurt standards that allow for innovation by removing milkfat minimums • Amend the cheese standards of identity to allow for use of fluid microfiltered milk and permit it to be labeled as "milk"	• IDFA presented oral testimony at the FDA Nutrition Innovation Strategy public meeting supporting the longer-term effort of undertaking a holistic approach to modernizing food standards in a manner that allows the industry flexibility that will incentivize innovation. • IDFA worked with the regulatory committees to develop extensive written comments filed in October 2018 on standards modernization that included: (1) Action on the pending yogurt and cheese petitions; (2) Consider a horizontal approach to food standard modernization; (3) Streamline and revise the temporary marketing permit process; (4) Explore legislative changes for timely update of standards • Worked with the Food Beverage Industry Alliance to submit comments supporting standards modernization • IDFA staff and members met with FDA's inter-agency standards taskforce in May to discuss IDFA's comments on standards modernization

Issues Area	New Committee Assignment	Status	Goals	Actions
				• FDA will hold a public meeting on standards modernization September 27th to consider a horizontal approach. IDFA will provide oral testimony and detailed written comments to support this concept. • Meeting and follow up letter to FDA Deputy Commissioner Frank Yiannas urging action on the yogurt standards resulted in the final rule being sent to OMB
Use of the Names of Dairy Foods in the Labeling of Plant-Based Products	Standards and Labeling Committee	As part of its Multi-Year Nutrition Innovation Strategy FDA opened a separate docket requesting information on consumer understanding	• Support FDA's actions to ensure that the labeling of plant-based products is truthful and does not mislead or confuse consumers • Provide input to FDA's request for information on points where there is member consensus	• IDFA staff worked with the milk, cheese, yogurt and ice cream regulatory committee members to facilitate discussion to determine IDFA's position on labeling of plant-based products. However, due to significantly different member views on this topic, it was agreed that IDFA should submit specific data and consumer research on 8 of the 20 questions. Our comments supported the need for FDA to give clear guidance to the industry and consumers on the labeling of these products. • IDFA will continue to monitor this issue as FDA works to review comments filed in the docket

IDFA'S 2019 REGULATORY POLICY PRIORITIES
UPDATED - SEPTEMBER 2019

Issues Area	New Committee Assignment	Status	Goals	Actions
USDA's Bioengineered Food Disclosure Standard	Standards and Labeling Committee Bioengineered Food Labeling Task Force	The new Bioengineered Food Disclosure Standard was finalized on 21, 2018. Companies may begin labeling BE food and ingredients in accordance with the rule, but all dairy products must be labeled in compliance with the rule by January 1, 2022.	Assist members with understanding and complying with USDA's final Bioengineered Food Disclosure Standard rule	• IDFA prepared a Regulatory Update and conducted a detailed webinar to assist members with complying with the new rule and absence claims. IDFA also provides guidance to individual company requests for assistance. • IDFA staff will continue to monitor implementation and state adoption of the rule and litigation
FDA's Changes to the Nutrition Facts Label	Standards and Labeling Committee	The extended compliance date requires manufacturers with $10 million or more in annual sales must switch to the new label by January 1, 2020; manufacturers with less than $10 million in annual food sales have until January 1, 2021 to comply.	Provide members with training, education and personal consultation to understand the complex changes for nutrients declaration of added sugars and revised daily values, dual column labeling and new serving size requirements.	• IDFA conducts annual dairy product labeling training webinars that are available for members to review on demand in the IDFA Knowledge Center • The IDFA milk and milk products, cheese and ice cream labeling manuals have been revised to include comprehensive information on the new labeling regulations. These new labeling manuals were published in August 2019. • IDFA regulatory staff provides confidential consultations with members on labeling questions and provide label reviews

Issues Area	New Committee Assignment	Status	Goals	Actions
Define "Natural Cheese"	Standards and Labeling Committee	FDA initiated a request for information in 2017 seeking input on enacting a regulatory definition for "Natural" and "All Natural" labeling claims	Work with regulators at FDA to stress that the term "Natural Cheese" is a historical product descriptor, not a marketing claim	• IDFA comments submitted to FDA requested the term "Natural Cheese" be exempted from any regulations defining "Natural" labeling claims • IDFA's cheese regulatory committee members worked to develop a definition for "Natural Cheese" that could be used in legislation with the CURD Act. Refinements to the definition we made working with FDA staff who were asked to provide technical assistance on the bill language • IDFA regulatory staff are assisting the Legislative team with Hill meetings to provide technical information on the need to define natural cheese
Dietary Sodium Reduction	Nutrition and Health Committee	FDA issued a Draft Voluntary Sodium Reduction Goals: Target Mean and Upper Bound Concentrations for Sodium in Commercially Processed, Packaged, and Prepared Foods in 2016. In early March 2019, the National Academies of Science, Engineering and Medicine published updated Dietary Reference Intakes (DRIs) for sodium and potassium.	Advocate that due to salt's role in food safety and quality in cheese, this category should be exempt from voluntary sodium reduction targets	• Monitor FDA' works in the area of dietary sodium reduction as this project as part of FDA's Nutrition Innovation Strategy was put on hold until the new DRI for sodium established • Work with the Sodium Coalition to provide information on cost of sodium reduction for foods to demonstrate to the Office of Management and Budget, FDA, and HHS that FDA's guidance would have a significant

Issues Area	New Committee Assignment	Status	Goals	Actions
				economic impact and should be considered under regulations rather than guidance
Child Nutrition Reauthorization	Nutrition and Health Committee	The scheduled reauthorization of child nutrition programs, including school meals and WIC, was not completed in 2015. This topic could be brought up again, potentially for 2020.	Ensure that dairy maintains an important position in the federal child nutrition programs	IDFA regulatory staff will consult with IDFA's legislative staff to support work and efforts on Reauthorization
Dietary Guidelines for Americans 2020-2025	Nutrition and Health Committee	The members of the Dietary Guidelines Advisory Committee (DGAC) have been named. The topics for consideration by the DGAC have also been identified. The first public meeting of the DGAC will be held on March 28-29, 2019.	Defend dairy's role in 2020-2025 update of Dietary Guidelines for Americans to maintain current number of servings and expand choices to higher fat levels	IDFA regulatory staff will coordinate with the Nutrition and Health Committee and other organizations on comments supporting a strong role for dairy in a healthy eating pattern. These comments will include written and oral input to the DGAC and USDA and the Department of Health and Human Services.
Implementation of FDA's Food Safety Modernization Act	Food Safety Committee	With the major rulemaking related to FSMA now complete, FDA is issuing guidance and beginning inspections and enforcement of the new requirements. IDFA is working to ensure guidance aligns with the flexibility provided for under the rules and inspection activities are appropriately and efficiently conducted.	• Ensure FDA's intentional adulteration (IA) rule guidance allows for flexibility in implementing and verifying mitigation measures and that FDA takes a "educate before you regulate" approach, as this is a new area for regulation of the food industry. • Reduce overall inspection burden on industry by	• IDFA submitted comments on the 1st tranche of draft IA guidance in Dec. 2018 and is reviewing and developing comments on the 2nd tranche released Mar. 5, 2019. • IDFA is co-signing a Food and Beverage Industry Alliance letter requesting an extension of the July 2019 compliance date to allow time for all relevant FDA guidance and a revised Food Defense Plan Builder software to be issued, and time for industry to be prepared to comply.

Issues Area	New Committee Assignment	Status	Goals	Actions
			encouraging FDA to efficiently use inspection resources, especially for Grade "A" plants that also produce non-Grade "A" products.	• IDFA held a stakeholder meeting in Dec. 2018 to discuss the Grade "A"/non-Grade "A" inspection pilot with FDA, states and industry. We submitted a letter to FDA in Feb. 2019, expressing our current position and objectives. We will continue dialogue with FDA, state and industry stakeholders to ensure our goals are met.
National Conference on Interstate Milk Shipments	Food Safety Committee NCIMS Subcommittee	The biennial National Conference on Interstate Milk Shipments (NCIMS) will be held April 26- May 1, 2018 to update regulations for Grade "A" milk and milk products, including yogurt and dairy ingredients.	• Complete the alignment of the Food Safety Modernization Act with the Pasteurized Milk Ordinance (PMO), ensuring full food safety plan inspections only once every 3 years. • Ensure other IDFA-supported proposals are accepted by the Conference delegates and those proposals IDFA does not support are defeated.	• IDFA worked with its members to analyze the 75 NCIMS proposals under consideration. Meetings were held to develop IDFA's positions with member input and understand National Milk Producers Federation and FDA positions for key proposals. • IDFA staff is working with the NCIMS Liaison Committee and FDA, ensure that the inspection pilot program reduces overall inspection burden on industry for Grade "A" plants that also produce non-Grade "A" dairy products. • IDFA regulatory staff holds roles on the NCIMS Executive Board, Program and Liaison Committees, and we will participate in other

Issues Area	New Committee Assignment	Status	Goals	Actions
				committees to advocate for IDFA's positions, as necessary.
FDA Listeria Policy Guidance	Food Safety Committee	FDA issued its Draft Guidance for Industry: Control of *Listeria monocytogenes* in Ready-To-Eat Foods in January 2017. The draft guidance contained problematic recommendations and expectations for industry, which IDFA noted in comments. The final guidance has yet to be released.	Ensure FDA institutes a risk-based, practical approach regarding Listeria testing in facilities	IDFA continues to encourage FDA to issue final guidance reflecting our recommendations as soon as possible
EPA Risk Management Program	Environment, Sustainability and Safety Committee	EPA's revision to the RMP rule to lessen regulatory burdens is expected to be finalized in 2019.	Assist members in understanding and complying with the revised RMP rule.	Upon publication of a final rule, IDFA expects litigation efforts to stay the rule's implementation pending litigation. IDFA will keep members informed on status of the rule and litigation and prepare a Regulatory Update when appropriate.
Department of Transportation Hours of Service Rules	Environment, Sustainability and Safety Committee	The joint IDFA and American Bakers Assn. request for an exemption to the FMCSA Hours of Service rules to allow delivery of dairy and baked goods during a national emergency was posted for public comment.	Remove obstacles to improving opportunities for delivery of dairy products during a national emergency.	IDFA will continue to advocate for the exemption request. If and when the request is granted, IDFA will inform members of the new exemption.
Emerging Contaminants	Food Safety Committee	IDFA continues to monitor developments regarding emerging contaminants that may have an impact on dairy processing, including Perchlorate and PFAS	Ensure that regulators and consumers do not have concerns regarding the safety of dairy products. Generally, IDFA staff will advocate for reasonable	IDFA continues to closely monitor government-wide regulatory actions and litigation relating to PFAS contamination and perchlorate. IDFA will update members when appropriate and

Issues Area	New Committee Assignment	Status	Goals	Actions
	Environment, Sustainability and Safety Committee		regulations that are no more burdensome than necessary.	continue answering individual member questions.
National Organic Standards Board (NOSB)	Standards and Labeling Committee	Regularly monitor the NOSB agenda to ensure that dairy processors have access to important ingredients while still maintaining organic certification.	Support the ability of dairy processors to maintain organic certifications by ensuring that NOSB decisions are science-based with input from the dairy processing industry	IDFA continues to monitor the agendas of NOSB meetings, provides written and oral comments as needed. IDFA also notifies members of meetings and new actions.
OSHA Tracking of Workplace Injuries and Illness	Environment, Sustainability and Safety Committee	OSHA issued a final rule removing the requirement for establishments with 250 or more employees to electronically submit detailed reports documenting workplace injury and illness reporting, but the rule has been challenged in court by public health and safety advocates. The new rule did not revise the prohibition on use of incentives for drug testing programs due to retaliation concerns.	Work with OSHA to provide additional guidance on ways for manufactures to utilize drug testing programs important to maintaining worker safety	IDFA provided a member summary when the final rule was published and will continue to monitor litigation over the rule. IDFA will also work with regulators and other industry groups to secure additional guidance regarding drug testing programs.
World Health Organization	Standards and Labeling Committee Nutrition and Health Committee	WHO is developing and promoting policies (e.g., marketing/labeling restrictions, taxes on sugar-sweetened dairy) that have negative implications for the dairy industry. The U.S. government under the Trump administration	Work with the U.S. Government and other stakeholders to steer the World Health Organization towards more transparent processes and evidence-based	• IDFA will continue to engage with U.S. government, foreign governments, and domestic and foreign industry stakeholders, including at, and in advance of, upcoming meetings of the Codex Alimentarius,

Issues Area	New Committee Assignment	Status	Goals	Actions
	International Standards Task Force	has been very proactive in pushing back in various fora; however, other countries have not, which requires IDFA to remain vigilant in helping to inform and encourage foreign industry and governments about our concerns	guidance for countries, and away from anti-dairy policies	International Dairy Federation and the World Health Assembly • IDFA will coordinate with NMPF, USDEC, and NDC and other U.S. industry organizations on messaging, strategies and tactics

IDFA
INTERNATIONAL DAIRY FOODS ASSOCIATION
Making a Difference for Dairy

Nutrition Policy

REGULATORY PRIORITIES

Fall 2019 Briefing Materials

Dietary Guidelines Committee Discusses Protocols, Hears Public Comment

Jul 18, 2019

In its second public meeting last week, the Dietary Guidelines Advisory Committee (DGAC) heard comments from the public on the content of the 2020-2025 Dietary Guidelines for Americans (DGA). The DGAC also discussed protocols for reviewing scientific research and data that will be used as the basis for their recommendations. The Dietary Guidelines for Americans serve as a source of information for the public on food and nutrition. They also help health professionals and policymakers guide Americans to make healthy food and beverage choices and set science-based nutrition policy. The DGA serve as the basis for the nutrition criteria for federal nutrition programs, such as the school meal programs. The guidelines are reviewed every five years, a process managed by USDA and the Department of Health and Human Services and informed by the experts of the Dietary Guidelines Advisory Committee (DGAC).

The protocols discussed by the DGAC last week addressed which methods, research papers and data sets will be used to develop the DGAC's conclusions on a variety of topics, including dietary patterns, beverages, nutrients of public health concern, fat and added sugars.

Milk was confirmed as one of the types of beverages that would be included in a search of nutrition studies. Additionally, flavored milk was confirmed as a component of the milk/dairy group, rather than a sugar-sweetened beverage. In the scientific review of dietary fats, both the type and source of the fat were identified as topics for review. This should allow the consideration of nutrition research regarding the health effects of milkfat.

Public comments were provided by 78 people, including doctors, nurses, dietitians, individuals and representatives of food associations, companies and health advocacy organizations. Comments were highly varied, but many urged the DGAC to recommend plant-based diets, low carbohydrate diets or whole food diets. Animal products, including processed meats, were criticized.

Numerous public comments urged the DGAC to recommend little to no dairy in the U.S. diet. Some of the reasoning behind these public comments included animal welfare, sustainability/environmental concerns, lactose intolerance and health concerns. National Milk Producers Federation and the National Dairy Council both spoke in support of continuing dairy's strong role in the DGA. They emphasized the nutrient profile of dairy products and the contribution of dairy to the American diet. Due to the large number of commenters, IDFA was not granted a slot to testify but will plan to present oral comments at the 4th DGA meeting in Houston, Texas, to be held January 23-24, 2020.

In addition to oral comments, IDFA plans to provide written comments to the DGAC on the importance of three servings of dairy each day and the maintenance of a specific dairy group in recommended eating patterns. IDFA believes that no matter who you are, good nutrition is the foundation of health and wellness for adults and children alike—and dairy is an important part of a healthy diet. Dairy provides numerous health benefits, including better bone health, lowering the risk of type 2 diabetes, and cardiovascular disease. According to the U.S. Departments of Agriculture and Health and Human Services, American children and adolescents over four years old are not consuming enough dairy to meet the DGA recommendations. The current DGAs are based on the prevailing and overwhelming body of research that demonstrates the nutritional benefits of dairy.

Members interested in assisting with these comments may contact Cary Frye at cfrye@idfa.org or (202) 220-5543.

FDA Asks Companies to Lower Sodium in Cheeses, Other Foods

IDFA NewsUpate: Jun 02, 2016

The Food and Drug Administration yesterday issued draft guidance to encourage U.S. food companies to reach voluntary sodium reduction targets for their products. Noting that the average sodium intake per person is approximately 3,400 milligrams (mg) per day, FDA drafted two-year and 10-year targets for industry to help the American public gradually reduce sodium intake to 2,300 mg a day.

According to FDA, Americans eat almost 50 percent more sodium than what most experts recommend, and the majority comes from processed and prepared foods, not the salt shaker. Although the guidance acknowledged existing efforts by food companies, restaurants and foodservice operations to reduce sodium in foods, FDA strongly encouraged companies with products that make up a significant portion of national sales and restaurant chains that are national and regional in scope to adopt the new targets.

The draft guidance established voluntary reduction targets for many processed and prepared foods, placing them in nearly 150 categories, from bakery products to soups. The targets factor in data on consumer preferences and consider the many functions of sodium in food, including taste, texture, microbial safety, and stability. Cheese is one of the categories identified for sodium reduction, and it was broken into 13 groups:

- Blue/Blue-Veined Cheese (Semi-soft)
- Gouda and Edam Cheese (Semi-soft)
- Processed Cheese/Cheese Food (Semi-soft)
- Monterey Jack and Other Semi-soft Cheese
- Cream Cheese (Soft)
- Cheese Spreads/Other Spreadable Cheese (Soft)
- Brie and Other Ripened Cheese (Soft)
- Pasta Filata Cheese (Soft)
- Feta Cheese (Soft)
- Cottage and Other Soft Cheese
- Cheddar and Colby Cheese (Hard)
- Swiss and Swiss-type Cheese (Hard)
- Parmesan and Other Hard Cheese

Cheese-based sauces and dips were listed in a separate category, and cheese-based appetizers and pizzas and sandwiches made with cheese were included with other combination foods. Butter and cream-based dips, including sour cream and cream cheese dips, also have targets, but no other dairy products were mentioned.

Cheese represents only about 8 percent of the sodium in the American diet, and many cheese makers continue to look for ways to reduce the amount of sodium needed to make one of America's favorite foods. More facts about cheese are available here.

"Salt is a critical component of the cheese-making process as it controls moisture, texture, taste, functionality and food safety. Although salt cannot be completely eliminated, some cheeses require less than others," said Cary Frye, IDFA vice president of regulatory and scientific affairs. "The cheese industry continues to work on process and product developments to help lower sodium — all while maintaining strict expectations for food safety and taste."

The draft guidance was published today in the Federal Register along with deadlines for the comment periods. FDA has requested feedback from stakeholders about the short-term, or two-year, voluntary reduction targets by October 17, 2016. Comments on the long-term, or 10-year, reduction targets are due by December 2, 2016.

FDA also is seeking input from the industry on challenges posed by sodium reduction given the many functions of sodium in foods. IDFA will be working with members of the National Cheese Institute (NCI) Regulatory Committee to review the draft guidance and submit comments to FDA.

- "Draft Guidance for Industry: Voluntary Sodium Reduction Goals: Target Mean and Upper Bound Concentrations for Sodium in Commercially Processed, Packaged, and Prepared Foods."

For more information, contact Frye at cfrye@idfa.org.

December 2, 2016

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

(Submitted electronically: www.regulations.gov)

Re: Docket No. FDA-2014-D-0055. Voluntary Sodium Reduction Goals: Target Mean and Recommended Maximum Concentrations for Sodium in Commercially Processed, Packaged and Prepared Foods. 81 Fed. Reg. 35363 (June 2, 3536-35367)

Dear Sir or Madam:

The National Milk Producers Federation (NMPF) and International Dairy Foods Association (IDFA) appreciate the opportunity to provide feedback on the Food and Drug Administration's (FDA) voluntary sodium reduction targets.

In October, NMPF and IDFA filed a very detailed set of technical comments related to sodium reduction efforts in dairy products and our evaluation of FDA's categories, baselines, and short-term targets. Rather than repeat our October comments, we instead incorporate them by reference (as submitted on 10/17/2016), as well as comments submitted by the American Butter Institute (as submitted on 10/17/2016), the American Cheese Society (as submitted 10/31/2016) and the National Dairy Council (as submitted on 12/2/2016).

As these comments all described, salt plays many roles in the manufacture of dairy products, impacting both product safety and product quality. Numerous challenges and hurdles were identified with respect to trying to reduce sodium (e.g., lack of technology, current regulations, and resource limitations). NMPF and IDFA have significant concerns about the appropriateness, accuracy and impact of the voluntary sodium reduction targets for dairy products as proposed, and those concerns have not diminished with respect to the long-term targets. Not only might they have adverse impacts on quality – and in some cases, the safety of the product may be seriously adversely affected – but they could also

reduce consumer demand for our products. FDA should not put pressure on industry to take actions that will jeopardize the safety of the U.S. food supply and accordingly, the health of the public.

NMPF and IDFA again emphasize the need to remove the entire cheese category, as well as butter, from the sodium reduction guidance. Though our efforts to find safe and effective means of reducing sodium in our products have been extensive and will continue, the dairy industry faces significant barriers to sodium reduction (as outlined in our October comments). Accordingly, in good faith, we cannot agree to the proposed targets for dairy products when we cannot be assured of technology to achieve those targets within the given timeframes without compromising on product safety and quality.

NMPF and IDFA would also like to provide some additional information on a point noted in the National Dairy Council's (NDC's) comments about the discrepancies that exist in the sodium reduction goals for individual foods and mixed dishes. Our organizations support comments submitted by NDC that the 2-year and 10-year sodium reduction goals for mixed dishes that include cheese are not reflective of the goals for the individual ingredients, specifically the amount of sodium contributed from the cheese ingredient in the mixed dish.

For example, Food Category ID 126 'Hamburgers/Ground Meat Sandwiches: Without Cheese' has a long-term sales weighted target mean of 220 mg/100g, while Food Category ID 127 'Hamburgers/Ground Meat Sandwiches: With Cheese' has a corresponding target mean of 300mg/100g. The difference between these two target means is 80mg/100g. Presumably, the only significant difference between these two categories is the addition of cheese.

As illustrated in the table below, using nutrition information from McDonald's, the contribution of one slice of cheese added to a regular hamburger is calculated to be an additional 200 mg of sodium[1], which is equivalent to 1411 mg sodium per 100 g of cheese. The table provides a clear picture that FDA's proposed sodium targets for the cheese used for a cheeseburger is dramatically lower than the proposed targets for the cheese alone and from cheese used at quick service restaurants. NMPF and IDFA strongly believe these sodium reduction targets are not achievable for the cheese portion of the Food Category ID 127 "Hamburgers/Ground Meat Sandwiches: With Cheese" and urge the Agency to reconsider these targets.

