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**COMMENTS  
OF  
SUNKIST GROWERS**

**RE: FOOD STANDARDS; GENERAL PRINCIPLES AND FOOD STANDARDS  
MODERNIZATION**

**SUBMITTED TO**

**U.S. DEPARTMENT OF AGRICULTURE  
FOOD SAFETY AND INSPECTION SERVICE  
DOCKET NO. 95-051P  
RIN 0583-AC72**

**AND**

**U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES  
FOOD AND DRUG ADMINISTRATION  
DOCKET NO. 1995N-0294  
RIN 0910-1C54**

**THURSDAY, AUGUST 18, 2005**

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The following is submitted by Sunkist Growers in response to the *Federal Register* notice of May 20, 2005, (Vol. 70; No. 97 (pp 29214-29235)) Docket No. 95-051P and Docket No. 1995N-0294 requesting comments concerning proposed general principles for the establishment of criteria to be used by the agencies in considering petitions for modern food standards and standards of identity and composition of food products.

Sunkist Growers commends the Food Safety and Inspection Service of the U.S. Department of Agriculture and the Food and Drug Administration of the U.S. Department of Health and Human Services for jointly proposing this rule to establish a set of principles to more clearly and effectively define standards of identity for food products.

We believe this is a long overdue step to modernize food standards in a manner that ensures consumers actually get what they expect when they purchase food products. This change will help achieve what Congress intended in 1938, when it authorized FDA to issue standards “to promote honesty and fair dealing in the interest of consumers.”

Sunkist Growers is pleased to participate and support this process. As you may know, Sunkist Growers is a 112-year old non-profit, non-stock, farmer-owned, marketing cooperative. Today Sunkist serves as the global marketing entity for some 6,000 citrus farmers in California and Arizona. In addition to marketing our growers’ fresh citrus fruit, Sunkist also is engaged in the manufacture and sale of citrus juice, including lemon juice and orange juice, and peel products derived from our grower-owners’ fruit not sold as fresh.

The general principles identified in the proposed rule we believe outline essential guidelines for the achievement of food standards of identity long sought and sorely needed to meet the goals of the Act intended by Congress. Standards that protect consumers by requiring accurate description of the basic nature of the product and reflect essential characteristics reasonably assumed by the consumer to be ingredients, while not misleading or suggesting the product is of a better or greater value, are all characteristics of public policy strongly endorsed by Sunkist Growers.

This proposed rule and the resulting commitment of FDA and FSIS to establish guiding principles so that petitions for clear and consumer friendly standards of identity for food products can be considered, in a timely manner, gives us great hope existing deficiencies in standards will now be remedied.

For example, Sunkist Growers (Sunkist®) has considered petitioning the FDA to clearly define a standard of identity for “lemonade.” Despite facts and circumstances which Sunkist believes warrants such a change, Sunkist has held off submitting a petition because it has been unclear whether the Agency would devote sufficient resources to seriously consider this substantive change to the standard in a timely manner. Implementation of or changes to a food standard, where supportable, should not take many years or decades to achieve. Rather, such regulatory result should be achievable in a reasonable amount of time, to see benefit of both the consumer and the supplier of the food.

On August 13, 1964, a *Federal Register* notice requested comment on a number of definitions and standards of identity for diluted citrus fruit juice beverages. According to the notice, the proposed definitions were drawn directly from a proposal filed with the then Department of Health, Education and Welfare (HEW) by Sunkist. At that time, Sunkist's proposal set forth definitions for a number of products including various orange drinks, grapefruit drinks, as well as lemonade, and other lemon drinks. Final regulations were promulgated by FDA and published in the *Federal Register* on May 7, 1968. Those regulations were short-lived. A notice staying the new regulations was published July 27, 1968. A public hearing was eventually held but the stay placed on the lemonade standards of identity was never lifted. A review of the record indicates relatively few criticisms were leveled at the proposed standards, and none of the objections in the record in and of themselves appear fatal to the concept of creating a standard for "lemonade."

Sunkist, the petitioner for the proposed regulations at that time, submitted substantial evidence that lemon juice ingredients were not and are not identified with sufficient clarity so as to provide honesty and fair dealing to consumers. The consumer should be assured that the product being purchased has the reasonably expected characteristics of the food. This issue offers a good example of what we understand is the goal of FSIS and FDA with promulgation of this proposed rule.

We believe the proposed FSIS/FDA rule establishes the appropriate principles for the consideration of standards of identity for food products including, for example, lemonade.

On page 29216, the proposed rule quotes from the Act as to the rationale for such standards. "such action will promote honesty and fair dealing in the interest of consumers..." (21 USC 341). It continues to quote from the regulations noting "FDA food standards establish the common or usual name for a food and define the nature of the food, generally in terms of the types of ingredients that it must have (i.e. mandatory ingredients), and that it may contain (optional ingredients). FDA food standards may specify minimum levels for fillers and water..." (21 CFR 130 to 169). Further the proposal points out that some foods are defined and distinguished by their ingredients. The standards for these foods set specific limits on the levels of ingredients that may be used.

The proposal discusses several options developed by an Agency Task Force formed in 1996. The Agency settled upon the 5<sup>th</sup> suggested option (pages 29219-20) wherein the Agency recommends relying on interested outside groups who have the most knowledge of a particular product to propose, within certain principles, a revision to a standard. The discussion also refers to FDA's series of consumer focus groups, concluding that consumers found standards of identity useful for several reasons including helping to "ensure a product has the expected characteristics." Furthermore, a majority of participants in those focus groups maintained that "food standards are needed to ensure product quality and uniformity and to protect consumers from economic deception." Sunkist strongly agrees with those conclusions.

Sunkist believes our historic effort to establish a standard of identity for lemonade is a perfect example of the need for this proposed rule with its foundation principles to be adopted and actively put into practice. We suggest that products should actually be required to have at least a reasonable minimum ingredient content reasonably expected by the consumer. Unfortunately, that is not the case today. Some products sold as lemonade contain no lemon product. Sunkist also believes that such standards can be established without in any way impeding technological advances in food or food products.

Sunkist endorses the general principles in the proposal and urges that they be finalized as soon as possible. Further, Sunkist urges that petitions to establish or change standards of identity that fit within these guidelines be considered and acted upon expeditiously.

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