



# Consumer Federation of America

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March 30, 2000

Ms. Virginia Wilkening  
Office of Nutritional Products,  
Labeling and Dietary Supplements  
Center for Food Safety and Applied Nutrition  
U.S. Food and Drug Administration  
200 C Street, SW, HFS-820  
Washington, DC 20204

Dear Ms. Wilkening,

The Consumer Federation of America, a nonprofit association of more than 260 pro-consumer groups that together have more than 50 million members, is pleased to comment on the National Yogurt Association's recent petition to revise the standards of identity for yogurt.

Consumer advocates have long argued that many standards of identity are out-of-date and inhibit the marketing of healthier food products. The yogurt standards are worse than most. They grew haphazardly over time and were never completed. Today they are a collection of fragmented provisions that do not reflect current manufacturing practices and, worse, do not adequately specify what many would say is the defining characteristic of yogurt.

The National Yogurt Association, apparently with the encouragement of the Food and Drug Administration, proposes to clarify this situation and both update and complete the yogurt standards.

The Association's petition points out that most consumers associate yogurt with the presence of "live and active cultures" of a particular lactic acid-producing bacteria, *Lactobacillus delbrueckii* subspecies *bulgaricus* and *Streptococcus thermophilus*. In fact, many consumers purchase yogurt specifically for the health benefits long associated with these cultures.

The current yogurt standards do not specify a minimum level of these cultures. That means, while most brands of yogurt on the U.S. market contain significant amounts of these cultures, consumers can be left in the dark about the level of cultures in a particular yogurt product. The petition proposes to correct this by setting a standard of  $10^7$  CFU per gram of live and active cultures at the time the product is manufactured. It proposes that any product that otherwise meets the standards of identity for yogurt—but falls short of the specified amount of live and active cultures—should be called either cultured milk or fermented milk.

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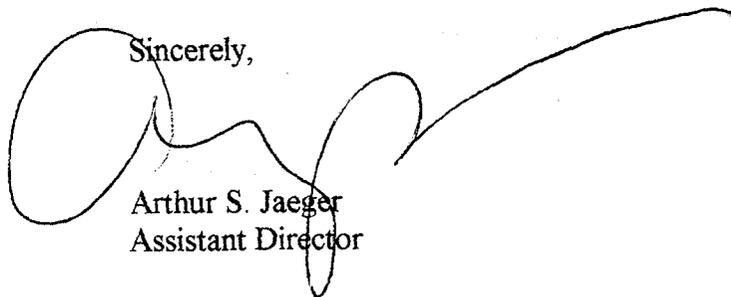
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Adopting the Association's proposal clearly would solve a problem associated with the current standards—that is, their failure to require a minimum amount of live and active cultures for a product to be called yogurt. In recent years, heat-treated products have been marketed that did not contain active cultures but were still labeled yogurt. In addition, such products are common in Europe. At a minimum, this is confusing to consumers. The petition would require that these products be called either cultured milk or fermented milk.

The Association's petition is a step forward. But the Consumer Federation of America does not have sufficient background to judge many aspects of the petition. For example, it cannot evaluate whether the particular standard proposed—at least  $10^7$  CFU per gram of active cultures at the time of manufacture—is too high, too low, or about right. Further, is there a better name for yogurt products failing to meet this standard than “cultured milk” or “fermented milk”? Perhaps “yogurt alternate” or “yogurt substitute” would come closer to describing products that are otherwise yogurt but lack sufficient live and active cultures.

For this reason, while it agrees with the key goal the proposal, CFA wants to review comments from other interested parties before offering more specific thoughts. FDA is encouraged to initiate a rule-making based on the petition and to seek comments on it. CFA looks forward to offering more specific views at a later date.

Sincerely,

A large, stylized handwritten signature in black ink, appearing to read 'Arthur S. Jaeger', is written over the typed name and title.

Arthur S. Jaeger  
Assistant Director