Description	**Sodium per 100 g of cheese**		
		Category 3 Processed Cheese/Cheese Food	**Difference between Category 126 and 127**
Cheese on McDonald's Cheeseburger	1411 mg		
2010 Baseline sales-weighted mean		1358 mg	1190 mg
Short-term (2-year) target mean		1210 mg	980 mg
Long-term (10-year) target mean		1000 mg	560 mg

We look forward to the opportunity for dialogue with you on this issue so that we might discuss our concerns in detail. We would also greatly appreciate an opportunity to review and to provide comment on any revisions to the proposed guidance.

1Accessed at: https://www.mcdonalds.com/us/en-us/about-our-food/nutrition-calculator.html

Respectfully Submitted by,

Beth Briczinski, Ph.D.
Vice President, Dairy Foods & Nutrition
National Milk Producers Federation

Cary Frye
Vice President, Regulatory & Scientific Affairs
International Dairy Foods Association

The National Milk Producers Federation, based in Arlington, VA, develops and carries out policies that advance the well-being of dairy producers and the cooperatives they own. The members of NMPF's cooperatives produce the majority of the U.S. milk supply, making NMPF the voice of more than 32,000 dairy producers on Capitol Hill and with government agencies. Visit www.nmpf.org for more information.

International Dairy Foods Association (IDFA) represents the nation's dairy manufacturing and marketing industries and their suppliers, with a membership of 550 companies within a $125-billion a year industry. IDFA is composed of three constituent organizations: the Milk Industry Foundation, the National Cheese Institute, and the International Ice Cream Association. IDFA's 200 dairy processing members run nearly 600 plant operations, and range from large multi-national organizations to single-plant companies. Together they represent more than 85 percent of the milk, cultured products, cheese, ice cream, and frozen desserts produced and marketed in the United States.

1250 H Street NW, Suite 900
Washington, DC 20005
P: 202.737.4332 | F: 202.331.7820
WWW.IDFA.ORG

IDFA
INTERNATIONAL DAIRY FOODS ASSOCIATION℠

January 31, 2019

Dr. Oxiris Barbot
Acting Commissioner
New York City Department of Health and Mental Hygiene
Submitted via email to: sugar@health.nyc.gov

RE: Preliminary Voluntary Sugar Reduction Targets from the National Salt and Sugar Reduction Initiative

Dear Dr. Barbot:

The International Dairy Foods Association appreciates the opportunity to provide comments on the proposed sugar target levels for New York City's National Salt and Sugar Reduction Initiative (NSSRI). We agree that consumers in New York City and across the country should have access to healthy food options that are convenient, affordable and enjoyable. However, we have serious questions and concerns about this initiative.

The International Dairy Foods Association (IDFA), Washington, D.C., represents the nation's dairy manufacturing and marketing industry, which supports nearly 3 million jobs that generate more than $161 billion in wages and has an overall economic impact of more than $628 billion. IDFA members range from multinational organizations to single-plant companies. Together they represent approximately 90 percent of the milk, cultured products, cheese, ice cream and frozen desserts produced and marketed in the United States and sold throughout the world. The diverse membership includes numerous food retailers, suppliers and companies that offer infant formula and a wide variety of milk-derived ingredients.

We understand that the City of New York's goal is to reduce intake of added or total sugar, but we feel that there are different approaches that could make the initiative more practical for companies, thereby more accessible for consumers and more impactful on public health.

Executive Summary

- Dairy foods should be excluded from the sugar reduction initiative because they are nutrient dense, deliver three of the four Dietary Guidelines for Americans' nutrients of public health concern and do not contribute significant amounts of added sugar to the American diet.

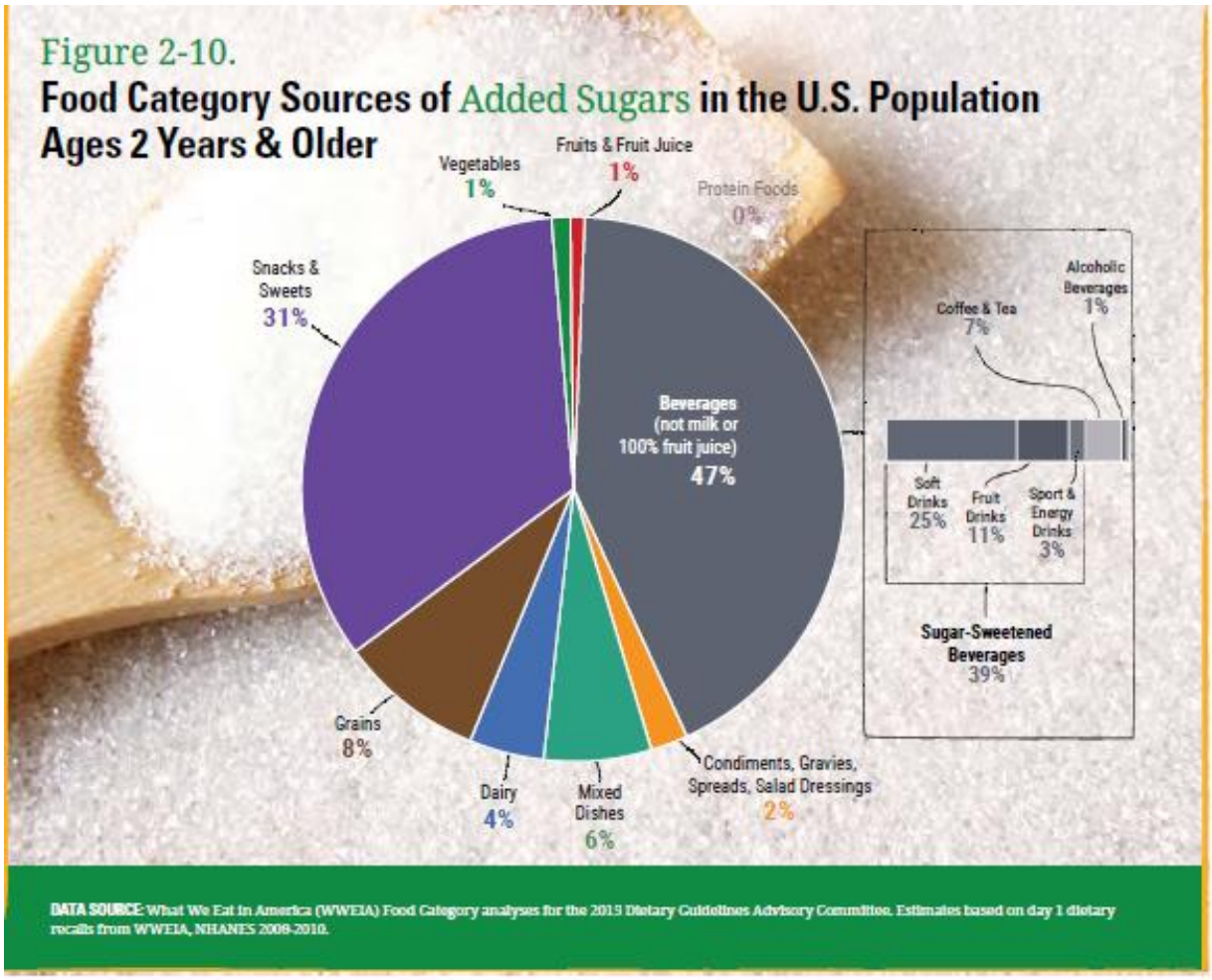
- Dairy products are already widely available in a variety of sugar content levels.
- Initiative must provide flexibility to products that are lowering sugar content while staying within the requirements of an FDA standard of identity.
- NSSRI targets should be based on added sugars, to align with FDA's new Nutrition Facts label requirements for declaring added sugar.
- Alternative methods for reducing sugar intake should be considered in addition to product reformulation. These include portion control and consumer education. Effective education that empowers consumers to make changes to their overall dietary pattern is necessary.
- Non-nutritive sweeteners should be permitted in the voluntary initiative as a tool to help lower sugar levels.
- Targets should consider the critical technical and functional purposes of sugar. Sugar is a highly functional ingredient, with many benefits and attributes beyond flavor and sweetness, including product texture and consistency, product identity, color and browning, water activity, shelf life and standard of identity requirements.
- Sales weighted means and product categories should be reconsidered to allow for more appropriate targets. Some product categories are ambiguous and arbitrary, making it difficult to determine where products fall within categories. Additionally, it is unclear if private label sales are included, which will impact the sales weighted mean.
- The timeline for sugar reduction must take into account consumer taste and recent reductions. Reformulation efforts to remove ingredients, such as salt and sugar, have demonstrated that over time consumers will accept gradual reductions where the change in taste and texture is not discernible. Companies have already made progress in voluntary sugar reduction on products.
- Setting maximum level targets for sugar content causes undue restrictions so these should be removed.

Nutritive Value of Dairy Products

Dairy Foods Should be Excluded from This Initiative Because They Are Nutrient Dense and Do Not Contribute Significant Amounts of Added Sugar to the Diet

According to the 2015-2020 Dietary Guidelines for Americans[1] (DGA), dairy foods provide just 4% of the added sugar in the American diet. Dairy is not a major source of added sugars for Americans and does not need to have sugar restrictions, particularly when considering the natural sugar present in milk and the other nutrients provided by dairy products.

[1] U.S Department of Health and Human Services and U.S. Department of Agriculture. *2015-2020 Dietary Guidelines for Americans*. 8th Edition. December 2015. Available at http://health.gov/dietaryguidelines/2015/guidelines/.



Source: U.S Department of Health and Human Services and U.S. Department of Agriculture. *2015-2020 Dietary Guidelines for Americans*. 8th Edition. December 2015. Available at http://health.gov/dietaryguidelines/2015/guidelines/.

Dairy Products are Nutrient Dense

Flavored and sweetened dairy products, such as flavored milk or yogurt, are an important part of encouraging adequate intake of dairy products, which are underconsumed by most Americans. Flavored milk and yogurt are nutrient dense and provide significant nutritional benefits. The moderate levels of added sugars in these products increase palatability, thereby encouraging Americans to eat more of these nutrient-dense foods. Flavored dairy products contain the same nutrients of their unsweetened counterparts, but with some added sweetener ingredients that can provide a flavor that some consumers prefer, or that provide other functional purposes. Flavored milks, like all cow's milk, are a source of 11 essential nutrients, including calcium, vitamin D and potassium.

The 2015-2020 DGA recognize the role that sweetened and flavored dairy foods and beverages can play in increasing consumption of nutrient dense options and improve nutrient intakes, particularly of underconsumed food groups and nutrients. Dairy products are specifically mentioned by the DGA, "Healthy eating patterns can accommodate other nutrient-dense foods with small amounts of added sugars, such as… fat-free yogurt, as long as calories from added sugars do not exceed 10 percent per

day, total carbohydrate intake remains within the Acceptable Macronutrient Distribution Range, and total calories intake remains within limits."[2] The DGA also states, "Some sweetened milk and yogurt products may be included in a healthy eating pattern as long as the total amount of added sugars consumed does not exceed the limit for added sugars, and the eating pattern does not exceed calories limits."[3]

Despite the nutritional benefits, fluid milk product consumption has been declining steadily over the past three decades with per capita consumption dropping by 74 pounds from the level of 223 pounds in 1987 to its lowest level of 149 pounds in 2017.[4] Americans should be encouraged to consume more milk and dairy products, including flavored milk, to meet their nutrient needs. Any steps that could further reduce consumer options for dairy products should be carefully considered.

USDA's school meal programs provide a recent example of how changes that are meant to improve food choices and nutrient intakes can have unfortunate unintended consequences. Studies have been conducted to assess the impact of the withdrawal of flavored, low fat milk from schools. One study found that removing flavored milk on one or all days of the week resulted in a 26% reduction in sales of milk, a 37% reduction in consumption, and an 11% increase in milk discarded as waste.[5] The waste of milk was confirmed in a more recent study (2017) that found reduced consumption of milk also resulted in increased food waste for some school food service programs.[6] In summary, flavored low-fat milk is a nutrient dense choice that can help children meet food groups and nutrients of public health concern in the school meal programs. More broadly, strategies that help consumers increase intakes of nutrient dense foods, such as low-fat dairy foods, should be encouraged.

Yogurt is another nutrient-dense source of high-quality protein, calcium, potassium, riboflavin, vitamin B12, and phosphorous. Some yogurts have vitamin D added. For many people, added flavors and sweeteners make yogurt more palatable, meaning that they are more likely to increase their consumption of calcium, protein, potassium, vitamins A and D and other important nutrients present in each serving of yogurt.

In summary, flavored dairy products are an important way that many people prefer and choose (over non-flavored dairy products). If flavored dairy products become less available and/or have significant changes in their flavor profiles, consumers may decrease consumption of these products or switch to other non-dairy foods or beverages. The unintended consequence may further decrease consumption of already underconsumed nutrients and food groups.

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[2] U.S Department of Health and Human Services and U.S. Department of Agriculture. *2015-2020 Dietary Guidelines for Americans*. 8th Edition. December 2015. Available at http://health.gov/dietaryguidelines/2015/guidelines/.
[3] Ibid.
[4] U.S. Department of Agriculture. ERS. 2017. Dairy products: Per capita consumption, United States (Annual data through 2017). Accessed Jan 14, 2019 https://www.ers.usda.gov/data-produccts /dairy-data.
[5] Quann EE, D Adams. Impact on Milk Consumption and Nutrient Intakes from Eliminating Flavored Milk in Elementary Schools. Nutrition Today: May/June 2013. 48(3):127-134.
[6] Blondin SA, Cash SB, Goldberg JP, Griffin TS and Economos CD. Nutritional, economic, and environmental costs of milk waste in a classroom school breakfast program. American Journal of Public Health. 2017. 107(4):590-592.

Dairy Foods Have Unique Challenges Related to Sugar Reduction

In many categories, including dairy, consumers already have a choice of products representing a wide range of sugar levels. Differences in sugar content between brands, or within brands, are generally available, meaning that customers can select the product that best meets their needs, including the sugar content of interest to them. Additionally, for most dairy products, there is the option of unflavored or products sweetened with non-nutritive sweeteners. Reducing sugar in these products, especially without the use of non-nutritive sweeteners, will cause unnecessary duplication.

As the 2015-2020 DGA acknowledge, there is a place in healthy dietary patterns for nutrient dense foods that contain added sugars. These foods play an important role in the diet, helping consumers meet food group and nutrient needs, in contrast to other foods with added sugars that contribute few to no nutrients or food groups to encourage. Any recommendation to lower the sugar content of products should consider the overall nutrient package provided by that product, rather than being broadly applied to any and all sources of added sugars.

Variety of Dairy Products Must be Considered

There are many approaches that may help consumers lower their overall sugar intake. Lowering the added sugar content is one approach, but so would assisting consumers to select existing non-sweetened options or options sweetened with non-nutritive sweeteners. There are already a wide range of dairy products that are available at a variety of sugar levels, meaning that education to help consumers choose dairy products that are lower in sugar should also be considered. This variety in options could make it more likely that consumers will find a choice that they enjoy and will consume, an important point for dairy products as they are underconsumed by most Americans.

While there may not be as much variation in sugar content in products in other foods categories, there are often other approaches that may work to help lower sugar intake rather than relying solely on product reformulation. These varieties of approaches need consideration in this initiative.

Standards of Identity May Interfere with Sugar Reductions

Many dairy foods fall under a federal standard of identity, including milk, yogurt, ice cream, sherbet, and other products. These standards set requirements on what ingredients may or must be used in the product and the composition of the product. If a dairy food or beverage deviates from the standard, it may need to use a nutrient content claim, if one applies, or change the name of the product. In some cases, the standard of identity requirements may make sugar reductions more challenging or impossible within the standard.

California has a standard of identity for milk that differs from the national standard. California standards for reduced fat milk and lowfat milk require a significantly higher level of milk solids nonfat than the federal milk standard, so more lactose is present.[7] Nationally distributed products must meet California

[7] Food and Agricultural Code. Division 15, Milk and Milk Products Act of 1947. Part 3, Manufactured Products, Chapter 2 Market Milk and Cream, Article 2 Market Milk Standards and Grades, 35784.1; Food and Agricultural Code. Division 15, Milk and Milk Products Act of 1947. Part 3, Manufactured Products, Chapter 5. Miscellaneous Dairy Products, Article 2 Skim Milk, Nonfat Milk, or Fat-free Milk, 38181; Food and Agricultural Code. Division 15, Milk and Milk Products Act of 1947, Part 3. Manufactured Products, Chapter 5. Miscellaneous Dairy Products,

standards for a consistent product nationwide. If total sugars are used as the basis for the targeted reduction, it would be difficult or impossible to make this product meet the Initiative reduction goals due to the higher lactose level.

The federal standard of identity for sherbet[8] requires specific levels of fruit to be included, which contribute naturally occurring sugars that are included in the total sugar targets. Citrus flavored sherbets must contain at least 2% fruit, berry sherbets must contain at least 6% fruit and sherbets flavored with other fruits must contain at least 10% fruit by weight. These levels of fruit ingredients would contribute significant levels of total sugars to the product. Lowering these levels of sugar would be impossible to reduce without lowering the fruit content in the sherbet and possibly becoming out of compliance with the standard of identity.

As the sugar that occurs naturally in milk and dairy, lactose is present in nearly all dairy products. Although lactose can be hydrolyzed into glucose and galactose for lactose free products, this does not change the sugar content. The only way of removing lactose from milk and therefore lowering the natural sugar in milk is through ultrafiltration. However, since this process changes the composition of the milk, FDA considers ultrafiltered milk as different from milk and not meeting the standard of identity for milk. Fluid products that have been ultrafiltered to reduce lactose content and therefore total sugar content cannot be labeled as "milk" and must be labeled as "ultrafiltered milk," "dairy beverage," or "milk beverage."

Concerns about Design of Initiative

As explained in the reasons above, IDFA does not feel that the NSSRI should include dairy products. However, we would like to offer the following comments on the specific information available about the initiative.

Targets Should Align with FDA's New Nutrition Facts Panel Requirements

The stated objective of the initiative is to "promote…reductions in **sugar content** in packaged foods and beverages" because "**intake of added sugars** is associated with increased risk of excess weight, type 2 diabetes, hypertension, stroke, heart disease and cavities." (emphasis added) The concern of the program appears to be limiting added sugars in foods and beverages. However, the sugar reduction targets proposed are based on the total sugar content, rather than added sugar content. This total sugar approach will capture not only added sugar, but also the naturally occurring sugars present in dairy and fruits. This makes the sugar targets even more difficult to achieve for products that contain these naturally-occurring sugars, such as flavored milk, fruit flavored yogurt and fruit flavored frozen desserts.

If the goal of the program is to reduce added sugars, then the targets should be based on added sugar levels, not total sugar. This will align with FDA's update to the Nutrition Facts Label which includes the mandatory added sugars declaration, effective January 1, 2020. Our understanding is that the City of New York plans to begin company partnerships in 2020, so this would align well with the Nutrition Facts

Article 2.5 Lowfat Milk or Light Milk, 38191; Food and Agricultural Code. Division 15, Milk and Milk Products Act of 1947, Part 3. Manufactured Products, Chapter 5. Miscellaneous Dairy Products, Article 3 Reduced-fat Milk, 38211.

[8] 21 Code of Federal Regulations 135.140 Sherbet.

timeline. Even now, prior to the mandatory compliance date for added sugars declaration, many packages already provide information on added sugars content.

Setting targets on sweetened, flavored milk does not reflect the nutritional contributions of flavored milk or the reality that these products contain both natural and added sugar. Based on 12 grams of lactose per cup of milk, the proposed targets of 17.28 grams and 15.26 grams would be practically impossible to meet without the use of non-nutritive sweeteners.

In order to correct this obstacle for dairy and other products that contain naturally occurring sugar, we urge the City of New York to include only added sugar in the targets, or to exempt products with both naturally occurring and added sugars.

Initiative Should Consider Alternative Approaches to Reducing Sugar Intake

Alternative methods for sugar reduction exist, including portion control, calorie declaration, and encouraging consumers to choose plain or low sugar options. These should also be considered together with encouraging food manufacturers to reformulate products.

Effective education programs that empower consumers to make changes to their overall dietary patterns, such as choosing dairy products with lower sugar levels, could assist consumers in making choices that result in lower sugar intake. Many dairy products are available in a variety of serving sizes, so that consumers can select the option that best helps them meet their sugar and calorie intake goals. Smaller single serving containers can help limit intake and therefore limit sugar intake.

Non-nutritive Sweeteners Should be Permitted in Initiative as a Tool to Help Lower Sugar Levels

In the "Preliminary Voluntary Sugar Reduction Targets from the National Salt and Sugar Reduction Initiative" document, the City of New York explicitly stated that the "targets were drafted with the expectation that companies will meet the proposed targets without increasing non-nutritive sweeteners…." This expectation hampers efforts to reduce sugar content while still meeting the taste expectations of consumers.

While some consumers may want lower sugar content without the use of non-nutritive sweeteners, there are already dairy products that meet this interest. Non-nutritive sweeteners have been proven safe by FDA and are popular with many consumers that are looking for products with a lower sugar content. As with all other ingredients, non-nutritive sweeteners must be specifically identified in the ingredient list of the product in which they are used. Therefore, it is clear to consumers whether or not a product contains any sweetener, including non-nutritive sweeteners. Limiting this approach to lowering sugar levels will work against companies who are trying to meet the NSSRI's targets.

Targets Should Consider the Critical Technical and Functional Purposes of Sugar

Sugar is a highly functional ingredient, with many benefits and attributes beyond flavor and sweetness. The functionality of sugar includes product texture and consistency, color and browning, dough conditioning, water activity, shelf life, standard of identity requirements and palatability of nutrient dense foods. As acknowledged in the 2015-2020 DGA, "Added sugars provide sweetness that can help improve the palatability of foods, help with preservation, and/or contribute to functional attributes such

as viscosity, texture, body, color, and browning capability."[9] Reducing added sugar may be difficult when it is used as a sweetener, particularly without the use of non-nutritive sweeteners. But when it is used, either directly or indirectly for purposes other than sweetening, reducing sugar while maintaining other aspects of a food or beverage product may be even more difficult.

While added sugar can play a functional role beyond sweetening, in other dairy products, sugar provides a number of functional purposes in frozen desserts. It plays a role in the freezing point and texture, both of which are critical to ice cream and other frozen desserts. Reducing sugar means changing formulations or adding other food ingredient substances that can replicate these functions. These other ingredients that can replicate the function of sugar may not be as acceptable to consumers because they are less familiar with them or may not meet their expectations of 'clean' or simple ingredients. If alternative food ingredient substances are not added to help reduce the freezing point and enhance the texture of ice cream or frozen desserts, then increasing water while lowering sugar may be the only alternative. The resulting product may resemble an ice cube rather than a creamy treat.

