



Upstate Farms Cooperative, Inc.

Timothy R. Harner
Chief Legal Officer

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November 29, 2004

Div. of Compliance Policy (HFC-230)
Office of Enforcement, Food & Drug Admin.
5600 Fishers Lane
Rockville, MD 20857

Re: Sec. 560.400 -Imported Milk and Cream -Federal Import Milk Act

Dear Div. of Compliance Policy:

Upstate Farms Cooperative, Inc. is a dairy cooperative with about 300 dairy farm family members in Western New York. We own and operate three dairy plants with over 500 employees, to market more than a billion pounds of milk each year. Our products include fluid milk, cottage cheese, ice cream mix and yogurt.

The number one concern of our members is that dairy farmers who export their dairy products to the U.S. must comply with the same high quality standards as U.S. dairy farmers do.

With all the concerns we have for food safety and the quality of our domestic supply, we were very disturbed after reviewing the Compliance Policy Guide (CPG) entitled "Sec. 560.400 - Imported Milk and Cream -Federal Import Milk Act".

This document has not been updated as milk quality has greatly improved and U.S. milk producers are required to meet much more stringent standards. These requirements exceed those that are required under the Federal Import Milk Act (FIMA). FIMA does not require testing or set limits for somatic cell and coliform counts, animal drug residue testing or phosphatase testing. Also, microbiological test requirements and storage temperature limits are far too high in the FIMA.

The FIMA permit only addresses cows' milk and should be broadened to include sheep, goats and other lactating mammals that have their milk commercially collected and processed.

Many of the dairy products exempted fall into the milk and cream category, such as sour cream, cultured milk, acidified milk, dried milk, nonfat dry milk, and fortified nonfat dry milk.

Also, the CPG exempts commercially sterile dairy products. This was not provided for in the FIMA and should be removed from the CPG.

In an effort to continue supplying US consumers with the highest quality and safest food supply, we ask that you revise the CPG and update the FIMA. The FIMA should meet the stringent requirements under the Pasteurized Milk Ordinance and the definition of products

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should include those items in the CPG draft and additionally, sour cream, cultured milk, acidified milk, yogurt, cheese, ice cream, eggnog, dried milk, nonfat dry milk, nonfat dry milk fortified with vitamins A and D, other dehydrated milk products, and any product listed as requiring a permit that is processed and packaged in hermetically sealed containers.

If you have any questions regarding our comments or concerns please call me at our toll free number 1-866-874-6455, Ext. 2233.

Sincerely,



Timothy R. Harner
Chief Legal Officer

cc: Rob Byrne, NMPF

FAX FROM DCP

ORA/OE/DCP, HFC-230, 15800 CRABBS BRANCH WAY, SUITE 126, ROCKVILLE, MD 20855
(240) 632-6860 FAX (240) 632-6861



DATE: 12/3/04
FROM: Nina Adler
TO: Division of Dockets Management

REMARKS

Here are comments for FR doc
04-24153.

Thank you

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