



June 25, 2014

Submitted online at <http://www.regulations.gov/#!submitComment;D=FDA-2013-N-1425-0021>

Re: Docket No. FDA-2013-N-1425

Dear FDA staff:

The Weston A. Price Foundation (WAPF) is a nonprofit organization with members in every state and internationally. WAPF was founded in 1999 to disseminate the research of Dr. Weston Price, whose studies of isolated nonindustrialized peoples established the parameters of human health and determined the optimum characteristics of human diets. WAPF is dedicated to restoring nutrient-dense foods to the human diet through education, research and activism.

The Farm-to-Consumer Legal Defense Fund (FTCLDF) is a non-profit organization whose mission is to protect the constitutional right of the nation's family farms and artisan food producers to provide processed and unprocessed farm foods directly to consumers through any legal means, and to protect the constitutional right of consumers to obtain unprocessed and processed foods directly from family farms and artisan food producers.

The Farm and Ranch Freedom Alliance (FARFA) is a national nonprofit organization with members in 45 states that supports independent family farmers and protects a healthy and productive food supply for American consumers. FARFA promotes common sense policies for local, diversified agricultural systems.

WAPF, FTCLDF, and FARFA jointly submit the following comments on the proposed rule for Focused Mitigation Strategies to Protect Food Against Intentional Adulteration

I. We support the proposed exclusions.

Since the focus of the proposed rule is on acts of terrorism, which are “intended to cause widespread, significant public health harm,” we support the provision in the proposed rule to exclude facilities with less than \$10 million in gross annual sales.

The extreme consolidation of our food system is the main reason that it could be a target for terrorism or other intentional acts aimed at causing widespread human casualties. The proposed

exclusion properly recognizes that small-scale food operations are simply not a terrorist target, such that it is appropriate to exclude them from these new regulatory burdens.

In addition, in the long run, the FDA should look for methods to promote local, decentralized food production and distribution. Such systems create less risk for both terrorist attacks and the more common issue of foodborne illness. They also carry significant benefits for public health, the environment, and local economies.

We also concur with the agency's preliminary conclusion that "activities that are typically performed on produce farms are at relatively low risk for intentional adulteration of food from acts of terrorism," and that they should therefore not be covered by this rule.

II. We urge the agency to apply the rule only to those dairy farms that pose a significant target for intentional adulteration.

While the dairy industry as a whole poses a risk for intentional adulteration, that is not the case with all individual dairy farms. We urge the agency to apply the regulation only to those dairy farms that truly pose a significant risk.

The following dairy farms should be excluded, as they are not high-risk:

- A. Dairy farms with herds of fewer than 50 milking cows. These farms produce less than 5% of the milk sold in the U.S., according to the most recent USDA Census of Agriculture. *See* USDA, National Agricultural Statistics Service, 2012 Census of Agriculture, Table 17, available at http://www.agcensus.usda.gov/Publications/2012/Full_Report/Volume_1,_Chapter_1_US/st99_1_017_019.pdf.
- B. Dairy farms that meet two conditions: (1) fewer than 200 milking cows, and (2) do not commingle their milk with any other farm (i.e. they either sell their own milk directly to consumers or use "identity preserved" marketing channels). Farms with fewer than 200 head sell less than 25% of the milk supply to begin with, and the number of farms that do not commingle their milk are a small fraction of those. Most importantly, by limiting the exclusion to those farms who do not commingle their milk with other farms, it removes the risk that any contamination could be widespread; any contamination that might happen would be limited and immediately traceable.
- C. Dairy goat and sheep farms. Sales of milk from sheep and goats account for less than a half of a percent of all milk sales in this country. *See* 2012 Census of Agriculture, Table 35, available at www.agcensus.usda.gov/Publications/2012/Full_Report/Volume_1,_Chapter_1_US/st99_1_034_036.pdf. In addition, more than three-quarters of dairy goat operations sell their products directly to consumers. See USDA, Small Scale U.S. Goat Operations (2011) at p.18, available at http://www.aphis.usda.gov/animal_health/nahms/smallscale/downloads/Small-scale_goose.pdf. The combination of small-scale operations and direct marketing make these farms an extremely low risk for becoming targets of terrorists or other intentional contamination.

If dairy goat and dairy sheep farms are covered, then an exclusion should be crafted that reflects the exclusion for dairy cow farms, adjusted for the lower milk production per animal from a goat or sheep (i.e. farms with fewer than 250 goats or sheep should be

excluded, and farms with fewer than 1,000 goats or sheep who do not commingle milk should be excluded).

III. We urge the agency to focus on education, rather than regulatory requirements and paperwork.

For covered dairy farms, the focus should be on education. FDA has a guidance document for the dairy industry on food security, and several extension programs have developed educational series on food security, both generally and specifically aimed at dairy farms.

Educating farmers so they understand the need for farm security will be far more effective in the long run than regulating more paperwork. For example, a 2007 survey found that producers “were likely to have invested in a security measures if they were aware of how to develop a security policy and had a good idea of the cost of security measures.” D.A. Moore and M. Payne, *An Evaluation of Dairy Producer Emergency Preparedness and Farm Security Education*, J. DAIRY SCI. 90:2052-2057, at 2052 (2007).

Since farms vary significantly in both size and management type, education efforts provide the opportunity to help farmers address their unique situations, rather than imposing a regulatory framework that may or may not be suitable for any given farm. Cf. N.K. Buttars et al., *Adoption of Security Systems by Dairy Farms to Address Bioterrorist Threats in the Intermountain United States*, J. DAIRY SCI. 89:1822-1829 (2006) (looking at the differences between small and large dairy farms in the implementation of security policies).

Conclusion

In implementing the intentional adulteration provisions of the Food Safety Modernization Act, we urge the FDA to stay focused on large, high-risk facilities. With respect to dairy farms in particular, small farms and those that do not commingle their milk pose a low risk for terrorist attacks and should not be subject to new requirements. For those dairy farms that are subject to the new rule, we urge the agency to focus on educational approaches that can be tailored as needed to each farm, rather than imposing new regulatory requirements.

Submitted by:

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