Additionally, reformulation efforts to remove ingredients, such as salt and sugar, have demonstrated that over time consumers will accept gradual reductions where the change in taste and texture is not discernible. In many product categories, companies have already made progress in voluntary sugar reductions on products.

The initiative states "Targets were drafted with the expectation that companies will meet the proposed targets without increasing non-nutritive sweeteners, saturated fat, calories, or sodium." Because sugar is a bulky ingredient, unlike salt, simply removing 10% or 20% of sugar amounts to a significant reduction in a major ingredient. However, sugar will need to be replaced with ingredients that do not increase any of the stated nutrients, thus leaving food companies with very limited ingredient replacement options.

<u>Category Groupings Should be Reconsidered to Allow for More Appropriate Targets</u>

Some category descriptions are ambiguous and arbitrary, making it difficult to determine where or how to categorize products and therefore which sugar target criteria to use. The arbitrary and unclear nature off the current category descriptions may cause companies to unintentionally place their products in different categories, leading to an uneven playing field and inaccuracies in recording sugar reductions. One product category we would like clarity on is frozen novelty products, such as ice cream bars or ice cream cones. While our assumption would be that this would be included as a dairy-based or frozen dessert, with the difference in composition such as coatings, cones and other ingredients in a novelty, these may need to be included as a separate category.

Additionally, some product categories combine unrelated products with very different levels of added sugars used for very different purposes. An example of this would be in the dairy-based and frozen desserts category. This category includes not only all types of frozen desserts, both dairy based (ice cream) and non-dairy based (ice pops), but also pudding and cheesecake. The regulations, nutritional composition and sugar level (both naturally-occurring and added) of these products are so different that combining them into a single category is not helpful in meeting sugar targets. Sherbet and ice pops have a much lower level of fat than other products in the category, which increases the percentage of sugar

[9] U.S Department of Health and Human Services and U.S. Department of Agriculture. *2015-2020 Dietary Guidelines for Americans*. 8th Edition. December 2015. Available at http://health.gov/dietaryguidelines/2015/guidelines/.

in the product. Additionally, the standard of identity for sherbet requires specific levels of fruit to be included, which contribute naturally occurring sugars that are included in the total sugar targets.

We strongly recommend that consideration be given to splitting categories such as "Sweetened milk and milk substitute" into two categories, as well as splitting the "Dairy-based and frozen desserts" into two categories distinguishing the "dairy-based desserts" and "non-dairy-based desserts." This splitting is even more important if the initiative continues to base the baseline and target values on total sugar rather than added sugar.

When comparing data from the USDA National Nutrient Database for Standard Reference for products in the "dairy-based and frozen desserts" category, there is significant variation. The database shows vanilla ice cream as containing 21.22 grams of sugar per 100 grams of ice cream, while orange sherbet contains 24.62 grams of sugar per 100 grams and lime ice contains 32.6 grams of total sugar.[10] All of these are above the initiative's stated baseline amount, and the variation between them would make meeting the target levels even more difficult.

Products	**Total Sugar/100 g**
Dairy-based frozen desserts	
Vanilla ice cream	21.22 g
Orange sherbet	24.62 g
Non-dairy frozen desserts	
Lime water ice	32.6 g
Mango sorbet	27.37 g

Sales Weighted Means Calculations Should be Reconsidered to Allow for More Appropriate Targets

In considering the Sales Weighted Means presented in the preliminary sugar reduction targets document, we have concerns about both the baselines and the resulting targets. In the preliminary sugar reduction targets document, the City of New York did not share details regarding the Sales Weighted Means (SWM) calculations and what information was used and the source of this information. These details are important so that the food industry can ensure alignment on the SWM calculation approach and determine whether key products have been appropriately represented in the SWM calculation.

One area of concern noted with the City of New York's original salt reduction initiative targets is the exclusion of Wal-Mart and private label sales data from the SWM calculations. As with many consumer products, Wal-Mart is a significant retailer for foods. If the calculation also does not consider private label products, which are often the highest selling "brand" in a food category, the SWM would not accurately reflect the actual nutritional profile of products currently available in the marketplace.

If private label sales were not included, we would recommend using information available from Information Resources Incorporated, which does bring in the sales of private label products. Wal-Mart

[10] USDA National Nutrient Database for Standard Reference Legacy Release, April 2018. Available online at https://ndb.nal.usda.gov/ndb/search/list?home=true. Accessed December 9, 2018.

sales information is also available and should be considered in setting the current national average for sugar content of foods.

As an example of the concern over the baselines set by the NSSRI, the program baseline for sweetened milk and milk substitute is 8.1 grams of total sugar per 100 ml, which is equivalent to 19.44 grams of total sugar per 240 ml (1 cup) serving. However, the USDA National Nutrient Database for Standard Reference shows lowfat chocolate milk containing 25.38 grams of total sugar per 1 cup serving.[11] Similarly, the baseline level for yogurt is 10.5 grams of total sugar per 100 g, or 17.85 grams of total sugar per 170 g which is the updated Reference Amount Customarily Consumed for yogurt. This compares to the USDA database value for lowfat vanilla yogurt of 23.46 g of total sugar per 170 grams of yogurt.[12] The significant differences between the USDA database values and the NSSRI baseline values raises concerns about the data used to determine the baseline value. In some cases, neither the USDA database nor the NSSRI baseline values accurately represent products available to consumers. If the baseline is not reflective of the current marketplace, the targets will not be attainable or useful.

	Flavored Milk		**Yogurt**	
	100 mL	**240 mL**	**100 g**	**170 g**
NSSRI Baseline	8.1 g	19.44 g	10.5 g	17.85 g
USDA Database		25.38 g (lowfat chocolate milk)		23.46 g (lowfat vanilla yogurt)

Longer Timeframe is Needed to Provide for Gradual Reductions that are Acceptable to Consumers

An additional concern is that setting the baseline level at the time of 2018 does not take into consideration the recent reformulations undertaken by companies. With the publication of the final rule requiring the declaration of added sugars in foods and beverages, many companies used this to spur development of new products or reformulated products with lower levels of added sugar.

Products included as part of school meals and as competitive foods in schools have also been reformulated due to the recent nutrition requirements of the school meal programs. Between the 2006-2007 and 2015-2016 school years, added sugar levels declined by more than 9 grams per serving, or 55 percent, in school chocolate milk. During that same time period, added sugar declined from 16.7 grams to 7.5 grams per cup (the naturally-occurring sugar in cow's milk (lactose) is unchanged at 12 grams per cup). Required additional reductions in sugar or added sugar so soon after these changes may not be possible.

A gradual reduction in sugar content is most likely to be accepted by consumers. A longer timeframe for reduction of sugars would assist in allowing for a gradual reduction which could then help consumers in making lower sugar choices. The timeline should also take into account the timing of the updates to the

[11] Ibid.
[12] Ibid.

Nutrition Facts label, since many companies have reformulated or are currently working on reformulations with the addition of the added sugars line on the Nutrition Facts label.

Target Maximum Levels are an Undue Constraint and Should be Removed

Targets set through Sales Weighted Means should meet the initiative's stated goal of lowering total sugar/added sugar intake by lowering the overall sugar content of foods in a specific category. However, there will continue to be variations within a category and within a company's offerings. Requiring all products to meet an upper limit places undue restriction on a few products in a category that would otherwise meet the targets. These may be specially formulated and marketed as a special treat to be eaten occasionally, which is of less concern as part of an overall eating pattern. The volumes of these "occasional" products in the market place (and the level of consumption) will be de facto limited through the use of the SWM targets.

Concerns over Sharing Sales Data

Although the implementation of the sugar portion of the National Sodium and Sugar Reduction Initiative did not address this, one concern about the implementation of the sodium portion of the initiative is that participating companies would be required to share their sales data with the City of New York. While the added sugar content of food will soon be visible on every retail food label, sales data is not typically public information. In fact, it is some of the most sensitive information that a company has.

In addition to the basic concern about sharing sales data, there is an additional concern that sales data varies from region to region. Some products are sold only in certain regions or sell at different levels in certain regions. Others have different sugar levels to adapt to local tastes and preferences. These variations in sales and sugar content should be addressed in the information used to identify whether a company's products meet the initiative's goals.

Conclusion

We urge the City of New York to address the challenges that currently exist in the preliminary sugar reduction targets, including:

- Exclude dairy products from the initiative due to their significant contribution of essential nutrients and minor contribution to added sugar in the American diet. Dairy products are widely available in a variety of sugar contents.
- Base targets on added sugar, rather than total sugar.
- Consider alternative methods for reducing sugar intake, including consumer education and portion control.
- Permit the use of non-nutritive sweeteners in the voluntary initiative.
- Consider the technical and functional purposes of sugar when setting attainable targets.
- Reconsider Sales Weighted Means and product categories to allow for more appropriate targets.
- Extend target deadlines to allow for gradual reduction in sugar content and consider previous reductions.
- Remove maximum level targets that cause undue restrictions.

IDFA's members are proud of the dairy products they manufacture and look forward to providing nutrient-dense options that people enjoy.

Sincerely,

Cary Frye
Senior Vice President, Regulatory Affairs

Michelle Matto, MPH, RDN
AM Food & Nutrition
Consultant to IDFA

IDFA
INTERNATIONAL DAIRY FOODS ASSOCIATION
Making a Difference for Dairy

FDA Food Standards Modernization

REGULATORY PRIORITIES

Fall 2019 Briefing Materials

October 11, 2018

Submitted Electronically via regulations.gov

Division of Dockets Management (HFA-305)
Food and Drug Administration
5630 Fishers Lane, rm. 1061
Rockville, MD 20852

Re: The Food and Drug Administration's Comprehensive, Multi-Year Nutrition Innovation Strategy; Request for Comments; Docket No. FDA-2018-N-2381

Dear Sir or Madam:

The International Dairy Foods Association (IDFA) appreciates the opportunity to comment on the Food and Drug Administration's (FDA's) multi-year Nutrition Innovation Strategy. The International Dairy Foods Association (IDFA), Washington, D.C., represents the nation's dairy manufacturing and marketing industry, which supports nearly 3 million jobs, generates more than $39 billion in direct wages and has an overall economic impact of more than $628 billion. IDFA is the umbrella organization for the Milk Industry Foundation (MIF), the National Cheese Institute (NCI) and the International Ice Cream Association (IICA).

IDFA's members range from large multinational organizations to single-plant companies. Together they represent more than 85 percent of the milk, cultured products, cheese, ice cream and frozen desserts produced and marketed in the United States that are also sold throughout the world. The diverse membership includes numerous food retailers, suppliers and companies that offer infant formula and a wide variety of milk-derived ingredients. IDFA can be found at www.idfa.org.

IDFA thanks FDA for prioritizing food standards modernization and labeling as part of the agency's multi-year strategy on nutrition innovation. Food standards modernization is a longstanding priority for IDFA members. We are aware of FDA's resource constraints in this area and have supported an increase in $3 million in 2019 appropriations for FDA's Office of Nutrition and Food Labeling to prioritize efforts regarding standards of identity and product labeling. We also agree with the agency that labeling claims can incentivize companies to make more healthful products, and that claims regulations, like the regulation defining "healthy," should be updated to reflect current science and dietary guidance. Similarly, modernizing the food standards and ingredient labeling regulations can

incentivize companies to make more healthful products and to make products using more efficient technologies.

In light of the importance of food standards of identity and their role in shaping a healthful and innovative food supply, we encourage FDA to open a separate docket on food standards modernization to address the framework for food standards more generally. For example, FDA could reopen the comment period on the proposed rule "Food Standards: General Principles and Food Standards Modernization"[1] as the agency identified it plans to do in the Spring Regulatory Agenda.[2]

Executive Summary

We welcome the agency's statements indicating food standards modernization will be part of the FDA's multi-year Nutrition Innovation Strategy, as this remains a key priority for IDFA and its members. In our more detailed comments that follow, IDFA encourages FDA to consider the following potential pathways to updating the food standards:

(1) Citizen Petitions: Prioritize reviewing and responding to individual citizen petitions requesting changes to the food standards, including issuing a modernized yogurt standard of identity and allowing the use of fluid filtered milks in standardized cheeses;

(2) Horizontal Approach to Food Standards Modernization: Take a horizontal approach to food standard modernization, looking to the 2006 food industry petition as a starting point;

(3) Temporary Marketing Permit (TMP) Process Changes: Streamline and revise the temporary marketing permit (TMP) process so that companies can seek needed flexibility in the standards, including consideration of converting the permit application process into a notification process; and

(4) Legislative Changes to the Process for Amending Standards: Explore legislative changes that could facilitate more timely updates to the dairy standards and modernize the standards framework.

Importantly, these options for modernizing the food standards are not mutually exclusive and we encourage FDA to pursue multiple options on parallel tracks.

We also wish to comment on three other points as part of the Nutrition Innovation Strategy:

Modernizing Claims. FDA should consider modernizing the framework for claims by taking a broad, holistic view of all food labeling claims, including the term "healthy," dietary guidance statements, health claims, and other front-of-pack claims. Shorter and more succinct, consumer-friendly claims language would increase consumer understanding and utilization.

Healthy Icon or Symbol. With respect to a potential standardized icon or symbol for "healthy" claims, IDFA believes FDA should first finalize a revised definition for "healthy" before considering use of an icon or symbol for this term, and that any such symbol should be voluntary, supported by consumer

[1] 70 Fed. Reg. 29214 (May 20, 2005); Docket 1995N-0294.

[2] *See* https://www.reginfo.gov/public/do/eAgendaViewRule?pubId=201804&RIN=0910-AC54.

research, and accompanied by consumer education. The icon or symbol should not be used to disparage foods that do not meet the "healthy definition."

Ingredient Labeling. Any changes to the ingredient labeling regulations should be designed to preserve or provide additional flexibility, rather than impose additional requirements, should not adversely impact products sold in small packages, and should reflect consideration of how the terms used in the ingredient statement would align with the Nutrition Facts Panel and other elements of the label.

Food Standards Modernization

A large segment of the current food standards of identity – 37 percent of all food standards – are for dairy products. IDFA endorses the idea of useful food standards that promote honesty and fair dealing in the consumer interest by providing for the development of nutritionally enhanced products, technological advances in food production, consistency with international food standards to the extent feasible, and clear guidance for manufacturers and enforcement agencies. However, many of the dairy standards are outdated and do not reflect current processing technologies, nor do they provide much needed flexibility to allow for future technological advancement and innovation to meet consumer demand. IDFA believes the food standards would benefit greatly from increased flexibility while preserving the underlying purposes of the standards and the distinct characteristics of each standardized food. IDFA would like to recommend several potential pathways to the agency for modernizing the food standards.

FDA Should Act on Existing Citizen Petitions While Considering a Horizontal Approach

IDFA has submitted or signed onto numerous petitions to FDA requesting flexibility in the dairy standards.[3] We ask that FDA prioritize reviewing and responding to those citizen petitions that have been submitted, including issuing a modernized yogurt standard of identity. IDFA has filed separate comments to the docket with specific information and requests regarding modernization of the yogurt standards.

[3] These petitions include IDFA's requests filed regarding Review of Existing Center for Food Safety and Applied Nutrition Regulatory and Information Collection Requirements (Sept. 8, 2017) (FDA-2017-N-5094), as well as requests that FDA modernize the yogurt standards of identity; amend the vitamin D fortification levels in the milk and milk products standards to allow for levels of fortification that align with the new daily intake recommendations for vitamin D; amend the optional ingredient sections of the milk and milk product standards of identity to allow for use of milk protein concentrate (MPC) and ultrafiltered (UF) milk to align with international Codex standards; amend the cheese standards of identity to allow for use of ultrafiltered milk and permit milk derived ingredients to be labeled as "milk"; amend the standards of identity for Colby and cheddar cheese to allow for use of antimycotics (mold inhibitors) that are permitted in all other cheese standards; amend the cheese standards of identity to allow for salt alternatives to be used in addition to salt; remove the labeling requirement for "not-smoked" on the labeling of non-smoked provolone cheese; review flavor labeling requirements in the ice cream standard to reflect advancements in flavors with other natural flavors to allow for use of the labeling term "with other natural flavors"; amend the ice cream standard of identity to allow for use of newer milk derived proteins such as milk protein concentrate (MPC) and ultrafiltered milks; allow sweet cream buttermilk and whey to be added to the collective ingredient terms "milkfat and nonfat milk" for ice cream and frozen desserts in the ice cream standard of identity; and amend the milk, acidified milk, cultured milk, and yogurt standards of identity to permit optional use of the labeling term "whole".

Another key issue for the dairy industry is the opportunity to include new types of filtered milk as permitted ingredients for standard of identity cheeses. Codifying the addition of the fluid forms of both ultrafiltered milk and microfiltered milk to the definition of Milk in CFR Title 21, Part 133 – Cheese and related cheese products, would recognize advances in technology with the potential to yield better, more consistent cheeses, and reduce the need for costly dairy plant expansions – costs borne by dairy farmers, dairy manufacturers, and consumers alike.

IDFA encourages FDA to continue its work to respond to the pending dairy industry requests on standards of identity, particularly those for yogurt and various forms of filtered milk in cheesemaking. Nonetheless, the long backlog of petitions before the agency illustrates the limitations of the current citizen petition process as a tool to update the standards. Although the need to update individual food standards is clear, the resources to do so are seemingly unavailable. Over the years and with good reason, the agency's priorities for allocating its limited resources have shifted from largely economic concerns to public health and safety concerns. Additionally, dairy product standards of identity are subject to a more formal rulemaking process than for other foods, where any individual may, upon issuance of a final rule, request an evidentiary hearing.

While receiving responses to these petitions remains an important priority for IDFA members and we ask that FDA continue its work to review and respond to the petitions, in order to truly modernize the food standards and to effectively address the agency's resource constraints, we strongly encourage the agency to consider a "horizontal" approach to food standards modernization that would allow specific categories of flexibility across all of the food standards (in contrast to a "vertical" approach of updating each individual food standard through notice-and-comment rulemaking). Such horizontal changes could address many of the requested changes that are the subject of the pending petitions.

Looking to past agency successes, we believe that by taking a "horizontal" approach, FDA can go further to truly modernize food standards. Indeed, by issuing a single regulation that adds flexibility to all food standards at once, the agency could provide needed updates without the enormous resource investment required to change standards in separate notice-and-comment rulemaking proceedings. FDA could use the framework of its precedent in 21 C.F.R. § 130.10, which took a horizontal approach to improving flexibility in all food standards by allowing for variations for the purpose of meeting nutrient content claim criteria. IDFA encourages the agency to consider this type of approach so that it can make a real difference and do more than simply preserve the status quo.

FDA Should Re-Examine the 2006 Industry Petition on Food Standards Modernization

As a starting point for a horizontal approach to food standards modernization, IDFA encourages the agency to look to the 2006 citizen petition submitted by the Grocery Manufacturers Association (GMA) and eleven other food industry trade associations.[4] IDFA is very interested in engaging in a dialogue to obtain the agency's feedback on the 2006 petition. We note that the petition was intended to be a "menu" of requested areas of flexibility, rather than an approach that would need to be adopted wholesale or not at all. The petition included six categories of requested flexibility, to be applied on a horizontal basis to all food standards. The six categories included within the 2006 petition are as follows, with dairy-specific examples noted where applicable.

[4] Citizen Petition to Modernize Food Standards, October 25, 2006, FDA Docket No. 2007P-0085.

1. Addition of ingredients intended solely for technical, nondistinctive effects, such as emulsifiers, stabilizers, or antimycotic agents
    a. e.g., adding microbial inhibitors like lysozyme or nisin to cheeses

2. Use of safe and suitable flavors and flavor enhancers generally and use of safe and suitable ingredients such as salt substitutes, sweeteners, and vegetable fats and oils where appropriate
    a. e.g., use of salt substitutes in standardized cheeses; use of natural dairy flavors in standardized cheeses; use of non-nutritive sweeteners in milk and milk products

3. Use of advanced technologies or more efficient technologies to produce ingredients (provided the ingredient is from the same starting material and performs a function equivalent to the traditional ingredient, and the finished food must retain the essential characteristics of the standardized product)
    a. e.g., reconstituted milk used in yogurt; ultrafiltered and microfiltered milk in cheese

4. Use of "alternate make" procedures
    a. e.g., minimum aging periods for cheese; technologies other than heat treatment if sufficient to ensure microbiological safety or prevent spoilage; addition of cream to yogurt after culturing

5. Changes to product's basic shape in response to consumer demand
    a. e.g., "whipped" forms of yogurt that incorporate gases as an ingredient

6. Improvements in nutritional properties that do not rise to the level of a defined nutrient content claim or use of nutritious ingredients like whole grains
    a. e.g., a 10% reduction in calories or sodium rather than a minimum 25%; a 10% increase in protein by grams rather than a minimum 10% more of the daily value

Additionally, in the time since the 2006 petition was submitted, IDFA has identified two further areas of horizontal flexibility that would benefit our members and consumers:

7. Expand the use of milk-derived ingredients permitted in standardized dairy foods to allow "any milk, or milk-derived ingredient"[5]
    a. e.g., ultrafiltered milk, MPC, microfiltered milk, and others in dairy products

8. Revisit the regulation on nutritionally modified standardized foods in 21 C.F.R. § 130.10 to identify additional opportunities to provide flexibility in this standard, which has historically been interpreted fairly narrowly
    a. e.g., ultrafiltration of milk or added MPC or whey protein isolate to milk to produce "High Protein, Reduced Sugar Milk"

We appreciate that FDA may be concerned that allowing variations on a horizontal basis may change the basic character or essential characteristics of a standardized food. Just as the agency accomplished with § 130.10, however, FDA could set qualifying objective criteria for flexibility in the standards. For example, a variation in manufacturing process could be permitted so long as it results in no significant change to the essential qualities of the standardized product. FDA has long applied

[5] This change could be accomplished on a horizontal basis by amending the general definition provisions in 21 C.F.R. § 130.3 or in the dairy-specific sub-parts.

such objective measures in the area of cheese standards having alternate make provisions. We look forward to engaging with the agency on the 2006 petition and potential changes to the food standards that could be made on a horizontal basis.

FDA Should Revise the Temporary Marketing Permit Process

As another potential pathway to providing flexibility in the food standards while managing the agency's resource constraints, IDFA recommends that FDA consider making revisions to the process for obtaining a temporary marketing permit (TMP).

By way of brief background, the TMP process allows a company to request permission to deviate from an applicable standard "for the sole purpose" of obtaining data necessary for reasonable grounds in support of a petition to amend the food standard. In considering TMP petitions, FDA must ensure the interests of the consumer are adequately safeguarded. The initial TMP typically covers a 15-month test period, and can be extended until FDA publishes a final regulation either modifying the standard of identity in the manner requested or terminating the proposed rulemaking. Following the initial test marketing period, FDA may extend an invitation to other companies through a Federal Register Notice to participate in a TMP by submitting limited information.

