



United Egg Producers

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July 19, 2005

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Official U.S. Council Representative

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

Re: [Docket No. 1998N-0359 (formerly Docket No. 98N-0359)]

Dear Sir or Madam:

These comments are submitted on behalf of United Egg Producers (UEP). UEP is a farm cooperative whose members account for some 90% of shell egg production in the United States. We appreciate the opportunity to provide the Center for Food Safety and Applied Nutrition (CFSAN) with our views on the Center's FY 2006 Program Priorities. Our members share CFSAN's food safety goals, appreciate the professional working relationship that we have with the Center, and trust that our comments will be helpful in developing priorities for the coming fiscal year.

Egg Safety Rule

CFSAN's FY 2005 Program Priorities included an "A" category listing for the following item: "Develop Egg Safety final rule for publication in FY 2006." UEP has commented extensively on the proposed rule published during 2005. With respect to 2006, UEP respectfully suggests that the Center adopt the following items, assigning them equal priority (whether "A" or "B"):

- **Adopt Egg Safety final rule with two-year phase-in.**
- **Pursuant to Egg Safety final rule, commence first year of transitional activities:**
 - **Develop Recognition Regime for state Egg Quality Assurance Programs.**
 - **Conduct assessment of laboratory capacity for SE testing.**

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- **Survey egg processing industry to determine processors' readiness to accept eggs from SE-positive flocks, and on what terms.**
- **Make any modifications necessary in Egg Safety final rule in light of results of transitional activities.**
- **Develop Memorandum of Understanding with U.S. Department of Agriculture's Agricultural Marketing Service to carry out inspections under Egg Safety final rule.**
- **Name producer advisory committee on SE control, comprising producers, processors, scientific experts, and state and federal regulatory officials.**

Each of the items above was among the major operational recommendations we made in commenting on the proposed egg safety rule. (Other recommendations we made – e.g., our strong view that incentives for the use of SE vaccines should be an integral part of the regulations -- were of equal importance to us, but dealt with the specifics of the proposed regulatory requirements, rather than how they would be administered or the process of facilitating a transition to making a final rule effective.)

The rationale for each recommendation was explained in our comment letter on that rule, dated December 21, 2004. For that reason, we will not repeat our reasoning on each item here. Rather, we would like to stress our view that a two-year transition is appropriate, with the first year of that period devoted to carrying out certain information-gathering and administrative activities that need to be concluded before the rule becomes effective.

These activities are listed under the second bullet above. We ask that the transitional activities be assigned a priority equal to that of the final rule itself, because if the issues addressed by the transitional activities are ignored, the final rule will be less workable and potentially more onerous to producers.

In-Lid Labeling

An "A" priority in 2005 was publishing a "proposal to permit 'in-lid' labeling for the Safe Handling Statement on shell eggs." UEP commends CFSAN for achieving this goal, and urges that an "A" priority for 2006 be adopted as follows:

- **Publish final rule to permit "in-lid" labeling for the Safe Handling Statement on shell eggs.**

In separately filed comments, UEP has explained in detail why CFSAN's proposed rule is meritorious and deserves to be adopted as a final rule.

Food Service, Retail and Consumer Education

Another 2005 “A” priority was to “hold public meetings on the proposed egg safety rule.” These meetings were held and, in UEP’s opinion, were extremely helpful to producers in understanding the rule, and to CFSAN in obtaining information on its likely consequences, as well as alternatives to certain aspects of the rule. A logical follow-on to these open, transparent sessions is further activity by FDA to involve a broader audience in egg safety. The agency is certainly addressing the producer community’s involvement through the egg safety rule. But the rule, as proposed, has little to say about the people in between the farm and the table.

Therefore, UEP respectfully suggests that CFSAN establish the following priority for 2006:

- **Expand education and outreach programs to food service, retail and consumers.**

We believe efforts to improve food service performance are particularly important. Producers will be required under the rule to carry out numerous interventions that should help reduce the incidence of SE, but foodborne illness outbreaks associated with eggs generally involve improper handling or refrigeration at some point before consumption. Educating and, where necessary, regulating the food service industry should be as high a priority for CFSAN as regulating producers.

Conclusion

Egg producers take pride in offering a safe, healthful, affordable and good-tasting product to consumers. We want to work in partnership with CFSAN in assuring that food becomes even safer and producers can operate in an environment where they have a fair chance to earn a reasonable return on their investment. Thank you for your consideration of our views on CFSAN’s 2006 Program Priorities.

Sincerely,



Howard M. Magwire
Director of Government Relations