The current TMP process is set out in 21 C.F.R. § 130.17. The requirements for this process were created within FDA's discretion under the Federal Food, Drug, and Cosmetic Act (FFDCA) and the process is not subject to specific statutory requirements. It could, therefore, be amended either by regulation or by enforcement discretion, similar to how FDA operated the generally recognized as safe (GRAS) notification process for nearly two decades under a proposed rule. In light of the difficulty of undertaking rulemaking, we believe it would be appropriate for FDA to consider making changes to the TMP process by issuing a guidance document or exercising enforcement discretion.

IDFA has identified a number of potential changes to the TMP process that would allow companies to more readily explore novel ways to produce standardized foods under a TMP while still protecting consumers. Expanding the availability of the TMP process would alleviate some of the current backlog in citizen petitions to amend the food standards, and would encourage companies to explore more efficient technologies and nutritional improvements to provide consumers with innovative and healthful products. The following are IDFA's initial recommendations for potential changes to the TMP process.

Table 1. Potential Changes to the TMP Process

Current Process	Proposed Change
TMPs typically apply to a single standard of identity	Allow initial applications to apply to multiple standards of identity (e.g., all cheese standards)
Initial TMP typically covers a 15-month test period	Allow the initial TMP to last for a longer period, such as 18 months or two years, which would provide companies with more certainty and flexibility than a short 15-month test period
TMPs are submitted by individual company applicants; after the initial TMP period, additional companies may be invited to join the TMP upon submission of specific information including detailed information regarding	Allow multiple companies or trade associations to submit TMP petitions and to be part of the initial TMP. This could be accomplished in part by removing several of the company-specific requirements in the permit application (e.g., the areas of distribution, the amount of food to be distributed).

Current Process	Proposed Change
manufacturing locations, amount of product, labels, product formula and the manufacturing process. Changes to the information submitted require an updated TMP request	Alternatively, if FDA maintains an approach where the initial TMP is granted to a single company, FDA could remove the requirement that companies submit information to join the TMP after the initial test period, and instead, FDA could publish a notice allowing all companies to rely on the TMP. This would be akin to granting a variance from the standard for the industry and would relieve both industry and the agency of the burden of submitting and reviewing multiple, detailed TMP applications and labels.
TMP must include the proposed label, which often is interpreted to require submission of a label for all affected stock keeping units (SKUs)	Clarify that labels need not be submitted for all affected SKUs, and that instead, a representative label or a description of how the label may differ from the standardized food label (e.g., ingredient statement will declare potassium chloride as an ingredient with an asterisk stating "*ingredient not in regular ___") would suffice
Once initial TMP ends, the company may apply for an extension, which must be accompanied by a petition to amend the affected food standard	Remove the requirement to submit a petition, particularly in light of the current backlog in petitions requesting changes to the food standards. Replace the petition requirement with a process where the company would submit to FDA a notification of intent to deviate from the standard permanently. If FDA does not object to the deviation, it would be permitted. FDA could then separately consider amending the underlying standard to reflect the deviation.
The TMP is granted upon review and approval by FDA	Convert the process into a notification process, similar to the GRAS notification process (e.g., company submits data and information for proposed deviation; FDA has a particular period to object, otherwise the company can proceed with marketing). A notification process would have the advantage of requiring fewer agency resources.

IDFA will separately request a meeting with FDA to discuss potential changes to the TMP process.

FDA Should Explore Potential Legislative Changes to the Process for Amending the Dairy Standards

In addition to considering a horizontal approach to food standards modernization and potential changes to the TMP process, IDFA encourages FDA to explore potential legislative changes to the process for amending the dairy standards of identity. We understand senior FDA officials have recognized the current process for amending the food standards is not working. This recognition is borne out by the infrequency with which the food standards are updated. Our review of the standards suggests there have only been four changes to food standards made in the last 25 years, as well as one new standard issued for white chocolate. Dairy product standards of identity are subject to a heightened statutory requirement where, after issuing a final rule, any interested person can request that FDA hold a formal evidentiary hearing.[6] Under this process, FDA is incentivized to make only

[6] 21 U.S.C. § 371(e).

those changes that would not result in the potential for an evidentiary hearing, and the last change to a dairy standard was in 1994, more than 20 years ago.

For these reasons, FDA should look not only to ways in which the standards can be substantively amended, but also ways in which the process by which the standards are amended and issued can be improved. To this end, IDFA would like to discuss the process for food standards modernization with the agency to explore legislative proposals that would amend the formal rulemaking requirement for dairy foods while still ensuring an opportunity for public input on the standards. This could include adopting the same notice-and-comment rulemaking process to which other standards are subject, or adopting a less resource intensive process, such as an administrative order process. [7]

Modernizing Claims

IDFA recommends that FDA consider modernizing the framework for claims used in food labeling, taking a broad, holistic view of all claims, including nutrient content claims like "healthy," dietary guidance statements, health claims, and other front-of-pack claims. We ask FDA to consider all of the ways the agency could provide guidelines that would help food companies communicate with consumers about the healthful attributes of foods, which would in turn encourage the formulation of more healthful products. For example, as described in IDFA's comments to FDA on "healthy" claims, we recommend that FDA take a more holistic approach to defining "healthy" that focuses not only on specific nutrient criteria but also on other food components and food groups, grounded in the *Dietary Guidelines for Americans.* IDFA believes unique criteria should be established for different food groups, such as dairy products, that take into account the nutrient profile of each group, and in some cases, for sub-categories within a particular food group.

We also ask that FDA provide guidance or a proposed rule on "dietary guidance" statements, as such statements are another type of claim that lends to a more holistic approach. Dietary guidance is a category of claims that is specifically exempt from the nutrient content claim regulations.[8] FDA has not formally defined dietary guidance statements but has given some context for what types of statements are appropriate. In a 2010 *Federal Register* Notice concerning front-of-pack and shelf tag nutrition symbols, FDA stated that it was considering issuing a draft guidance and/or proposed rule on dietary guidance to help guide manufacturers, but it has yet to do so.[9] IDFA encourages FDA to revisit these efforts.

We believe there is a need for shorter and more succinct, consumer-friendly language for claims to increase consumer understanding of these claims and utilization. IDFA also supports the agency's plan to streamline the regulatory process for qualified health claims and health claims. Any revised

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7 Such a statutory change to the FFDCA has been made before, modifying the mechanism for classifying a medical device from rulemaking to administrative order. *See* Food and Drug Administration Safety and Innovation Act, Pub. L. No. 112-144, § 608(a), 126 Stat. 993, 1055 (2012) and FFDCA § 513(e). In addition, this type of statutory change is being considered in pending legislation to reform the over-the-counter drug approval process from notice-and-comment rulemaking to an administrative order process. *See* Over-the-Counter Drug Safety, Innovation, and Reform Act, S. 2315, 115th Cong. § 101 (2018).

8 21 C.F.R. § 101.13(q)(5)(iii).

9 82 Fed. Reg. 22602 (Apr. 29, 2010).

process for agency review of qualified health claims and health claims should include a standard response time by the agency.

"Healthy" Icon or Symbol

Before establishing an icon or symbol to designate the term "healthy" in food labeling, FDA should complete its work to update the definition for "healthy." The revised definition and the types of foods that qualify as "healthy" will inform whether a symbol or icon would be an appropriate way to communicate this attribute on food labels, whether there should be multiple symbols or icons, and other considerations. IDFA therefore encourages FDA to take a two-step process with respect to "healthy" claims, first updating the definition and then considering standardized ways to communicate that a particular food is healthy on the label or in labeling, including use of a symbol or icon.

To the extent FDA proposes a standardized approach, any such icon or symbol should: (1) be voluntary; (2) be supported by consumer research showing consumers will understand the symbol and not confuse it with other symbols appearing on the label (particularly given the proliferation of icons on food labels, like organic, non-GMO verification seals, the new bioengineered food disclosures symbol, etc.); (3) be accompanied by a consumer education campaign to assist consumers in understanding what the term "healthy" and symbol/icon is intended to convey; and (4) not be used to disparage any categories of foods or beverages that do not bear the claim.

Ingredient Labeling

In general, IDFA supports the concept of providing additional flexibility in ingredient labeling. For example, IDFA supports FDA allowing more consumer-friendly terminology for ingredient labeling (e.g., consumer friendly names for sodium substitutes, like potassium salt; "vitamin C" instead of ascorbic acid), or providing increased flexibility in ingredient labeling (additional uses for "and/or" labeling or establishing a 5% threshold for a "contains xx% or less of" statement). Any changes to the ingredient labeling regulations should be made in accordance with the following three principles:

1. FDA should seek to preserve or provide additional flexibility for ingredient labeling rather than impose additional requirements.
2. Small packages should not be adversely affected by the changes.
3. FDA should consider how any changes to the terms used in the ingredient statement would align with consumer understanding of the Nutrition Facts Panel and other elements of the label.

* * *

We appreciate the agency's efforts to prioritize food standards modernization and labeling claims as part of its multi-year strategy. Thank you for the opportunity to participate in this important process.

Respectfully submitted,

Cary P. Frye
Senior Vice President, Regulatory Affairs

IDFA
INTERNATIONAL DAIRY FOODS ASSOCIATION
Making a Difference for Dairy

Labeling Policy Updates

REGULATORY PRIORITIES

Fall 2019 Briefing Materials

Updated IDFA Labeling Manuals

The deadline for complying with The Food Drug Administration (FDA) new regulations for Nutrition Facts labels and revised serving sizes for packaged foods and beverages is fast approaching as manufacturers with $10 million or more in annual sales must switch to the new label by January 1, 2020 and manufacturers with less than $10 million in annual food sales have until January 1, 2021.

To assist the dairy industry with understanding the details of these complex labeling changes IDFA has undertaken a comprehensive update to the Milk, Yogurt & Cultured Dairy Products, Ice Cream and Frozen Desserts, and Cheese labeling manuals that reflect the new labeling requirements. The updated manuals include product specific examples and references to help you understand details of each of these new regulations and which changes impact dairy product labeling. Here's some of the information you will find in the 2019 labeling manuals:

- New formats for nutrition facts labels with changed type size to provide a greater emphasis on Calories
    - How to choose the correct format based available labeling space
- Updated Daily Values (DV) for nutrients that reflect current nutrition science
    - How to calculate the new DVs for Fat, Sodium, Total Carbohydrate, Dietary Fiber, Added Sugars, Calcium, Vitamin D, Potassium and Vitamin A
- New requirements to declare Added Sugars and a new %DV
    - How to calculate added sugars, including examples on exemptions for lactose in milk and milk ingredients and single strength juice when fruit and vegetable juice concentrate is an ingredient
- Revised definition for Dietary Fiber based on physiological health benefits
    - How to determine which fibers meet the new definition

- Changes to the mandatory declaration of vitamins and minerals that includes the actual amounts declared for Vitamin D, Calcium, Iron, and Potassium
- Updated information on nutrient rounding rules for quantitative declarations
- New footnote and alternative text for small packages
- Updated serving sizes for multi-serving containers for yogurt, juices, fruit drinks, carbonated and noncarbonated beverages, water, packaged ice cream and novelties that reflect the amount of food that is commonly consumed
- New definition for single-serving packages that contains more the one but less than two servings
    - Examples of nutrition label format with voluntary second column per reference amount commonly consumed
- Food packages with 2-3 servings must now declare nutrition information on a per serving and total container basis in two columns
    - Examples on nutrition label formats for dual column labeling per serving and voluntary second column per discrete unit basis
- FDA guidance memos and question and answers to the nutrition facts label are also include for easy reference

In addition, the 2019 edition of the labeling manuals have the latest FDA regulation for:

- Omega-3 fatty acid nutrient content claims
- Choline nutrient content claims
- Gluten free claims
- New flavor labeling guidance for cheese and cheese products

Each of the 365-page IDFA labeling manuals are offered in a searchable electronic PDF file format and is a must have reference guide for milk, cultured dairy products, cheese and ice cream professional who are responsible for designing, calculating nutrition information, reviewing labels and claims that are appealing to consumer and compliant. The labeling manuals include chapters on:

- General labeling requirements **(updated)**
- Standards of identity
- Ingredient labeling
- Flavor labeling **(new sections for cheese)**
- Nutrition labeling **(updated)**
- Nutrient content claims
- Health Claims and Other Labeling Claims **(updated)**
- Environment Labeling

The e-manuals are specially priced for members $495.00 each and can be ordered directly from IDFA's website www.idfa.org under the "Resources" tab, "Knowledge Center" then click on "Manuals."

WEBINAR

Introduction to Dairy Product Labeling

October 15-16, 2019 | 1:00 - 3:00 p.m. EST (each day)

IDFA is pleased to present its Introduction to Dairy Product Labeling webinar. This two-session training opportunity will provide you and your staff with the essential information you need to produce compliant and effective labels for your products. It will also provide important details on FDA's new regulations revising the nutrition facts label and food serving sizes. The two sessions, "Labeling 101" and "New Nutrition Labeling Regulations and Claims" will be interactive, allowing for participant questions.

Dairy company staff must know the specific requirements of labeling dairy foods to avoid the waste and possible regulatory enforcement actions that result from mislabeling. Labeling claims also create new opportunities to market your products and drive sales.

Agenda

The Dairy Product Labeling Webinar Series will be offered in a two-day series format covering two sessions of two-hours each.

Day One

Tuesday, October 15, 2019 1:00 - 3:00 p.m. EST

Labeling 101

This session will give you a general overview of dairy labeling regulations. It will provide the history and jurisdiction for labeling regulations; requirements for the statement of identity, including flavor labeling and net quantity of contents statements; and ingredient declarations, including allergens and other labeling terms, such as Grade A, Kosher, and the Real Seal. We will also cover lactose free, gluten free and natural claims. An overview of marketing claims that include nutrient content claims such as reduced sugar, lower sodium and high protein will be addressed.

Day Two

Wednesday, October 16, 2019 1:00 - 3:00 p.m. EST

New Nutrition Labeling Regulations and Bioengineered Food Disclosure Standard

This session will cover the basics of nutrition labeling based on FDA's new regulations that take effect January 1, 2020, including various nutrition facts formats, new dual column labeling, and revisions to the required and voluntary nutrients. We will explain the changes for declaring added sugars and dietary fiber. We will also review how to determine revised serving sizes ice cream, yogurt and some beverages. An overview of USDA's new Bioengineered Food Disclosure Standard will be addressed.

Speakers

Cary P. Frye
Senior Vice President, Regulatory Affairs
International Dairy Foods Association

Danielle Quist
Director Regulatory Affairs & Counsel
International Dairy Foods Association

Michelle Albee Matto
Principal
AM Food & Nutrition

Registration fees for this webinar are based on your company's IDFA membership status. For more information about membership, please email membership@idfa.org.**Member Fee: $495**
Non-Member Fee: $595
Regulators and Academia Fee: $250

The fastest and easiest way to register is online. If a paper form is required to submit a check payment, please download the registration form.

If you have questions or need assistance with the registration process, please contact IDFA at (202) 220-3557 or registrar@idfa.org.

IDFA
INTERNATIONAL DAIRY FOODS ASSOCIATION
Making a Difference for Dairy

NCIMS/Grade "A" Program

REGULATORY PRIORITIES

Fall 2019 Briefing Materials

1250 H Street NW, Suite 900
Washington, DC 20005
P: 202.737.4332 | F: 202.331.7820
WWW.IDFA.ORG

May 9, 2019

2019 NCIMS Outcomes:
Advanced Food Safety, New Technologies and Inspection Efficiencies

The 2019 National Conference on Interstate Milk Shipments (NCIMS) was held April 26 – May 1, 2019, in St. Louis, MO. The Conference attendees considered 75 proposals, with state delegates passing 39. Attendees engaged in efforts with experts from 50 IDFA member companies in cooperation with other parts of the dairy industry, the Food and Drug Administration (FDA) and state regulators.

IDFA advocated for, among other things, closer alignment of the PMO Appendix T with the FDA Preventive Controls for Human Foods rule and efficiencies in inspections for facilities that manufacture both Grade "A" and non-Grade "A" products such as non-dairy creamers, ice cream mix, or cheese in a revised pilot program that will be overseen by an NCIMS committee in cooperation with FDA. Since 2017, IDFA has been instrumental in working with FDA and the NCIMS to explore approaches for a dual-grade plant inspection program but an initially proposed plan for testing at two plants in 2018 found additional modification

Other key proposals addressed the use of yogurt as an ingredient in parfaits related to requirements for re-pasteurization at the assembling facility; use of ultraviolet light technologies for water treatment; and drug residue testing requirements.

Changes at the NCIMS Conference are applicable to Grade "A" dairy farms, processing plants and milk products. IDFA expects FDA to issue the final report in October 2019 and to require implementation by October 2020, unless other dates are specifically noted.

OVERVIEW

Of the more than 400 registrants, 113 staff from 50 IDFA member companies attended and provided valuable assistance to IDFA staff. IDFA staff coordinated pre-Conference member strategy conference calls, meetings and outreach to individual state regulators, as well as meetings with others in the dairy industry and FDA. At the Conference, IDFA members and staff held numerous scheduled meetings, as well as many informal, ad hoc meetings with state delegates and FDA staff. In addition, IDFA staff and members worked cooperatively with National Milk Producers Federation (NMPF) staff and members to present a united industry front on many key issues. These actions resulted in a successful NCIMS Conference for the entire dairy industry and for state and federal regulatory officials.

FDA is now reviewing the proposals approved at the Conference. The NCIMS Executive Board will meet with FDA in October 2019 to finalize all proposals passed at the Conference. FDA will publish the 2019 version of the PMO along with other Conference documents with these changes in early 2020. The finalized proposals will take effect in October 2020, one year after FDA publishes the Conference proceedings (IMS-a-50), unless other effective dates for individual proposals have been established.

SUMMARY OF PASSED ACTIONS

Coordinated efforts by dairy industry professionals working with committees, councils, state delegates and FDA officials resulted in successful outcomes on numerous proposals, including three topics of particular interest: 1) framework for the participation of states in inspections of Grade "A" plants for compliance with Appendix T, which contains the requirements of the FDA Preventive Controls for Human Foods (PCHF) rule; 2) allowance of Grade "A" yogurt and other cultured products to be received by another plant for use as ingredients in parfaits and other foods without having to undergo repasteurization at the receiving plant; and 3) use of UV light systems for generating pasteurized equivalent water.

Other Conference actions resulted in clarifications of existing provisions in the PMO to help companies ensure compliance, adoption of regulations that allow new processing technologies, updates to laboratory test procedures and adoption of new farm provisions, all of which support the NCIMS purpose of ensuring the safety of milk and milk products. The major proposals that were passed (approved) by the Conference state regulatory delegates are summarized below:

- **State Roles in Appendix T Inspections** (Proposal Joint Council JC-1). Following much discussion, the NCIMS delegates passed a proposal that will allow State Ratings Agencies, upon agreement with FDA, to conduct inspections of Grade "A" milk plants and milk and milk products for compliance with Appendix T of the PMO, which incorporates the FDA Preventive Controls for Human Food (PCHF) rule requirements. The Liaison Committee, which drafted the proposal, was also tasked to work with FDA to develop a revised pilot program, which will establish a regulatory framework to find efficiencies in conducting Appendix T and PCHF inspection activities for facilities that manufacture both Grade "A" and non-Grade "A" products, respectively, and will be implemented by FDA and the participating states. A complete report of the pilot program will be shared at the 2021 Conference.

- **Repackaging Grade "A" Products Outside of Grade "A" Plants** (Proposal 112). State regulatory agency Delegates and industry vigorously debated whether yogurt parfaits should be considered Grade "A" milk products and thus required to be regulated under the PMO, even though they are typically produced in commissaries or other non-Grade "A" food production facilities for sale as foodservice items for quick consumption, unlike longer shelf-life Grade "A" yogurts sold at retail. There is a wide diversity between states in how they view these products and it was agreed by all stakeholders this needs to be addressed. The outcome was a revised proposal directing NCIMS to form a study committee to review the

NCIMS role in regulating the repackaging of not only yogurt, but also sour cream, acidified sour cream and other cultured milk and/or milk products. The committee will report its findings at the 2021 NCIMS Conference.

- **Use of UV Light Systems for Pasteurized Equivalent Water Production** (Proposals 114 & 115). Delegates considered two proposals from Trojan Technologies, a UV treatment technology provider seeking several changes to the PMO regarding standardization and criteria for such systems. To help inform Delegates so a decision can be made at the 2021 Conference, NCIMS will establish a committee to study the safety of water used in the dairy industry, including technologies to produce disinfected and/or pasteurized equivalent water, and discuss how the PMO should be used to regulate these systems.

- **Use of Automated Truck-Mounted Meter and Samplers** (Proposal 210). Several committees debated a proposal by Piper Systems to authorize the use of an automated, truck-mounted, bulk milk tank aseptic sampler, which may be used for the taking of official milk samples from single and multiple farm pickups. This technology is used widely in Europe, Australia and New Zealand. The Delegates ultimately approved use of the technology, provided users: 1) receive a description of the minimum protocols for a standard operating procedure; 2) have a mandatory consultation with state regulatory agencies; and 3) give regulatory agencies a list of bulk milk haulers and samplers trained to maintain and operate the sampler as well as to collect, identify, handle and store the milk samples.

- **Appendix N Test Methods and Positive Producer Drug Residue Confirmation**. (Proposal 215) Delegates updated the Appendix N test method references and specified the test methods and timing necessary for confirmation of positive drug residue results. In addition, the Delegates revised reporting requirements for confirmed positives to require regulatory agencies to indicate a record of negative test results, using the same or equivalent latest reviewed test method (M-I-96-10) as used when the producer was found to be in violation, from a prior subsequent pickup.

Additional Passed Proposals

- **Storage Tank Emptying** (Proposal 106). Clarifies timeframe for compliance with this provision; the 72-hour time period starts when the milk first enters a cleaned and sanitized storage tank.
- **Pasteurization of Partially Homogenized Milk** (Proposal 108). Adds requirements to pasteurizers when milk is partially homogenized.
- **Milk Pasteurization Chart Records** (Proposal 109). Allows plants to list either their name and location or plant code number on milk pasteurization chart records.
- **Cup Set Yogurt – Cooling Requirements Clarified** (Proposal 111). Provided that yogurt cultured in the cup must reach a pH of 4.6 within 24 hours of being moved out of the culturing room and cooled to 45F or less within 96 hours.
- **UV Water Treatment System Dosing Controls** (Proposal 113). Added wording to explicitly permit UV light dose control utilizing an "automated flow control system" as an option instead of only flow valves for UV water treatment equipment.

- **Updates to Pasteurization, Aseptic Processing and Packaging and Retort Process Requirements** (Proposal 117). Updates Section 16p and Appendix H of the PMO for clarity and accuracy.
- **Automated Milking Installations** (Proposal 118). Removes restrictive and redundant language about Automated Milking Installations (AMI) technology in Appendix Q of the PMO.
- **Pasteurizer Tests** (Proposal 120). Specifies pasteurizer tests needed for plate-type or double/triple tube-type heat exchangers.
- **Single-service Containers and Closures** (Proposal 122). Clarifies that compliance for single-service containers and closures shall be determined as not having 2 or more out of 4 samples exceeding the bacterial standards.
- **Shipping Statement Information** (Proposal 203). Reduces unnecessary paperwork by eliminating the requirement to identify the name of the supervising regulatory agency at the point of shipment on the shipping statement.
- **Recertification of Sampling Surveillance Personnel** (Proposal 205). Modifies the time SSOs shall be recertified to once every 3 years to include the remaining days of the month in which the certification expires.
- **Primacy of the FDA/NCIMS 2400 Forms Over SMEDP and OMA in the PMO** (Proposal 206). Clarifies that all sampling procedures and required laboratory examinations shall be in substantial compliance with the FDA/NCIMS 2400 forms. SMEDP and OMA may also be referenced, but only when 2400 forms are unclear.
- **Maintaining Current List of Approved Milk Tests** (Proposal 207). Ensures that the list of approved laboratory tests for milk and milk products is current by referencing the latest version of the M-a-98.
- **Safety Plan Exemptions for Very Small Businesses** (Proposal 208). States that very small businesses exempt from some or all of 21 CFR part 117 preventive control requirements would no longer need certain records reviewed and signed by preventive controls qualified individuals. Removes specifications for temperature measuring and recording devices for the cooling of milk and milk products.
- **Hauling Procedures Committee Review of Appendix B and FDA Form 2399a** (Proposals 211 and 212). After careful review, the Delegates approved several new procedures for in-line sampling systems, petcocks and in-line sample points in Appendix B. Next, the Hauling Committee will conduct a comprehensive review of FDA's Bulk Milk Hauler/Sampler Revaluation Report Form 2399a to reflect the changes made to Appendix B and report back to the 2021 Conference.
- **Disposal of Antibiotic Adulterated Milk** (Proposal 216). Eliminates the Appendix N reference to M-I-06-5 for the disposal of adulterated milk and updates the referenced FDA Compliance Policy Guide.
- **Procedures for Laboratory Evaluation Programs** (Proposal 223). To provide additional flexibility, LEOs may conduct on-site certification/surveys of central and other milk laboratories up to 60 days early. LEO attendance at FDA Milk Seminars is now mandatory. Throughout the lab evaluation programs section, editorial changes replace FDA Regional Offices with milk specialists responsible for the state in which the laboratory/facility resides.
- **HACCP Program Updates to Align with Appendix T** (Proposal 301). The HACCP Implementation Committee was tasked with making editorial adjustments to the PMO

Appendix K HACCP Program identified by FDA and its committee to be more consistent with Appendix T Preventive Controls for Human Food requirements for Grade "A" Milk and Milk Products.

- **Procedures for Issuing Memorandums of Interpretation (M-I's)** (Proposal 303). Adds new requirements to the procedures for issuing M-I's related to questions and answers received from the field (milk seminars, FDA training and workshops) to specify the roles and timing for FDA and the NCIMS Document Review Committee to resolve issues and requires that unresolved issues shall be removed from the draft M-I.
- **State Program Evaluation Changes** (Proposals 304,305). Provides an option for State Program Evaluations to be conducted once every 5 years instead of every 3 years when two previous 3-year evaluations are in compliance. Eliminates the need for a shipping state to notify all receiving states when there is a change in the number of dairy farms within a certified interstate milk shipper's supply (BTU).
- **Milk Laboratory Evaluation Personnel Training** (Proposal 306). Specifies the required training for Milk Laboratory Evaluation Personnel within a 3-year time period, including FDA milk seminars and Milk Laboratory Evaluation Officers' workshops or other training courses judged equivalent.
- **Appendix N Modification Study Committee Status** (Proposal 307). Changes the status of the Appendix N Drug Residue Study Committee to a permanent standing committee.
- **Training for HACCP Program** (Proposal 308). Recognizes utilization of the training from the PHS/FDA Milk Specialists on Appendix T coupled with the abbreviated training course approved by the HACCP Implementation.
- **Requirements for Fermented High-Acid, Shelf-Stable Product Processing and Packaging** (Proposal JC-2). The Aseptic Program Committee developed modifications to the PMO Methods, Procedures and Bylaws documents that address the regulation and rating of milk plants producing Grade "A" fermented high-acid, shelf-stable milk and/or milk products.

Approved Changes to 2400 Form

- (Proposals 228 and 229). As listed on M-a-98 Table 4, modified Colitag will be included in the 2400m Dairy Waters form.
- (Proposal 230). Adds requirements to check for sterility of forceps and pipets under number 14 Controls for each group of samples.
- (Proposal 234). Made changes to the Temporary Monitoring System requirements.
- (Proposal 238). Removes equipment that is no longer approved for use.
- (Proposal 239). Updates Charm FAP and Paslite Photophatase forms with novaLUM II X instrumentation.
- (Proposal 240). Approves Charm beta-lactam 30-sec. test and incorporates into the SL/SL3 2400 form.
- (Proposal 241). Updates Peel Plate 2400 form.

NCIMS BOARD

The Conference elected the following individuals to serve on the NCIMS Executive Board:

NCIMS Executive Board Officers

Stephen Beam	Conference Chair
Antone Mickelson*	Vice Chair
John L. Miller	Past Chair
Marlena Bordson	Executive Secretary

Region I - Eastern States (Terms Expire 2023)

Casey McCue	State Enforcement	Albany, NY
Rebecca Piston	Industry	Portland, ME
John Sheehan	FDA	College Park, MD
James Williamson	State Rating	Columbia, SC
Ellen Fitzgibbons	State Enf./Rating	Jamaica Plain, MA

Region II - Central States (Terms Expire 2025)

Roger Hooi*	Laboratory	Dallas, TX
Stephen DiVincenzo*	State Enforcement	Springfield, IL
Dr. Patrick Gorden*	Academia	Ames, IA
Roger Tedrick *	State Enf./Rating	Reynoldsburg, OH
Gene Wiseman*	State Rating	Jefferson City, MO
Neil Bendixen	Industry	Springfield, MO

Region III - Western States (Terms Expire 2021)

Randall W. Chloupek	State Rating	Harvard, NE
Antone Mickelson	Industry	Seattle, WA
Clint George*	State Enforcement	Dalla, TX
William Francis	USDA	Washington, DC
Stephen Beam	State Enf./Rating	Sacramento, CA

Ex-Officio Board Members – Non-Voting

Thomas Benthien	Council I Chair	Rockford, IL
Thomas G. Angstadt	Council II Chair	Erie, PA
Casey McCue	Council III Chair	Albany, NY
Ken Anderson	TPC Representative	Arlington Heights, IL
VACANT	Consumer Representative	
Frank Barcellos	Laboratory Chair	Portland, OR
John L. Miller	Past Chair	Tallahassee, FL
Casey McCue	Liaison Chair	Albany, NY
Cary P. Frye	Program Chair	Washington, DC
John T. Allan	IDFA Representative	Washington, DC
Clay Detlefsen	NMPF Representative	Arlington, VA
Marlena G. Bordson	Executive Secretary	Monticello, IL

*Elected or reelected for a second term

OUTSTANDING CONTRIBUTIONS RECOGNIZED IN HALL OF FAME

At the 2013 Conference, delegates passed a resolution requesting the Conference establish a Hall of Fame award to recognize individuals who devoted significant time, resources, and leadership skills to enhance the NCIMS program. Three outstanding individuals were honored into this year's NCIMS Hall of Fame. They are:

- David Lattan, Prairie Farms
- Dr. Thomas Graham, FDA Laboratory Proficiency and Evaluation Team
- Mr. Frank Barcellos, Oregon Department of Agriculture

IDFA would like to thank all our member companies that participated in our preparatory meetings and conference calls, as well as committee, council representatives and dairy industry leaders who helped make the 2019 NCIMS Conference a great success for processors and the entire dairy industry.

If you have any questions about the NCIMS Conference, please contact:

- Cary Frye, Senior Vice President of Regulatory Affairs, **cfrye@idfa.org**
- John Allan, Vice President of Regulatory Affairs and International Standards, **jallan@idfa.org**
- Danielle Quist, Director of Regulatory Affairs and Counsel, **dquist@idfa.org**
- Taylor Boone, Regulatory Affairs Coordinator, **tboone@idfa.org**
- Michelle Matto, Principal, AM Food and Nutrition, **amfoodnutrition@gmail.com**

BACKGROUND ON THE NATIONAL CONFERENCE ON INTERSTATE MILK SHIPMENTS

The U.S. Public Health Service (USPHS) is a division of the U.S. Public Department of Health and Human Services that in conjunction with FDA has broad authority to oversee the health and safety of food, including milk and milk products. To assist states and municipalities with initiating and maintaining effective programs for the prevention of milk-borne disease, the USPHS and FDA developed a model regulation known today as the *Grade "A" Pasteurized Milk Ordinance* (PMO). This document incorporates the provisions governing the processing, packaging and sale of Grade "A" milk and milk products, including yogurt, fermented milk products, whey, whey products and condensed and dry milk products.

The PMO is the basic standard used in the voluntary Cooperative State-USPHS Program for the Conference of Interstate Milk Shipments, a program participated in by all 50 states, the District of Columbia and U.S. Trust Territories. The National Conference on Interstate Milk Shipments (NCIMS), in accordance with a "Memorandum of Understanding" with the FDA, recommends changes and modifications to the Grade "A" PMO at its biennial conferences.

Conference members represent the many facets of the dairy industry, including the dairy farmer, processing plant personnel, people who inspect dairy farm operations and/or the processing plants, people who make and/or enforce the laws concerning the inspections, academic researchers and advisers and consumers of dairy products. More information can be found at the NCIMS website and FDA Milk Safety Website.

IDFA Summary of Final Actions at the 2019 NCIMS Conference*

Proposal Number	Action Taken	Proposal Number	Action Taken	Proposal Number	Action Taken	Proposal Number	Action Taken
101	N/A	201	N/A	301	P/A	JC-1	P/A
102	N/A	202	N/A	302	N/A	JC-2	P/A
103	N/A	203	P	303	P/A		
104	N/A	204	Failed N/A	304	P/A		
105	N/A	205	P	305	P		
106	P/A	206	P/A	306	P/A		
107	N/A	207	P/A	307	P		
108	P/A	208	P/A	308	P/A		
109	P	209	N/A				
110	N/A	210	P/A				
111	P/A	211	P/A				
112	P/A	212	P/A				
113	P	213	N/A				
114	P/A	214	N/A				
115	N/A	215	P/A				
116	N/A	216	P/A				
117	P	217	N/A				
118	P	218	N/A				
119	N/A	219	N/A				
120	P	220	N/A				
121	N/A	221	N/A				
122	P	222	Failed N/A				
123	N/A	223	P/A				
		224	N/A				
		225	N/A				
		226	N/A				
		227	N/A				
		228	2400 P/A				
		229	2400 P/A				
		230	2400 P				
		231	N/A				
		232	N/A				
		233	N/A				
		234	24000 P				
		235	N/A				
		236	N/A				
		237	N/A				
		238	2400 P/A				
		239	2400 P/A				
		240	2400 P				
		241	2400 P				
		242	N/A				

N/A = No Action P = Passed P/A = Passed amended P/S = Passed substitute solution

***Outcomes represent IDFA staff record and subject to change based official NCIMS meeting transcript and September 2019 NCIMS Executive Board Meeting**

IDFA
INTERNATIONAL DAIRY FOODS ASSOCIATION

Making a Difference for Dairy

International Standards

REGULATORY PRIORITIES

Fall 2019 Briefing Materials

Leading IDF Delegation, IDFA Makes Dairy's Voice Heard at Codex

Jul 10, 2019

Trade seems to be the topic on everyone's mind lately. But to ensure U.S. dairy products reach dining tables around the globe, you've got to have a seat at the Codex table.

The U.S. dairy industry annually exports more than $5 billion in product – from cheese to whey to ice cream to skim milk powder and everything in between. The ease of trade we see in foreign markets can, in part, be attributed to the fact that many nations around the world have adopted or based national regulations on food standards developed by the United Nations' Codex Alimentarius Commission (CAC).

The Codex Commission met this week in Geneva, Switzerland, and IDFA pulled up a chair to the Codex table and was instrumental in ensuring that science-based principles remain intact and that proposed additives for use in fortified milks, which impact nutritional value, were successfully accepted by the Commission. This is an important victory for dairy due to our direct engagement.

John Allan, IDFA's vice president of regulatory affairs and international standards, led the delegation for the International Dairy Federation (IDF). IDFA actively participates in the United States' national committee to the IDF, making sure the U.S. dairy industry has a voice in the international forum.

The Commission brings together scientists, technical experts, and government regulators, as well as international consumer and industry organizations, to develop international food standards aimed at protecting the health of consumers and ensuring fair practices in food trade. There were three key topics of relevance for the dairy industry on this week's agenda.

Codex Science-Based Principles Remain Intact…For Now

Due to the proactive outreach by IDFA and others across the food and agriculture industry over the past few weeks, Codex agreed to not revise certain governing principles that would add greater consideration of non-scientific factors in establishing certain Codex standards. IDFA has consistently held that these other factors, such as environmental impacts, animal welfare, or misplaced consumer fears, are beyond the scope of the Codex mandate of protecting consumer

health and promoting fair practices in food trade. The European Union and several other countries have supported their consideration.

Allan advocated that all Codex standards should be based on robust scientific evidence and risk assessment and informed by advice provided by Codex scientific expert bodies. The European Union indicated its intent to eventually revise these critical Codex principles, if not now, at some point in the future. This move would threaten the integrity and acceptability of Codex standards and ultimately hinder the international trade of U.S. dairy products.

Food Additive Use in Dairy Products

The use of additives in fluid milk products was the subject of contentious debate. The IDF, led by Allan, fought for and helped ensure that a proposal for the allowance of certain stabilizers in plain (unflavored), fortified milks was adopted by the Commission. The additives that were adopted by the Commission are used to keep added vitamins and minerals from settling out of the milk, maintaining product quality and nutritional value during the shelf-life.

Additionally, a separate proposal on the table would allow trisodium citrate to be used, when needed, in shelf-stable, plain, non-fortified fluid milk that has been ultra-high temperature pasteurized to ensure stability during storage under certain conditions. Many African countries raised concerns about the use of this additive—and additives generally—in such milks. Due to these concerns and a lack of consensus, the Commission decided not to adopt the proposal and will have further discussions in the next year.

Follow-up Formula Standard

Commission delegates accepted product labeling provisions in the draft revised Codex Standard for Follow-up Formula for older infants (6-12 months of age). Delegates, however, supported the decision by the Codex Committee on Food Labeling to not endorse proposed language prohibiting "cross promotion," a term not defined in Codex.

IDFA has actively advocated against incorporation of this term in the standard as it could lead to regulatory inconsistencies and overreach in many countries. It could also create unnecessary trade barriers for these products, many of which use dairy-derived ingredients as major constituents. As a result of the Commission's action, the Codex Committee on Nutrition and Foods for Special Dietary Uses, which is responsible for developing this standard, will revisit the inclusion of this text at its next meeting in November of this year.

These standards might seem minor when looked at individually, but they can impact the way dairy products are sold around the world. IDFA has a seat at the table to help limit unfair barriers and ensures the safety and quality of dairy products produced in the U.S. and around the world.

August 15, 2019

The Honorable Michael Pompeo
Secretary
U.S. Department of State
2201 C Street NW
Washington, DC 20520

The Honorable Sonny Perdue
Secretary
U.S. Department of Agriculture
1400 Independence Avenue, SW
Washington, DC 20250

The Honorable Alex M. Azar II
Secretary
U.S. Department of Health and Human Services
200 Independence Avenue SW
Washington, DC 20201

The Honorable Robert Lighthizer
United States Trade Representative
600 17th Street NW
Washington, DC 20508

Dear Secretary Pompeo, Secretary Perdue, Secretary Azar, and Ambassador Lighthizer:

The undersigned organizations strongly support the mission of the Codex Alimentarius Commission (CAC) and greatly appreciate your ongoing efforts to grow exports of U.S. food and agricultural commodities. We write to specifically recognize and commend the leadership and laudable efforts of your staff ahead of and during the July meetings of the Codex Executive Committee and CAC. Thanks to successful execution of the U.S. interagency Codex strategy developed under the leadership of USDA, the U.S. achieved an important outcome that protects science-based Codex standards, ensures continued market access for U.S. food and agriculture exports, and preserves a powerful tool for challenging unjustified trade barriers. U.S. Codex advocacy also assured the adoption of the new Codex Strategic Plan 2020-2025, which reflects Codex's mission to develop science-based food standards that protect health and promote fair practices in food trade.

Food safety and international trade benefit from the numerous adopted Codex standards that are rooted in rigorous scientific evidence and prudent risk assessment, developed utilizing a transparent process that encourages multistakeholder participation, and recognized by the World Trade Organization. Many of the undersigned organizations participate directly in Codex as observers and provide scientific data that support risk assessments used to develop Codex standards. We share the commitment of your agencies to champion adoption of and alignment with Codex standards around the world.

While our support for Codex remains steadfast, we recognize that its long-standing commitment to science is at risk as certain stakeholders seek to advance their national and regional agendas and make it more difficult to challenge unjustified trade barriers. During its July meeting, we

were deeply concerned that CAC would agree to revise a key section of the Codex Procedural Manual—the "Statements of Principle Concerning the Role of Science"—which obligates Codex to base its standard setting activities on science and risk assessment. Changes to the Statements of Principle could result in Codex considering factors that are not science-based, outside of its scope/mandate, and/or are not acceptable on a worldwide basis.

Thanks to the successful interagency strategy and international outreach effort that combined stakeholder and government engagement, CAC concluded that the Statements of Principle should not be modified. Instead, Codex agreed to develop guidance to Codex Committees to ensure that the Statements of Principle are applied and enforced. This outcome affirms the importance of science and risk-based international standards to facilitating global trade in safe food.

This positive outcome would not have been possible without the contributions of your staffs and several deserve particular recognition. First, USDA Under Secretary Ted McKinney's leadership and personal engagement in advancing the robust interagency strategy were critical. He helped to unite U.S efforts behind a single strategy and worked tirelessly to develop international allies who spoke in support of the aligned position at the meeting. Additionally, his team at the U.S. Codex Office, specifically Mary Frances Lowe, Ken Lowery, and Marie Maratos, were essential in coordinating outreach and representing the U.S. positions during the July meetings. Finally, we would like to commend Vito Su (State); Joe Hain (USDA), Camille Brewer and Eric Stevens (FDA); Julie Callahan (USTR); and the other members of the U.S. delegation to CAC.

We acknowledge and appreciate this important milestone in protecting Codex's science-based mandate, and we remain committed to working with the U.S. to ensure the objectivity of the Codex process is maintained. Continued success will require a firm commitment from both government and industry to proactively engage with Member States and coordinate our efforts to preserve Codex's science-based approach. Priority attention should be directed at building further awareness and support for U.S. positions in Latin America, Africa, and Asia. Outreach ahead of the upcoming Codex regional coordination meetings and other key inflection points, such as the Codex Committee on General Principles, is also paramount.

Continuing to protect the scientific basis of Codex is essential to U.S. food and agriculture exports. The stakes are high, and we ask you to continue to empower your respective staffs to dedicate their time, resources and talents to this effort. As industry stakeholders, we stand ready to work with your agencies to advance common goals and support an aligned strategy. Ultimately, we all share the goals of protecting science-based standards, ensuring global food safety and security, and supporting fair practices in food trade that maximize market access for U.S. producers.

Thank you for your efforts to champion U.S. food and agriculture exports through your work to preserve science-based standards in global trade.

Respectfully,

Almond Board of California
American Bakers Association
American Beverage Association
American Farm Bureau Federation
American Feed Industry Association

American Frozen Food Institute
American Peanut Council
Animal Health Institute
Biotechnology Innovation Organization
Calorie Control Council
Corn Refiners Association
CropLife America
CropLife International
Distilled Spirits Council of the United States
Grocery Manufacturers Association
Infant Nutrition Council of America
International Chewing Gum Association
International Council of Beverages Associations
International Dairy Foods Association
International Food Additives Council
MAIZALL: The International Maize Alliance
National Cattlemen's Beef Association
National Chicken Council
National Confectioners Association
National Fisheries Institute
National Grain and Feed Association
National Milk Producers Federation
National Oilseed Processors Association
National Pork Producers Council
National Turkey Federation
North American Export Grain Association
North American Meat Institute
North American Millers' Association
Pet Food Institute
SNAC International
U.S. Council for International Business
U.S. Dairy Export Council
U.S. Grains Council
U.S. Soybean Export Council
U.S. Wheat Associates
Wine Institute

CC:

Manisha Singh, Assistant Secretary, Bureau of Economic and Business Affairs, U.S. Department of State
Mindy Brashears, Deputy Under Secretary for Food Safety, U.S. Department of Agriculture
Ted McKinney, Under Secretary for Trade and Foreign Agricultural Affairs, U.S. Department of Agriculture
Norman Sharpless, Acting Commissioner of Food and Drugs, U.S. Food and Drug Administration
Gregg Doud, Chief Agricultural Negotiator, Office of the United States Trade Representative

IDFA
INTERNATIONAL DAIRY FOODS ASSOCIATION
Making a Difference for Dairy

Bioengineered Food Disclosure Standard

REGULATORY PRIORITIES

Fall 2019 Briefing Materials

USDA Finalizes National Bioengineered Food Disclosure Standard

On December 20, 2018, the U.S. Department of Agriculture (USDA) finalized its much-anticipated National Bioengineered (BE) Food Disclosure Standard, requiring food manufacturers and retailers to include mandatory, uniform disclosure for certain BE foods and BE food ingredients on food labels. With enforcement beginning on January 1, 2022, the final rule provides a consistent and national labeling standard, preempting efforts by state officials to enact individual state labeling laws that imposed contradictory and costly labeling requirements. The rule:

- ***Uses the statutory term "bioengineered" throughout and not more common terms, such as "GMO," "genetically modified" or "genetically engineered."***
- ***Narrowly defines "bioengineered food" to exclude foods lacking a detectable amount of genetic material modified through in vitro rDNA technology.***
- ***Does not require mandatory disclosure of highly refined foods and ingredients lacking detectable modified genetic material, despite IDFA's calls for more transparency. This will result in a limited number of foods required to bear the mandatory disclosure.***
- ***Allows voluntary disclosure for highly refined foods and ingredients lacking detectable modified genetic material.***
- ***Provides a list of BE foods and crops to assist with compliance and recordkeeping.***
- ***Confirms that animals or food products such as milk, eggs and meat derived from animals cannot be labeled as BE food solely because the animal consumed feed produced from, containing or consisting of a BE substance.***
- ***Requires disclosure of products utilizing enzymes, yeasts and processing aids only if modified genetic material is present in the final product. Incidental additives exempt from labeling under the Federal Food, Drug and Cosmetic Act (FDCA) are exempt from BE labeling.***
- ***Allows companies flexibility to provide the mandatory BE disclosure through an on-package text, symbol, electronic or digital link (QR code) with a telephone number or text message.***
- ***Places the key to compliance on recordkeeping while allowing companies to utilize customary recordkeeping practices.***

The rule does not address how companies can continue to provide truthful and not misleading absence claims on their labels without violating the rule.

Compliance Date (§66.13)
The rule was published in the Federal Register on December 21, 2018 and will become effective 60 days thereafter. USDA has broken compliance into two discrete parts: implementation and the final compliance deadline. USDA staggered the initial implementation date, allowing larger companies to begin using both the mandatory and voluntary label disclosures on January 1, 2020. Those companies defined below as "small food manufactures" must begin implementation January 1, 2021. USDA has stated that implementing means identifying the (1) foods subject to disclosure, (2) records necessary for compliance, and (3) type of BE disclosure used on the products.

All dairy products must be labeled in compliance with the rule on **January 1, 2022**. Unlike the proposed rule, food companies are not allowed to use non-compliant labels after the compliance deadline. While IDFA had initially urged USDA to align compliance dates with the nutrition facts labeling changes, this extended compliance date allows companies to use up existing label stock, including labels designed to comply with the Vermont labeling law, until the compliance deadline.

Defining the Term "Bioengineered" Foods and Ingredients (§66.1-3)
A food or ingredient (sometimes referred to as a "substance") is defined as "bioengineered" or "BE" if it contains a *detectable* amount of genetic material that has been modified through *in vitro* recombinant deoxyribonucleic acid (rDNA) techniques for which the modification could not otherwise be obtained through conventional breeding or found in nature. When a detectable amount of modified genetic material is absent, a food or ingredient is *not* defined as a BE food or ingredient for purposes of this rule.

The definition of "bioengineered" in the rule adheres closely to the language in the 2016 law and USDA believes that the definition of BE food is best characterized by the products of bioengineering, not on the technology itself. The rule does not itemize the various technologies available or technologies that could create a product subject to disclosure, nor does the preamble make it clear whether future technologies, such as gene editing or other technologies not utilizing *in vitro* rDNA, can produce products that fall under the definition of "bioengineered." That said, USDA recognizes that as genetic engineering technology advances, the department will need to consult with other federal agencies regulating biotechnology to determine whether food and ingredients resulting from emerging technologies should be classified as BE food and ingredients under the rule. Similarly, USDA recognizes that improvements in testing technologies may someday detect modified genetic material that is currently undetectable. If the modified genetic material in food becomes detectable due to technological advances, the food may qualify as BE food and require a mandatory label in the future.

Application to Food and Multi-Ingredient Foods (§66.3)
The rule generally defines "food" as articles of food or drink and their components intended for human consumption, including raw agricultural commodities, processed or prepared and multi-ingredient items, dietary supplements, processing aids, and enzymes, that require labeling under the Federal Food, Drug and Cosmetic Act (FDCA). Although the FDCA's definition of "food" includes pet food and animal feed, the statute and regulatory disclosure requirements are limited

to foods intended for human consumption. This means that dairy products for human consumption are subject to the regulation.

Certain distilled spirits, wines and malt beverages are also outside the scope of the rule because they are not subject to FDA's labeling requirements. The scope of the rule also covers food regulated under the Federal Meat Inspection Act, Poultry Inspection Act and Egg Products Inspection Act, provided that the most predominant ingredient of the food would independently be subject to the labeling requirements under the FDCA, or, the most predominant ingredient of the food is broth, stock, water or a similar solution and the second-most predominant ingredient of the food would independently be subject to FDCA labeling requirements.

Other Factors and Conditions Limiting the Definition of BE Foods and Ingredients (§66.200-204)

Congress gave USDA discretion to establish a process for establishing other factors and conditions that would ultimately limit the definition of BE foods and potentially exclude foods from disclosure. The final rule lays out a process that allows the public to petition USDA to consider a factor or condition, including how to support the request with supporting data, confidentiality, and standards employed by UDSA in evaluating the petition.

The department concluded that BE incidental additives fall under the category of "factors and conditions" exempting them from mandatory disclosure. To qualify for this exemption, the incidental additive must comply with FDA's rules applicable to the ingredients declaration under the FDCA. This means that if a BE incidental additive is detectable in food: (1) at an insignificant level, (2) without any technical or functional effect in the food, and (3) is exempt from inclusion in a food label's ingredient statement under 21 CFR 101.100(a)(3) it is a BE food but *not* subject to BE disclosure.

USDA believes aligning the rule's BE disclosure requirements with the ingredients declaration requirements under applicable FDA regulations will simplify companies' compliance and labeling costs. USDA expects companies to cross-reference FDA regulations in evaluating whether a BE ingredient qualifies as an incidental additive.

For example, if a carrier oil, such as a corn oil, contained a detectable amount of modified genetic material and is used in a vitamin or a color, the corn oil does not require labeling under FDA regulations, as it is an incidental additive. This carrier oil, when used as an incidental additive in a dairy product, would not trigger the disclosure requirements.

Exemptions from Disclosure (§66.5)

The final rule exempts some companies and several categories of food and ingredients from mandatory labeling requirements.

The following entities are not required to comply with the rule's mandatory labeling disclosures, but they may voluntarily disclose that a food or ingredient is derived from a BE source as specified by the rule's voluntary disclosure provisions at §66.116 below.

- Very small food manufacturers. This category is defined as food manufacturers with annual receipts of less than $2,500,000. USDA believes that this will exempt about 74% of food manufacturers, but 96% of food products will subject to the final rule.
- Restaurants and similar retail "food service establishments". This category is intended to cover entities that serve prepared or read-to-eat food such as cafeterias, bars, foods trucks, trains and airplanes. USDA also clarified that salads, soups and other ready-to-eat items prepared by grocery stores are exempt from disclosure requirements.

The following foods are exempt from mandatory labeling, but companies are also prohibited from including these foods in a voluntary disclosure label.

- Threshold: unintentional, inadvertent and technically unavoidable presence. If a dairy product contains a detectable amount of genetically modified material, companies will need to determine whether a BE disclosure is required. USDA recognizes that despite efforts by some to avoid non-BE foods, trace amounts sometimes cannot be avoided because of shared equipment and the proximity of BE crops to non-BE crops. USDA decided on a threshold amount of BE that will allow BE and non-BE production systems to coexist. The final rule exempts from disclosure foods that meet *each of the following*:

  1. No ingredient intentionally contains a BE substance;
  2. Presence of the BE substance is inadvertent and technically unavoidable (adventitious presence); *and*
  3. The BE substance is less than 5% of any individual ingredient.

  Thus, if a dairy product contains a single ingredient composed of more than 5% of any BE substance, the dairy food is subject to mandatory disclosure. Moreover, any intentional presence of a BE substance in food, even if less than 5% of the finished product, is subject to disclosure.

- BE feed and animal products. In the final rule, USDA adopted language in the 2016 law prohibiting animal-derived products such as milk, honey and eggs from being deemed a BE food solely because the animal consumed feed produced from or containing a BE substance. Thus, milk derived from cows fed BE corn is not a BE food or ingredient solely because the cow consumed BE feed.

- Food certified under the national organic program (NOP). Foods and ingredients certified organic under the NOP are exempt from any disclosure or recordkeeping requirements. This exemption extends to all USDA Certified Organic categories (i.e. 100% Organic, Organic and Made with Organic) and all ingredients (organic and conventional) contained within each label category. This exemption, however, does not apply to products with less than 70% organically produced ingredients because USDA regulations allow those products to contain BE ingredients along with organic ingredients.

List of Bioengineered Food (§66.6-7)

To assist with compliance, USDA will maintain a List of BE Foods. The List will identify those genetically modified foods that are authorized for commercial production and in legal production

in the U.S. or internationally. In the final rule publication, USDA included the following foods on the List:

- Apple (specifically ArcticTM varieties)
- Eggplant (specifically BARI Bt Begun varieties)
- Canola
- Corn
- Cotton
- Papaya (specifically ringspot virus-resistant varieties)
- Pineapple (specifically pink flesh)
- Potato
- Salmon (specifically AquAdvantage®)
- Soybean
- Squash (summer)
- Sugar beet

If a food is on the List of BE Foods, companies must (1) evaluate whether use of the food or ingredient requires BE disclosure or is subject to an exemption *and* (2) maintain appropriate records to justify the decision to disclose or to not disclose. USDA also recognized that some food companies' records may not demonstrate with certainty that a food or ingredient on the List of BE Foods is BE. In those cases, USDA erred on the side of disclosure and requires those foods to bear a BE disclosure.

USDA's website[1] provides more specific information about each of the BE foods on the List to help companies identify commodities and specific varieties where disclosure may be necessary. The List identifies the commodities in the food supply, including the trait, producing countries, trade names and links to FDA's regulatory review. This is particularly important for those varieties where bioengineering is not highly adopted (e.g. apples). USDA will review the List annually, or more frequently if needed, to ensure that it reflects the commodities currently available. Any changes to the List will be done through rulemaking and public input into the List is invited on an on-going basis. Companies will have 18 months following the effective date of regulatory List updates to update food labels.

It is important to remember that not all BE foods and ingredients will be on the List of BE Foods. There will likely be a lag between when new BE varieties become commercially available and completion of the regulatory process to add a new variety or commodity to the List of BE Foods. Many companies will have "actual knowledge" that a food or ingredient (e.g. a vitamin with a detectable amount of modified genetic material) used in their product is BE and will be responsible for disclosing the food as BE and maintaining appropriate records. In the rule's preamble, USDA does not require entities to seek out whether a food or ingredient is BE, but they cannot "ignore or be willfully blind" to information that the food they are sourcing is BE.

[1] https://www.ams.usda.gov/rules-regulations/be/bioengineered-foods-list

Detecting Modified Genetic Material in Food (§66.9)

Companies will have three ways to determine whether a food or ingredient has "detectable" amounts of modified genetic material that may trigger mandatory BE disclosure:

1. Maintain records to verify that a food or ingredient is sourced from a non-BE crop or ingredient.
2. Maintain records to verify that a food or ingredient has been subjected to a refinement process that has been "validated" to render modified genetic material undetectable.
3. Maintain certificates of analysis or other testing records appropriate to a specific food or ingredient that confirm the absence of detectable modified genetic material.

As stated above, absent records indicating otherwise, the rule requires companies utilizing food or ingredients on the List of BE Foods (or companies with actual knowledge of a BE food) to provide a BE disclosure.

- Non-BE sourcing. Companies able to prove through recordkeeping that an ingredient is not sourced from a BE crop may avoid disclosure requirements. Three of the most common ways to do so are to maintain records required for an NOP certification, records showing that the ingredient was sourced from a non-BE crop variety, or records demonstrating that the ingredient originated in an area where that specific BE crop is not produced (e.g. sugar product from sugarcane grown in the U.S.).

- Validated refining process testing. USDA will provide additional guidance related to the use of "validated" refinement processes. In the meantime, a validated refinement process is one that has been confirmed through analytical testing that meets USDA's testing standards, provided below, that renders modified genetic material in a food undetectable. Once a company uses a process that is validated, further testing of an ingredient is not necessary to confirm the absence of modified genetic material, so long as there are no significant changes to the validated process and records are maintained to demonstrate that the refining process has been validated and that the validated process is followed when producing the ingredient. This means that companies purchasing highly refined ingredients, such as sugar from sugar beets and oil from corn, will need detailed records from suppliers assuring that the ingredient was subjected to a validated refining process.

- Testing standards. If a company is unable to maintain records from a validated refining process and there is the potential for modified genetic material in their products, product testing is required. The final rule provides the following performance standards for tests used to detect the presence of genetically modified material in refined foods (and other non-refined foods that may be BE):

    1. Laboratory quality assurance must ensure the validity and reliability of the test results;
    2. Analytical method selection, validation and verification must ensure that the testing method used is appropriate and that the laboratory can successfully perform the testing;

3. The demonstration of testing validity must ensure consistent and accurate analytical performance; and
4. Method performance specification must ensure analytical tests are sufficiently sensitive for the purposes of the detectability requirements of this part.

In the final rule's response to comments, USDA discusses the use of International Organization for Standardization (ISO)/TC 34/SC16 standards and several studies conducted to identify the presence of modified genetic material in processed foods and ingredients derived from various BE commodities. The final rule does not require a specific testing method, but instead relies on industry standards.

- Detectable amounts of genetically modified materials in dairy ingredients. Some dairy products use additives, flavorings and processes that rely on BE substances. For example, ingredients produced through chemical transformation of a BE food or ingredient (or substrate) and are substantially transformed into a new ingredient, such as caramel flavoring and color, polydextrose, vitamin C and sugar alcohols, will generally not be subject to disclosure. This is because the BE substrate may be considered an incidental additive as defined by FDA, or a company would have the records to demonstrate the lack of detectable modified genetic material in the product. Other ingredients produced by a BE organism through fermentation, such as enzymes, amino acids, citric acid, vinegar, and vitamins, would require records to demonstrate that any modified genetic material is undetectable. Based on information provided by enzyme producers to IDFA, cheese produced using fermentation-produced chymosin (i.e. rennet) is not likely to require disclosure since no detectable amount of genetically modified materials should remain in the rennet. Dairy companies must be sure to verify that the rennet or other ingredients they purchase do not have any detectable modified genetic materials.

  Similarly, milk products derived from animals treated with drugs and pharmaceuticals that are genetically derived, such as rbST, likely would not meet the definition of "bioengineered food" because there should not be any detectable amount of modified genetic material in the milk.

  In all of these examples, the company must have sufficient recordkeeping to demonstrate the lack of modified genetic materials in the ingredient and verify such assertions with their ingredient suppliers.

DISCLOSURE ON FOOD PACKAGING

Companies Responsible for Labeling BE Foods and Ingredients (§66.100)

The 2016 law allocates responsibility for providing the disclosure on the entity packaging the food, as such food manufacturers, importers and certain retailers. The rule specifies that the entity responsible for the BE label disclosure is responsible for establishing the product's label. If a retailer packages the food or sells the food in bulk container and/or display, the retailer is responsible for ensuring compliance with the rule's disclosure requirements. This approach

should minimize burdens on companies because it is consistent with other mandatory food labeling laws and regulations administered by FDA.

Appearance and Placement of BE Disclosures (§66.100)
Generally, the rule requires the BE disclosure to be of sufficient size and clarity to appear prominently on the label, making it likely to be read and understood by the consumer under ordinary shopping conditions. The rule avoids mandatory sizes for disclosure to give companies the flexibility needed for food packages that come in a variety of sizes, shapes and colors. With the exception bulk foods, the BE disclosure must be placed on the label in one of the following manners:

1. On the information panel directly adjacent to the statement identifying the name and location of the manufacturer or distributor (i.e. the company responsible for disclosing the BE label);
2. On the principal display panel; or
3. On an alternate panel likely to be seen by a consumer under ordinary shopping conditions if there is insufficient space to place the disclosure on the information panel or the principal display panel.

For multi-unit packages with individual units that are not labeled for retail sale or separation from the multi-unit package, the rule's preamble requires the disclosure to be of sufficient size and clarity to appear prominently on the outer packaging, making it likely to be read and understood by consumers under ordinary shopping conditions.

Types of Disclosure
Food companies have the option to disclose any food or ingredient requiring a mandatory BE disclosure in one of the following forms:

1. Written text;
2. Symbol;
3. Electronic or digital link with a phone number; or
4. Text message.

Note that the rule has different requirements for very small packages and for very small food manufacturers as described below.

The rule does not refer to BE foods as "genetic engineering" or "GMOs," stating that it is adopting the terms as used in the 2016 law to be consistent with law's preemption provisions and scope of disclosure. USDA believes that consumers will not be confused by the terminology and companies must use the term "bioengineered" when making disclosures under this regulation. Companies are prohibited from substituting this term with other terms when making the mandatory or voluntary disclosure under this rule.

- Text disclosure (§66.102). Consistent with the location requirements described above, a BE disclosure made via written text must state the following, allowing for the use of a plural when appropriate.

1. "Bioengineered food" for BE food that is a raw agricultural commodity or multi-ingredient processed food that contains only BE food ingredients.
2. "Contains a bioengineered food ingredient" for a multi-ingredient food (not a raw agricultural commodity or product solely composed of ingredient produced from BE ingredients) containing at least one or more BE food ingredients.

The final rule does not allow any variation from the text above. For purposes of mandatory disclosure, the rule does not permit companies to specify which ingredient is BE. If a company's records fail to indicate whether a food or ingredient on the List of BE Foods is BE or not, then the company would use the text above in its disclosure. The mandatory BE label cannot use the word "may" as in "may contain a bioengineered food ingredient" as USDA did not finalize the proposals related to "may" statements.

Foods subject to disclosure that are distributed solely in a U.S. territory may be labeled using equivalent statements in the predominant language of the territory.

- Symbol Disclosure (§66.104). The mandatory symbol disclosure must replicate the form and design of the symbol provided below that contains the capitalized words "BIOENGINEERED." Similar to use of the organic seal, USDA provides food companies the option to print the symbol in black and white to reduce printing cost, or to use the colored option provided in the regulation. Food companies are not allowed to make any additions to or removals from the symbol's design except as otherwise provided by the rule (i.e. color). A separate (but similar) symbol is used for voluntary disclosure.

- Electronic or digital link disclosure (§66.106). A company may make a mandatory BE food disclosure using an electronic or digital link, such as a QR code, printed on the packaging label so long as the disclosure complies with the following:

    1. Text on package. An electronic or digital link disclosure must be placed directly above or below the following statement – "scan here for more food information" or equivalent language that reflects differences in the scanning technology changes. For example, a product may state "scan icon for more information" or "scan anywhere on package for more food information."

    2. Telephone number. The electronic or digital link disclosure must be accompanied by a telephone number that will provide the BE food disclosure to the consumer at

any time. The telephone number instructions must be in close proximity to both the disclosure link and the direction statement above, as well as give shoppers clear instructions with the following statement: "call [1-000-000-000] for more food information." The telephone must clearly provide BE food information to the caller at any time of day (i.e. 24/7). Pre-recorded information is permitted.

3. Product information page. Once a consumer accesses the electronic or digital link, the consumer must be taken directly to the product information page. The product information page must have the same written text disclosure provided in §66.102 or the BE symbol provided in §66.104 and must not contain any marketing and promotional information, as defined by the NOP regulations at 7 CFR 205.2. If a company wants to provide additional information about BE foods, the information must be located outside of the BE disclosure landing page.

4. No information collection. The electronic or digital link must not collect, analyze, or sell any personally identifiable information about consumers or their devices. However, if this information is collected, the information must be deleted immediately and not used for any other purposes to comply with the rule.

5. Embedded URL. Generally, in order to use an internet website URL, it must be embedded in an electronic or digital link, except for small manufacturers and disclosures on very small packages (discussed below).

- Text message disclosure (§66.108). A company opting to use a text message for a mandatory BE food disclosure may do so as long as no fees (except a consumer's own wireless carrier fee) are charged to any person to access the BE food information through the text message, and the following criteria are met:

    1. The BE disclosure label must instruct consumers how to receive a text message with BE food information. The rule requires inclusion of the following statement "text [command word] to [number] for bioengineered food information." The number and short code must immediately send a one-time response to the consumer's device.

    2. The information conveyed to the consumer must be the same as what would be conveyed in the text disclosure appropriate for a mandatory BE disclosure.

    3. As with electronic and digital links, the text response must exclude any marketing and promotional information. Companies must not collect, analyze or sell any personally identifiable information about consumers or their devices unless necessary to complete the disclosure, or use any information for marketing purposes. Any information that must be collected must be deleted as soon as possible and not used for any other purpose.

  USDA recognizes the burden individual company text message systems may place on industry. Therefore, USDA will allow the text message instructions to be shared or

centralized among manufacturers so long as any standardized instruction or response is compliant with the rule. Using a centralized system, a one-time automated response using appropriate text would comply with the rule.

Small Food Manufacturers (§66.110)
The rule provides two additional disclosure options for companies that meet the definition of a small food manufacturer (very small food manufacturers are exempt from the rule's disclosure requirements). A small food manufacturer is defined as any food manufacturer with annual receipts of at least $2,500,000 but less than $10,000,000. The additional disclosure options are as follows:

- Telephone number. A label can state "call [1-000-000-0000] for more food information" along with a telephone number that will provide the BE disclosure information to the caller regardless of the time of day. The message may be prerecorded and contain the same content as would be provided by a text disclosure on the package (§66.102).

- Internet website. Alternatively, the label can bear the statement "Visit [URL of the website] for more food information." The website disclosure must be consistent with the product information page requirement for electronic and digital links § (66.106). It must include the same statement that would be made by a written text disclosure on the package (§66.102), or the BE symbol disclosure (§66.104).

Small and Very Small Packages (§66.112)
To facilitate the BE labeling of small and very small packages, the rule allows four modified methods of disclosure in addition to those described above. In the final rule, "small packages" are defined as food packages that have a total surface area of less than 40 square inches. The final rule's preamble states that the definition of "small packages" is intended to be consistent with FDA labeling requirements at 21 CFR 101.9(j)(17), but FDA labeling requirements provide additional requirements beyond the total surface area of the package.

The final rule's definition of "very small packages" is defined as food packages that have a total surface area of less than 12 square inches. The preamble explains that the definition is intended to align with 21 CFR 101.9(j)(13)(i), but similar to small packages, FDA's labeling requirements provide additional restrictions for a package to qualify as very small package.

- Electronic or digital link. A label may replace the direction and phone number statement "scan here for more information" with the shortened "scan for info." All other requirements for electronic or digital links from §66.106 are required.

- Text messages. A label may replace the number and short code statement "text [command word] to [number] for more bioengineered food information" with the shortened "text [number] for info."

- Telephone number. A label may provide a phone number and the statement "call [1-000-000-0000] for info."

- Very small packages. For very small packages only, if the label includes a preexisting URL for a website or a telephone number that consumers can access or call for BE food information, that website and telephone number may be used for the required BE disclosure, provided the disclosure is consistent with the text and electronic/digital link requirements explained above in §66.102 and §66.104, in written or audio form, as applicable.

Labeling of BE Foods Sold in Bulk Containers (§66.114)
For BE foods sold in bulk containers (e.g. display, case, bin, carton and barrel) used at the retail level to present products to consumers, the retailer may use any of the on-package text, symbol, electronic or digital link or text message label disclosures. The disclosure must appear on the signage or other materials (stickers, bindings, etc.) on or near the bulk item and allow consumers to easily identify and understand the BE status of the food. Retailers who use an electronic or digital link must place any signage or image to be scanned in a place that is readily accessible to consumers.

Voluntary Disclosure (§66.116)
IDFA urged USDA to allow companies to provide additional voluntarily information about foods and ingredients as BE so long as the label is truthful and not misleading. However, USDA did not craft its voluntary disclosure requirements as broadly as IDFA had requested. In an effort to focus on BE labeling claims, and not absence claims under the FDA's purview, the rule provides limited voluntary BE labeling. Only the following may provide a voluntary BE disclosure: (1) entities exempt from the rule and (2) certain foods that do not meet the definition of "bioengineered food" but are derived from foods on the List of BE Food.

- Voluntary disclosure of BE foods by exempt entities. Very small manufacturers, restaurants and other similar retail food establishments that are otherwise exempt from the rule may voluntarily label foods on the List of BE Foods if those foods would otherwise be subject to a mandatory label disclosure. The form of disclosure must be consistent with on-package text, symbol, electronic or digital link, text message or options provided for small manufacturers and small/very small packages outlined above. Exempt entities may also voluntarily disclose foods that are derived from BE crops, but do not contain modified genetic material, in accordance with the rule.

- Voluntary disclosure of foods derived from bioengineering. Companies may voluntarily label foods or ingredients from the List of BE Foods that would otherwise not require a mandatory BE label, such as those ingredients that are subjected to a validated refining process that removes all detectable modified genetic material. For example, high fructose corn syrup and sugar from sugar beets processed from a documented and validated refining process could bear a voluntary BE disclosure – "ingredients derived from a bioengineered source" or "high fructose corn syrup derived from a bioengineered source." The rule explicitly prohibits use of the rule's voluntary BE disclosure labels for four categories of foods and ingredients exempt from disclosure under §66.1 or §66.5(c)-(e):

1. Any food or ingredient that meets the factors or conditions under the definition of BE food, which for now only include incidental additives as defined by the FDCA (§66.1).
2. Food and ingredients in amounts below the 5% inadvertent and unavoidable threshold.
3. Animal products, such as milk, honey and eggs, from animals that consumed feed produced from, containing or consisting of a BE substance.
4. Foods and ingredients certified under the NOP.

This means that a company cannot make a voluntary disclosure labeling milk from a cow that consumed BE feed as "derived from bioengineering," "ingredients derived from a bioengineered source" or similar language characterizing either the milk or the cow it came from as BE. Under the USDA definition of "bioengineered food," a cow's consumption of BE corn and silage does not render the cow or its milk BE or derived from a BE source.

If a company wishes to make a voluntary disclosure under the rule, they have the option of using a text, symbol, electronic or digital link or text message disclosure with statements and symbols that are slightly different from what is required by a mandatory disclosure. The placement of the communication to consumers is identical to what is required for a mandatory disclosure.

- Voluntary written text disclosure. A voluntary written text disclosure on the package must contain the statement "derived from bioengineering" or "ingredient(s) derived from a bioengineered source." The word "ingredient(s)" may be replaced with the name of the specific crop(s) or food ingredient(s). The text *cannot* use the word "may" or "may be derived from bioengineering."

- Voluntary symbol disclosure. Other than the words on the symbol, the voluntary and mandatory symbol requirements are identical.

- Voluntary electronic or digital link disclosure. The mandatory statement for the voluntary text disclosure would be replaced with the following: "derived from bioengineering" or "ingredient(s) derived from a bioengineered source." A voluntary electronic or digital link disclosure otherwise must meet all the requirements for a mandatory disclosure under §66.106. The word "ingredient(s)" may be replaced with the name of the specific crop(s) or food ingredient(s). The electronic or digital link disclosure may also use the voluntary symbol disclosure.

- Voluntary text message disclosure. The mandatory statement for a voluntary text disclosure would be replaced with the following: "derived from bioengineering" or "ingredient(s) derived from a bioengineered source." A voluntary text message disclosure must otherwise meet all the requirements for a mandatory text message disclosure under §66.108. The word "ingredient(s)" may be replaced with the name of the specific crop(s) or food ingredient(s) and the text message disclosure may also use the voluntary symbol disclosure.

- Small manufacturer and small and very small packages. Voluntary disclosure options are the same as what is required for mandatory disclosures, provided that that the voluntary disclosure statement is used: "derived from bioengineering" or "ingredient(s) derived from a bioengineered source." The word "ingredient(s)" may be replaced with the name of the specific crop(s) or food ingredient(s). The voluntary symbol disclosure could also be used these entities or on packages of this size.

Absence Claims (§66.118)
Throughout the rule's preamble, USDA states that it does not have the statutory authority to regulate absence claims because Congress limited its authority to establishing a national mandatory uniform disclosure standard. Therefore, the rule does not prohibit companies from making "other claims regarding bioengineered foods, provided that such claims are consistent with applicable Federal law." The rule strongly cautions that in making other voluntary claims (both disclosure and absence claims), companies must comply with both the rule and FDA's requirements that a label be truthful and not misleading. FDA may revise its current guidance on making absence claims in response to the final rule.

Some dairy companies may seek to continue the labeling of absence claims informing the consumer that a product's milk comes from cows not fed BE feed or not treated with rbST. Under the rule's voluntary disclose provisions, companies are prohibited from labeling milk from a cow that consumed BE feed as "bioengineered," "contains a bioengineered food ingredient," "derived from bioengineering," "ingredients derived from a bioengineered source" or similar language characterizing either the milk or the cow it came from as BE.

However, companies that can substantiate statements such as "made from cows that did not consume feed containing bioengineered materials" or "made from cows that were not treated with rbST" and similar statements are less likely to risk violating the BE disclosure rule as these statements fall under FDA's jurisdiction. Considering the definitions and terminology used by the rule, companies would be well served to consult with counsel regarding any risks posed by use of absence claims and the rule.

Companies seeking to use third party standards to make claims such as "non-GMO" need to ensure that the claims are consistent with the rule. The preamble acknowledges that the 2016 law allows foods certified under the NOP may claim the absence of BE in food, such as "not bioengineered," "non-GMO," "non-bioengineered" or other similar claims.

RECORDKEEPING (§66.300-304)

The rule specifies that if a food or ingredient is on the List of BE Foods (or the company has actual knowledge that the food or ingredient is BE), the company *must* maintain records to demonstrate compliance with the rule regarding that food or food ingredient. Thus, a dairy product containing sugar derived from sugar beets must maintain records for that ingredient regardless of whether the sugar beet is a BE or conventional variety. If in doubt, keep a record. No additional recordkeeping is required for products certified under the NOP.

Although compliance with the rule is heavily dependent on company recordkeeping, USDA did not intend to impose burdensome new recordkeeping requirements. Companies may generally maintain the types of records that are customary or reasonable to demonstrate compliance with the rule. USDA recognizes that recordkeeping protocols will vary depending on the size and complexity of individual companies and on the products themselves. Records may be electronic or paper and must contain sufficient detail to be easily understood and audited by USDA. Companies are free to maintain records at locations that best serve the companies' business needs. The records must be maintained for at least two years beyond the date the food or product is sold or distributed for retail sale. Although not specified in the rule, other federal agencies have tied similar labeling and recordkeeping requirements to the date an item is generated and labeled for sale.

Examples of customary or reasonable records that could be used to comply with the rule include supply chain records, bills of lading, invoices, supplier attestations, labels, contracts, broker statements, third party certifications, lab testing results, validated process verifications and other records generated or maintained in the ordinary course of business.

ENFORCEMENT (§66.400-406)

Audits or Examination of Records

Any member of the public with knowledge or information regarding a possible violation of the rule may file a written statement or complaint with USDA. Any complaint must include (a) complete information identifying the product, (b) a detailed explanation of the alleged regulatory violation and (c) the name and contact information of the person filing the complaint. Once received, USDA will determine whether reasonable grounds exist to investigate the complaint. If further investigation is warranted, USDA may conduct an audit or examination of the records from the company responsible for the BE disclosures.

The rule provides that when USDA makes a records request, companies must provide the records within 5 business days unless USDA extends the deadline. If USDA seeks to examine the records at the company's place of business, USDA will provide at least 3 days prior notice and companies will only be required to provide access to the records during normal business hours. At the conclusion of the audit or records request, USDA will make the finding available to the company subject to investigation. If the company objects to any findings, it may request a hearing. If a company fails to provide USDA the requested access, USDA will conclude in its audit or examination that the company did not comply with the records access requirement and USDA could not confirm whether the company is in compliance with the rule.

Within 30 days of receiving the audit results, the company may request a hearing and may provide USDA with the company's response to the findings and any supporting documents. A company providing a response to the findings of an audit must identify the objections to the findings and the basis for objections. USDA will review the findings and response and may allow the company to make an oral presentation at a hearing. At the conclusion of a hearing, USDA may revise the findings of the audit. Once the audit and any hearings are completed, USDA will make public the summary of the final results of the investigation, an action which constitutes a final agency action for purposes of judicial review.

No Recall Authority

The 2016 law does not give USDA authority to use violation of the rule's recordkeeping and disclosure requirements as a basis to recall any food, nor does the rule authorize federal civil fines and penalties or impose criminal liability. The only mechanism for USDA to enforce compliance with the rule is through public complaints, audits or examinations, hearings or public disclosure of an investigation's summary. Consistent with its obligations under the Trade Secrets Act and other similar laws, USDA is prohibited by federal law from making public any confidential business records or trade secrets, including product formulations and recipes. The rule does not provide an interpretation of the federal labeling preemption language of the 2016 law.

For more information, members can contact Danielle Quist, senior director for regulatory affairs and counsel at dquist@idfa.org, Cary Frye, senior vice president, regulatory affairs at cfrye@idfa.org, or Michelle Matto, IDFA consultant on nutrition and labeling at amnutrition@gmail.com.

IDFA has scheduled a comprehensive webinar on the rule for March 12 at 1:00 pm eastern time. Additional information and registration for the webinar can be found at IDFA's website at www.idfa.org under the events tab.

IDFA
INTERNATIONAL DAIRY FOODS ASSOCIATION
Making a Difference for Dairy

Per-and Polyfluoroalkyl Substances (PFAS)

REGULATORY PRIORITIES

Fall 2019 Briefing Materials

PFAS Key Points for Customer Communication

- Across the country, states are testing drinking water sources to identify the presence of per-and polyfluoroalkyl substances (PFAS). Frequently referred to as "forever chemicals" because of their persistence in the environment, PFAS include about 5,000 different chemicals used in numerous industrial and consumer products and fire-fighting foams. Two of the most studied and common chemicals are PFOA and PFOS – two chemicals that are no longer manufactured in the United States.

- EPA has set a non-binding lifetime drinking water health advisory of 70 parts per trillion (ppt) combined for PFOA and PFOS (PFOA+PFOS). For perspective, 1 ppt is about one drop of water in 20 Olympic-sized swimming pools. The EPA advisory standard applies to drinking water only and is based on levels of human drinking water consumption. [NOTE: Milk or dairy products are not consumed in the same amounts as drinking water.] The advisory does not apply to any food items.

- In June 2019, Acting FDA Commissioner Ned Sharpless and Deputy Commissioner for Food Policy and Response Frank Yiannas issued a joint statement about the Agency's activities relating to PFAS. The joint statement is intended to assist consumers, food companies and the media in understanding what steps FDA is taking to assess the risks PFAS may pose to the food supply and human health.

- FDA testing to date shows that the majority of foods tested lack detectable levels of PFAS. Those foods with detectable levels are low enough that FDA's safety assessments determined that the products were not likely to be a health concern at the detected levels.

- The FDA confirmed that based on the Agency's research thus far, dairy foods are safe and the system in place to ensure the safety and integrity of dairy foods is working as intended.

- Currently, FDA has not advised food companies to conduct testing; in fact, FDA has discouraged testing by outside entities [IF NEEDED: to ensure testing protocol can be certified by FDA].

- While news media has focused on two PFAS-related cases impacting milk at the farm level or ground water near dairy farms, milk from those two farms are no longer processed.

- FDA's Total Dietary Study retail sampling program thus far has detected PFAS in only a single composite dairy product sample at the retail level (chocolate milk), which had detectable levels of PFAS below levels FDA would consider a potential health concern.

- Therefore, we are exceedingly confident that milk and dairy foods have been and continue to be safe and wholesome.

- When state or federal tests detect PFAS in water at the farm level, the dairy's state Department of Agriculture (in conjunction with FDA) will determine whether milk from that farm is

considered adulterated product and must be discarded. Processors will not accept any adulterated product.

- *[IF YOUR COMPANY HAS TAKEN STEPS TO GUARD AGAINST PFAS EXPOSURE—SUCH AS INSTALLING CARBON FILTRATION—YOU SHOULD CONSIDER NOTING PROACTIVE STEPS]*

About the FDA's Targeted Sampling and Total Dietary Study Program

- FDA explained that as part of a 2018-2019 targeted sampling effort at two New Mexico dairy farms that had PFAS contamination in groundwater, FDA testing showed levels of certain PFAS at one farm that FDA deemed a potential human health concern.

- As with any adulterated food, the milk at the farm was discarded so that it would not enter the food supply. FDA also tested cheese processed at that same farm, and raw milk at a neighboring farm, concluding that the PFAS levels of those dairy products did not present a human health risk.

- The FDA's Total Dietary Study testing program routinely tests food products for PFAS and other substances. The program, along with FDA safety assessments, demonstrate that our dairy products continue to be safe and wholesome.

- The FDA will continue to educate the public and the media about the conclusions related to PFAS testing to avoid confusion and misinformation.

- The FDA says, "PFAS concentrations in food, estimating dietary exposure and determining the associated health effects is an emerging area of science. When there is evidence of PFAS found in food, the FDA conducts a safety assessment using the best available current science to evaluate whether the levels present a possible human health concern. The FDA safety assessment method considers how much people really eat and the toxicity of the contaminants to determine whether there is a human health concern. For PFAS, the FDA currently uses the U.S. Environmental Protection Agency's reference doses (RfD) for PFOA and PFOS of 0.02 µg/kg bw/day as the most appropriate toxicity reference value (TRV)."

Additional Points on Dairy Farms

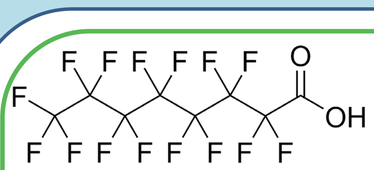
- Unfortunately, because of their prevalence in the environment, PFAS have been known to affect some farms, including dairy farms, causing financial losses and hardship to the farmers affected by PFAS contamination.

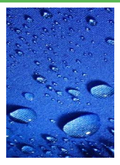
- As the FDA review points out, a New Mexico dairy farm was significantly impacted by PFAS contamination from an adjacent Air Force base. This issue does not affect the vast majority of dairy farms.

Investigation of Per- and Polyfluoroalkyl Substances (PFAS) in US food products

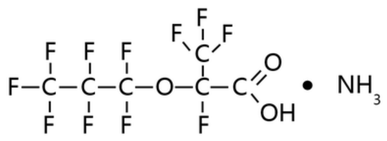
Susan Genualdi, Lowri deJager, Timothy Begley
Center for Food Safety and Applied Nutrition, Food and Drug Administration, 5001 Campus Drive, College Park, MD 20740

Background





PFOA



Gen-X (HFPO-DA)

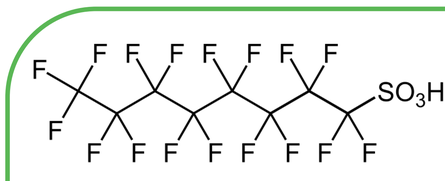
- DuPont phased out PFOA completely in 2015.
- Gen-X (HFPO-DA) – new technology used to make high performance fluoropolymers without PFOA.
- Production has shifted towards shorter chain length perfluorinated substances (6 carbons or less) and other classes of polyfluorinated substances.

Household exposure

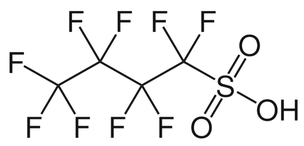
Potential sources of PFAS to humans

Dietary Intake exposure from agriculture, seafood, and livestock

Environmental exposure



PFOS



PFBS

- 3M phased out the use of PFOS in 2002.
- PFOS was the key ingredient in producing aqueous film fighting foam (AFFF).
- PFOS was the key ingredient in producing Scotchguard.
- PFOS was replaced with PFBS (4-carbon chain) in producing Scotchguard products.
- Production has shifted towards shorter chain length PFAS.

Objectives:

- To develop methods to determine the concentrations of Per- and Polyfluoroalkyl substances (PFAS) in a variety of food items utilizing samples from FDA Total Diet Study program .
- To assess the impact of food sources in close proximity to environmental inputs of PFAS chemicals – Investigate location in close proximity to PFAS production facility and location close to Air Force Base where groundwater has been contaminated with Aqueous Film Fighting Foam (AFFF).

Method

Weigh out homogenized food sample

1. Add water and extraction solvent (Acetonitrile)

2. Add QuEChERS salt (6000 mg $MgSO_4$ and 1500 mg NaCl)

https://sampleprep.unitedchem.com/products/quechers/mylar/mylar-pouches

3. Transfer supernatant to dSPE tube (400 mg PSA, 400 mg C18 and 1200 mg $MgSO_4$)

Shake/Centrifuge Step

Vortex/Shake 5 minutes at 1500 RPM

Centrifuge for 5 minutes at 10,000 x g

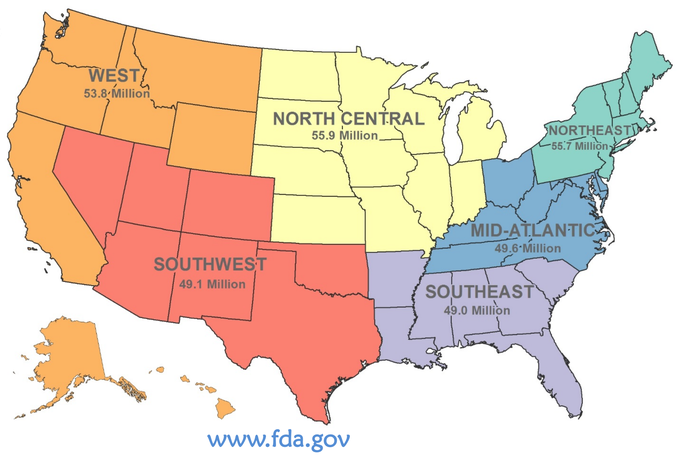
4. Filter extract with a 0.2 μm nylon filter

5. Analysis using SCIEX 6500 plus

Target Analytes

PFBA	Perfluoro-n-butanoic acid
PFPeA	Perfluoro-n-pentanoic acid
PFHxA	Perfluoro-n-hexanoic acid
PFHpA	Perfluoro-n-heptanoic acid
PFOA	Perfluoro-n-octanoic acid
PFNA	Perfluoro-n-nonanoic acid
PFDA	Perfluoro-n-decanoic acid
PFBS	Potassium perfluoro-1-butanesulfonate
PFPeS	Sodium perfluoro-1-pentanesulfonate
PFHxS	Sodium perfluoro-1-hexanesulfonate
PFHpS	Sodium perfluoro-1-heptanesulfonate
PFOS	Sodium perfluoro-1-octanesulfonate
NaDONA	Sodium dodecafluoro-3H-4,8-dioxanonanoate
HFPO-DA	Tetrafluoro-2-(heptafluoropropoxy)propanoic acid
9Cl-PF3ONS	Potassium 9-chlorohexadecafluoro-3-oxanonane-1-sulfonate
11Cl-PF3OUdS	Potassium 11-chloroeicosafluoro-3-oxaundecane-1-sulfonate

Total Diet Study Samples (TDS)

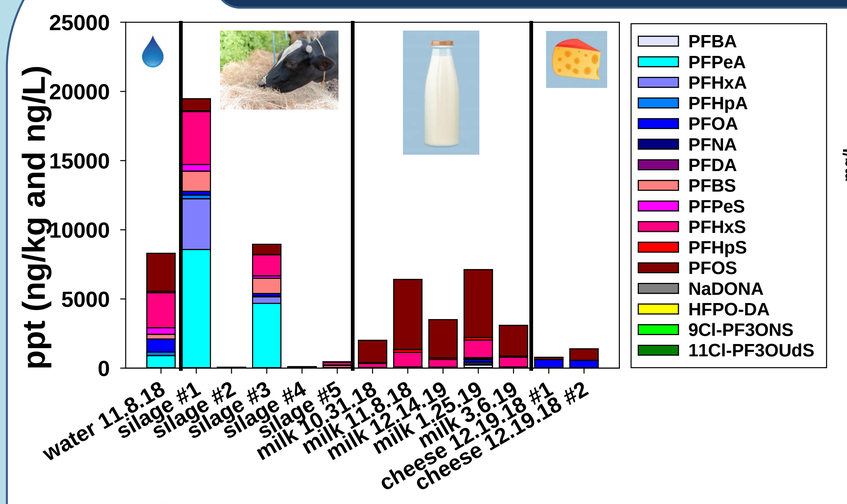


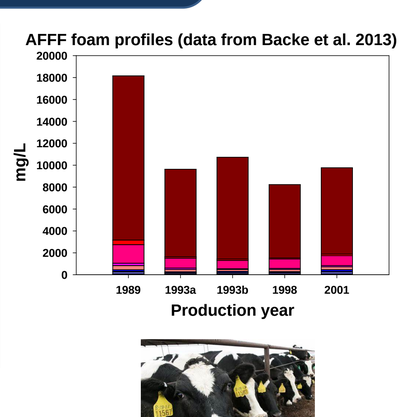
- TDS samples were used because of the diverse food categories (produce, meat, dairy, and grain products) and they were already prepared for analysis.
- Samples were collected in October 2017 from the Mid-Atlantic Region (see map).
- Analytical sample is a composite of 3 cities per collection in that region of each food item.
- 91 samples were analyzed, including produce, meat, dairy, and grain products.
- Non-detects (16 analytes) were reported in 81 of the 91 samples analyzed.
- Using our current safety assessment methods, the samples with PFOS are not likely to be a health concern.

ppt (ng/kg) LLOQ ranges from 2 ng/kg to 1000 ng/kg depending on compound and commodity

	PFOA	PFOS	PFBA	PFHpS	PFPeA	PFHxA	PFHxS	PFHpA	PFBS	PFPeS	NaDONA	HFPO-DA	PFDA	PFNA	11Cl-PF3OUdS	9Cl-PF3ONs
Fruits/Vegetables 2 detects in 39 samples																
Pineapple	< LLOQ	< LLOQ	68.4	< LLOQ	< LLOQ	< LLOQ	< LLOQ	< LLOQ	< LLOQ	< LLOQ	< LLOQ	< LLOQ	< LLOQ	< LLOQ	< LLOQ	< LLOQ
Sweet Potato	< LLOQ	< LLOQ	< LLOQ	< LLOQ	< LLOQ	< LLOQ	5.2	< LLOQ	< LLOQ	< LLOQ	< LLOQ	< LLOQ	< LLOQ	< LLOQ	< LLOQ	< LLOQ
Breads/baked goods 1 detect in 16 samples																
Chocolate cake with icing	< LLOQ	< LLOQ	< LLOQ	< LLOQ	17640	< LLOQ	< LLOQ	< LLOQ	< LLOQ	< LLOQ	< LLOQ	< LLOQ	< LLOQ	< LLOQ	< LLOQ	< LLOQ
Dairy 1 detect in 12 samples																
Chocolate milk	< LLOQ	< LLOQ	< LLOQ	< LLOQ	154	< LLOQ	< LLOQ	< LLOQ	< LLOQ	< LLOQ	< LLOQ	< LLOQ	< LLOQ	< LLOQ	< LLOQ	< LLOQ
Meat/Seafood 10 detects in 21 samples																
Ground Turkey	< LLOQ	765	< LLOQ	< LLOQ	< LLOQ	< LLOQ	< LLOQ	< LLOQ	< LLOQ	< LLOQ	< LLOQ	< LLOQ	< LLOQ	< LLOQ	< LLOQ	< LLOQ
Tilapia	< LLOQ	865	< LLOQ	< LLOQ	< LLOQ	< LLOQ	< LLOQ	< LLOQ	< LLOQ	< LLOQ	< LLOQ	< LLOQ	145	< LLOQ	< LLOQ	158
Cod	< LLOQ	192	< LLOQ	< LLOQ	< LLOQ	< LLOQ	< LLOQ	< LLOQ	< LLOQ	< LLOQ	< LLOQ	< LLOQ	< LLOQ	< LLOQ	< LLOQ	< LLOQ
Beef steak	< LLOQ	149	< LLOQ	< LLOQ	< LLOQ	< LLOQ	< LLOQ	< LLOQ	< LLOQ	< LLOQ	< LLOQ	< LLOQ	< LLOQ	< LLOQ	< LLOQ	< LLOQ
Frankfurter	< LLOQ	134	< LLOQ	< LLOQ	< LLOQ	< LLOQ	< LLOQ	< LLOQ	< LLOQ	< LLOQ	< LLOQ	< LLOQ	< LLOQ	< LLOQ	< LLOQ	< LLOQ
Salmon	< LLOQ	253	< LLOQ	< LLOQ	< LLOQ	< LLOQ	< LLOQ	< LLOQ	< LLOQ	< LLOQ	< LLOQ	< LLOQ	< LLOQ	< LLOQ	< LLOQ	< LLOQ
Lamb chop	< LLOQ	216	< LLOQ	< LLOQ	< LLOQ	< LLOQ	< LLOQ	< LLOQ	< LLOQ	< LLOQ	< LLOQ	< LLOQ	< LLOQ	< LLOQ	< LLOQ	< LLOQ
Shrimp	< LLOQ	676	< LLOQ	< LLOQ	< LLOQ	< LLOQ	< LLOQ	< LLOQ	< LLOQ	< LLOQ	< LLOQ	< LLOQ	< LLOQ	< LLOQ	< LLOQ	< LLOQ
Chicken thigh	< LLOQ	180	< LLOQ	< LLOQ	< LLOQ	< LLOQ	< LLOQ	< LLOQ	< LLOQ	< LLOQ	< LLOQ	< LLOQ	< LLOQ	< LLOQ	< LLOQ	< LLOQ
Catfish	< LLOQ	673	< LLOQ	< LLOQ	< LLOQ	< LLOQ	< LLOQ	< LLOQ	< LLOQ	< LLOQ	< LLOQ	< LLOQ	< LLOQ	< LLOQ	< LLOQ	105
Miscellaneous 0 detects of 3 samples																

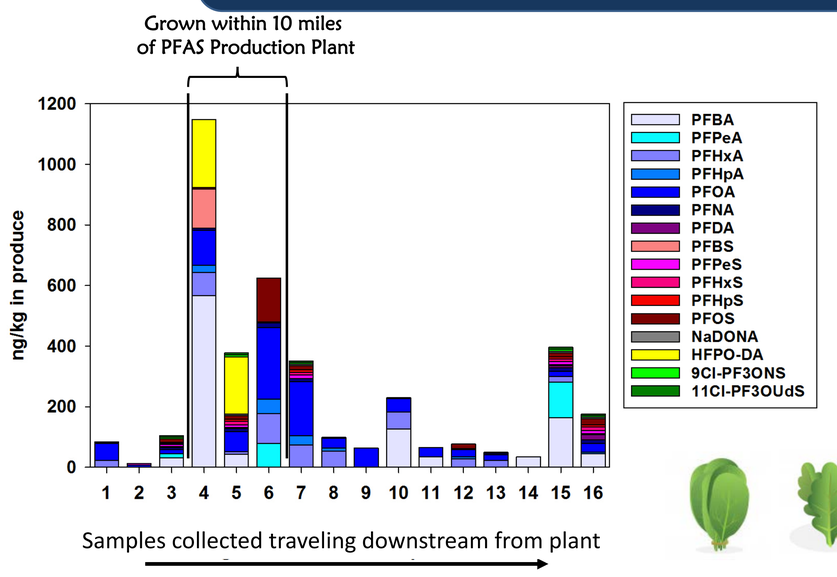
Dairy Farm near Air Force Base in New Mexico





- A dairy farm in New Mexico was found to have contaminated groundwater due to it's close proximity to an Air Force Base where AFFFs have been historically and currently used.
- The water sample had a PFOS concentration around 2500 ng/L, which is 35 times greater than the EPA health advisory level of 70 ng/L.
- The impact of the water contamination also resulted in PFAS contaminated silage produced in the area.
- As a result, dairy cows were exposed to contaminated water and silage, resulting in milk contamination.
- PFOS has a slow elimination rate from milk even after exposure is stopped. With a half-life of 56 days, it would take 1.5 years to eliminate PFOS from the cow after a 30 day exposure period (Asselt et al. Food Chem. 2013).
- The profiles of PFAS in milk are similar to profiles of AFFF foams reflecting the long term exposure of these chemicals to the cows and the persistence of the long chain compounds in these animals.

Produce collected near a PFAS Production Plant in Eastern US



C&E News
https://cen.acs.org/articles/96/i7/whats-genx-still-doing-in-the-water-downstream-of-a-chemours-plant.html

- Produce (mainly lettuce, cabbage, kale, collard greens) were collected at local farmer's markets along the river from above and below the PFAS production plant in June 2018.
- Based on previous studies, longer chain PFAS compounds can uptake into the leafy portion of the plant from contaminated water use, while only the shorter chain compounds will uptake into the fruit. (Blaine et al. ES&T 2014).
- Wells near the PFAS production plant are known to be contaminated with Gen-X (HFPO-DA) and samples collected from a produce stand within 10 miles of the plant had HFPO-DA concentrations~ 200 ng/kg.

Conclusions:

- The FDA has reviewed results for PFOS/PFOA in top commodities using a safety assessment based on food consumption data and the EPA reference doses. Use of the developed method and a robust sampling plan will provide a better understanding of potential dietary exposure to consumers that might include TDS and other sampling assignments.
- Safety assessment was used to advise the New Mexico dairy farm that their milk was unfit for human consumption, the product was discarded.
- PFAS concentrations measured in lettuce and other produce grown near a PFAS production plant were not likely a human health concern from consumption.
- Results indicate PFAS concentrations measured in produce samples and TDS samples were not likely a human health concern from consumption.
- Water sources and foods grown near potentially contaminated sites will be monitored to ensure the safety of foods being introduced into commerce in the US.

IDFA
INTERNATIONAL DAIRY FOODS ASSOCIATION

Making a Difference for Dairy

Membership and Programs

FALL MEETINGS OF THE IDFA EXECUTIVE COUNCIL & INDUSTRY SEGMENT BOARDS

Fall 2019 Briefing Materials

International Dairy Foods Association
New Members (18)
April 2019 – September 2019

Dairy Processors (8)

Burt Lewis, INC
15020 S. Ravinia Avenue, Suite 21
Orland Park, IL 60462
Main Phone: (630) 571-3131
www.burtlewisinc.com
burtknowsdairy@burtlewisinc.com

Contact: Joe Stark, General Manager
joe@burtlewisinc.com

Products/Services:
Established in 1976, Burt Lewis INC has provided 24/7 customer service options to the users of manufactured dairy products in the United States and Canada for nearly half a century. Burt Lewis supplies butter, sweet cream, and whey powder.

Hollandia Dairy, Inc.
622 East Mission Road
San Marcos, CA 92069-1902
Main Phone: (760) 744-3222
Toll Free: (800) 794-0978
www.hollandiadairy.com

Contact: Patrick Schallberger, CEO
pschallberger@hollandiadairy.com

Products and Services:
Hollandia Dairy bottles fresh fluid milk and Juice; with a mission to supply customers with safe and nutritious dairy products.

Idaho Milk Products
2249 South Tiger Drive
Jerome, ID 83338
Main Phone: (208) 644-2882
Toll Free: (855) 375-6455
www.idahomilkproducts.com
info@idahomilk.us

Contact: Daragh Maccabee, Chief Executive Officer
dmaccabee@idfahomilk.us

Products and Services:
Idaho Milk Products is a privately held, vertically integrated international milk processing leader, supplying Milk Protein Concentrate (MPC), Milk Permeate, and Cream derivatives to customers around the globe. Owned by local Idaho dairy farmers, Idaho Milk Products has a dedicated consistent milk supply and delivers reliable, quality dairy ingredients.

Nasonville Dairy, Inc.
10898 Highway 10 West
Marshfield, WI 54449- 9772
Main Phone: (715) 676-2177
www.nasonvilledairy.com

Contact: Ken Heiman, General Manager
kheiman@nasonvilledairy.com

Products and Services:
Nasonville Dairy produces over 40 varieties of cheese with an average production day running at about 165,000 pounds. Consumers can choose top selling classics like Cheddar, Monterey Jack, exceptional Feta, or mix it up with some great flavors such as Buffalo Wing Jack, Ghost Pepper Jack, or our Innovative Blue Marble Jack along with one-of-a-kind Feta flavor crumbles in Cucumber Lemon. General Manager Ken Heiman notes that Nasonville Dairy was built on memorable cheese. Currently the Heiman family owns and operates the dairy with a span of five generations of knowledge and passion in the plant and on the farm.

Proliant, Inc.
2425 SE Oak Tree Court
Ankeny, IA 50021-7102
Main Phone: (515) 289-7621
www.proliantinc.com

Contact: Mike Matter, President & CEO
mike.matter@proliantinc.com

Products/Services:
Proliant Dairy Ingredients is aggressively committed to developing the highest quality ingredients for food and feed for nearly 25 years. Our products - VersiLac® and Proliant™ 1000 - are an excellent source of dairy solids in food and feed applications with excellent functionality.

Ritchey's Dairy, Inc.
2130 Cross Cove Road
Martinsburg, PA 16662-7619
Main Phone: (814) 793-2157
Toll Free: (800) 296-2157
Main Fax: (814) 793-0099
www.ritcheysdairy.com

Contact: Andrew Ritchey, General Manager
info@ritcheysdairy.com

Products and Services:
Ritchey's Dairy is a full-service dairy producing high quality milk, ice cream, and drink products in central western Pennsylvania. A family-owned business founded in 1940, Ritchey's celebrated its 75th Anniversary in August 2015.

Tatua USA Ltd.
3800 Sierra Circle, Suite 205
Center Valley, PA 18034-8476
Main Phone: (484) 954-3080
Toll Free: (844) 388-2882
www.tatua.com
info@tatuausa.com

Contact: Peter Cheplick, President
peter.cheplick@tatuausa.com

Products and Services:
The Tatua Co-operative Dairy Company provides unique ingredient solutions for the global food, active nutrition, infant & medical nutrition, and microbial nutrition markets. For more than 105 years, Tatua has differentiated itself as a leader in the global dairy market by developing and manufacturing innovative, high-quality dairy protein and functional ingredients from our New Zealand milk supply. Our product portfolio includes a range of Caseinates, Whey Protein Concentrate, AMF, a full portfolio of Hydrolyzed Whey and Casein Proteins, and bioactive ingredients including Lactoferrin and Phospholipids. Coupling these with our natural Dairy Flavor Ingredients, we offer complete solutions for delivering the highest quality protein with superior flavor profiles and functionality for a wide variety of food, nutritional, and pharmaceutical applications. We offer contract manufacturing to many of our global customers. Our herds graze fresh New Zealand pasture; our Tatua 360 on-farm sustainability program ensures we are actively looking after the environment, and our food safety and quality systems are recognized globally for their comprehensive standards. Tatua USA, a subsidiary of Tatua, was established in 2014 and supports our specialty ingredient business in North America and Europe.

United Dairymen of Arizona
2601 S. Hardy Drive
Tempe, AZ 85282-1915
Main Phone: (480) 966-7211
www.uda.coop

Contact: Keith Murfield; CEO
kmurfield@uda.coop

Products/Services:
United Dairymen of Arizona is a milk marketing cooperative owned by Arizona dairy families. Our membership consists of approximately 79 farms, averaging 2,800 head per dairy. Our modern manufacturing facility in Tempe operates 24 hours a day, 7 days a week, and produces high, medium and low heat nonfat dry milk (including vitamin fortified products), MPC, cream, butter, skim milk, condensed skim milk and lactose powder.

Gold Business Partners (7)

ABB Inc.
305 Gregson Drive
Cary, NC 27511-6496
Main Phone: (919) 653-0840
www.abb.com

Contact: Tom Shaver, Global Application & Assessment Leader – Food & Beverage
(614) 800-1581
tom.shaver@us.abb.com

Products/Services:
ABB automation solutions can help sharpen quality and productivity while staying ahead of the ever-increasing expectations of customers with

competitiveness and agility. ABB has a number of automation solutions to help dairy processors bring their products to market with both efficiency and uncompromising safety.

Hixson Architects & Engineers
(upgraded from Business Partner)
659 Van Meter Street
Cincinnati, OH 45202-1568
Main Phone: (513) 241-1230
Main Fax: (513) 241-1287
www.hixson-inc.com

Contacts:
Michael J. Steur, Director, Client Development-Food & Beverage Industry
msteur@hixson-inc.com

Nathan D. Arnold, Director, Client Development-Food & Beverage Industry
narnold@hixson-inc.com

Products and Services:
Consistently recognized as one of the top architecture and engineering firms in the country, Hixson has designed and engineered manufacturing facilities for all types of dairy products for more than 50 years. Dairy manufacturers continually place their trust in Hixson's deep knowledge and experience for renovations, expansions, and greenfields, new and expanded production systems, automation, master planning, energy/water conservation, utility improvements and other related services.

Intralox
301 Plantation Road
Harahan, LA 70123
www.intralox.com

Contact: Rod Markovits, Industry Team Leader – Global
Phone: (504) 570-2952
rod.markovits@intralox.com

Products/Services:
Intralox is the global conveyance solutions leader, offering direct service for a broad range of industries. We specialize in innovative technologies, including modular plastic belting, ThermoDrive® technology, DirectDrive™ System (DDS™) spirals, and Activated Roller Belt™ (ARB™) equipment. Our products, combined with a powerful blend of engineering expertise, services, and support, are backed by the strongest written performance and delivery guarantees.

J.P. Morgan
10 South Dearborn Street, Floor 36
Chicago, IL 60603-2300
www.jpmorgan.com/commercial-banking/industries/agribusiness-and-food

Contact: Jeffrey Ware, Executive Director
Phone: (312) 336-3723
jeffrey.ware@jpmorgan.com

Products and Services:
For over 100 years, J.P. Morgan has provided a full range of domestic and international financial solutions to food and agribusiness clients, helping them to achieve their strategic and financial goals.

Nui Markets
587 Mt. Eden Road
Mt. Eden, Auckland 1024
New Zealand
Main Phone: (64) 9 887 8591
www.nuimarkets.com
sales@nuimarkets.com

Contact: Ashley Honey; Senior Vice President – Americas,
(602) 380-2681 - located in Greenwich, CT
ashley@nuimarkets.com

Products/Services:
Nui offers a digital trading platform and online marketplace that moves the trading world into the future. Our platforms offer a compelling alternative to dairy companies who see the potential of digital global trading systems. The platform can be quickly integrated directly into your business and helps simplify the sales process between sellers and buyers in the commodity trading sector. Nui's platforms are designed with your look and feel and brand so you can make it your own. We customize the platform to match your specific trading and business needs, enabling you to control what you trade, when you trade, and who you trade with.

Schenck Process
7901 NW 107th Terrace
Kansas City, MO 64153-1910
Main Phone: (816) 891-9300
www.schenckprocess.com/us
sales-fcp@schenckprocess.com

Contact: Steve Vollmer, Industry Manager – Food
s.vollmer@schenckprocess.com

Products/Services:
Schenck Process is a complete global source of highly accurate dry powder pneumatic conveying, mixing and blending, and weighing and feeding systems with additional expertise in dust collection. For over 50 years a strong commitment to research and development has led to some of the industry's most advanced products and technologies. Schenck Process has been awarded hundreds of patents and has been recognized by our customers for providing custom solutions for their specific material handling needs.

Weber, Inc.
10701 N. Ambassador Drive
Kansas City, MO 64153-1216
Main Phone: (816) 891-0072
Toll Free: (800) 505-9591
Main Fax: (816) 891-0074
www.weberslicer.com

Contact: Tommy Howell, Marketing Manager
tommy.howell@weberslicer.com

Products and Services:
From artisanal to industrial companies, a precise cutting result is the top priority when slicing. That is exactly what is achieved when using Weber's high-performance slicer. With up to 2000 slices per minute and an optimal product yield and minimal giveaway, Weber slicers fulfill all requirements in the food processing space, serving artisanal, deli, snacking, cheese, and meat slicing companies. The open construction and the Weber hygienic design makes cleaning and maintaining Weber Slicers easy and efficient.

IDFA Business Partners (3)

AMAC Technologies, Div. of Yutaka Pte Ltd.
5753 East Santa Ana Canyon Road, Suite G-777
Anaheim, CA 92807-3230
Main Phone: (877) 380-6117
Main Fax: (877) 278-3128
www.amactechnologies.com

Contact: John Yamasaki, Director of Operations
john@amactechnologies.com

Products and Services:
AMAC specializes in semi-auto and fully automatic vacuum packaging machines as well as single and double chamber type vacuum packaging machines for the food industry: cheese and other dairy products, meat, poultry, fish, etc. They also manufacture and supply thermo-forming and tray-packaging machines.

CoBank
6340 S. Fiddlers Green Circle
Greenwood Village, CO 80111
Main Phone: (800) 542-8072
www.cobank.com

Contact: Dan Terrill, Vice President
(303) 793-2179
dterrill@cobank.com

Products and Services:
CoBank provides financial products and advisory services to companies throughout the dairy industry.

Sigma Phase, Corp.
49 Waltham Street
Lexington, MA 02421-5411
Main Phone: (617) 270-6608

Contact: Matthew Fonte, President
mfonte@sigmaphase.com

Products and Services:
Sigma Phase, Corp. manufactures single serve ice cream machines.

The Inaugural NextGen Leadership Class Is Here!

By Michael Dykes

August 16, 2019

As industries grow and evolve, they all face unique challenges. Dairy is no exception, and we will continue to need capable and talented leaders to make and market our ever increasing array of healthy and delicious products for an evolving global marketplace.

That's why I'm so proud of IDFA's first NextGen Leadership class. We hosted these upcoming leaders in Washington, D.C. this week with a focus on leadership and advocacy, and I was incredibly impressed by their expertise, passion and creativity. I think it's safe to say the future of the dairy industry is in good hands.

The NextGen Leadership program is designed to support, guide and prepare mid-senior level dairy industry professionals ready to take the next step in their leadership journey. This unique program convenes a class of 10-20 IDFA members annually for a multi-faceted, year-long curriculum. The program equips participants with skills required to successfully conquer business demands today and in the future. Participants build relationships with their peers, develop leadership skills and learn to become advocates for the dairy industry.

This week's meetings focused on advocacy and leadership, with the group of 13 professionals attending the George Washington Leadership Institute at George Washington's Mount Vernon, followed by a day of advocacy on Capitol Hill.

The class started on Tuesday afternoon with a discussion of their Clifton Strengths to discover which talents they rely on to build relationships, think strategically, execute plans and influence others to accomplish goals. IDFA's partner Egon Zehnder then led an interactive dinner discussion around leadership, diversity and career management. The group spent Wednesday at Mount Vernon (President George Washington's home) attending the George Washington Leadership Institute program. They engaged in Mount Vernon's newest digital interactive leadership experience where they used their own judgement to make decisions based on the information Washington had at the time and then compare their own decision making with that of Washington.

I welcomed the group back to our IDFA offices Thursday morning where the team completed professional head shots and video interviews responding to questions about the NextGen program, before departing for a tour of the U.S. Capitol and meetings with Congressional staff. We concluded the day with a group lunch and photo in front of the Capitol.

One member of the NextGen class, Patrick Schallberger, CEO of Hollandia Dairy in San Marcos, Calif., said, "So proud to be part of this program. I came into work today feeling as inspired as ever."

For me, Patrick's comment not only made my day, but also demonstrates the value of investing in our leaders of today and tomorrow.

I am grateful to our IDFA members for nominating these very talented individuals who participated in this week's activities; we have other learning sessions planned for IDFA's Dairy Forum 2020 in Scottsdale, Arizona as well as at the May IDFA Board meeting and through various webinars.

Initiatives like NextGen are only possible with the support of IDFA members like you. Thank you for all you do to grow and support our dairy industry. Together I truly believe we are making a difference for dairy today and well into the future.

Save the Date

Applications for the NextGen Cohort 2 Open May 15, 2020

FOR MORE INFORMATION: **www.idfa.org/nextgen-leadership** **cnewman@idfa.org**