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August 17, 2005

FSIS Docket Clerk Docket No. 95-051P
FDA, Cotton Annex Building
300 12th Street, SW
Rm 102
Washington, DC 20250-3700

95-051P
95-051P-4
Richard E. Cristol

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Re: Docket No. 95-051P – Food Standards; General Principles and Food Standards Modernization

By notice published in the *Federal Register* on May 20, 2005 (70 FR 29214) (hereinafter, the "Notice"), the Food and Drug Administration ("FDA") has requested comments on proposed amendments to 21 CFR § 130.5 which would establish a set of general principles for establishing, revising or eliminating food standards.¹

Juice Products Association ("JPA") is a trade association whose regular membership consists of 68 processor companies located throughout the United States, Canada, Europe, and South and Central America. Its regular members include major packers and distributors of a wide variety of fruit and vegetable juices, juice beverages and drinks, jams, jellies, fruit spreads and other fruit products. JPA represents a significant majority of the juice and juice beverage processors in the United States. JPA offers the following comments in response to FDA's request.

JPA endorses, by and large, the proposed general principles and the other proposed amendments to § 130.5, and hopes that the proposed amendments, when adopted in final form, will permit FDA to dispose of petitions relating to food standards on a more timely basis. JPA also agrees that FDA's preliminary conclusion that the "fifth option" among those options considered by the Work Group (as defined in the Notice) is the most appropriate course of action in the process of food standards reform.

Despite its general support for the amendments proposed in the Notice, JPA believes the language of proposed § 130.5(b)(7) should be revised because – whether or not intended by the agency – it appears to require that a U.S. standard for a food for which a Codex Alimentarius Commission standard already exists be identical to the Codex standard absent some showing by the petitioner that it should not. While proposed § 130.5(b)(7) appears to be qualified at the outset by the phrase "[c]onsistent with § 130.6 of this chapter," the remainder of paragraph (7) goes beyond what is stated in § 130.6. Section 130.6 provides three ways in which Codex standards may be reviewed, and has existed for many years. JPA is not aware of a single Codex standard that has been "accepted" as provided in § 130.6, either with or without changes.

¹ By the same *Federal Register* notice, the Food Safety and Inspection Service of the United States Department of Agriculture also proposed to establish substantially identical general principles in a new § 410.1 (9 CFR). The comments set forth herein are limited to the FDA proposal.

The remainder of proposed § 130.5(b)(7) suggests two very different requirements. First, it would require that a proposed food standard "should be harmonized with international food standards to the extent *feasible*." (emphasis supplied) Most dictionaries define "feasible" as "capable of being done." JPA suggests that "feasible" is not the appropriate word for this paragraph of the general principles because making virtually *any* proposed food standard identical to an existing Codex standard would almost always be "capable of being done," but is not always practical or desirable. For example, consumer expectations vary by country for numerous food products. Product development includes assessing the marketplace and formulating against those consumer needs. These foods are, therefore, produced to meet such regional expectations.

JPA suggests that proposed § 130.5(b)(7) be reworded to read as set forth in the following alternative way (changes being shown below in legislative style):

~~(7) Consistent with § 130.6 of this chapter, the~~ The food standard should be harmonized with international food standards to the extent feasible such harmonization can be accomplished while maintaining consistency with the other applicable general principles listed under paragraph (b) of this section, if the food standard is different from the requirements in a Codex-standard for the same food adopted by the Codex Alimentarius Commission.

The above alternative wording of paragraph (7) would accomplish FDA's purpose in including this general principle – to require that a petitioner for a new or revised food standard give consideration to existing Codex standards when petitioning for a U.S. standard for the same food.

JPA understands that adoption of the amendments to § 130.5 will not make changes to any standards that now exist. However, if the proposed amendments are ultimately adopted, potential petitioners for new or revised standards will have a far better idea of what must be presented if they desire to seek a new or revised standard. Certain of the proposed principles suggest areas in which existing standards, including some applicable to juices and fruit spreads can be improved in terms of their usefulness to the public and industry. For example, the standards for orange juice and orange juice products in 21 CFR §§ 146.135 - .152 could perhaps be consolidated into a single standard providing for the various forms now covered by separate standards. Redundant language in a number of these standards would also thereby be eliminated.

Another example entails the standards for fruit preserves and jellies. The current standards for artificially sweetened fruit preserves and artificially sweetened jellies could be repealed to take advantage of other low-calorie sweeteners now available since the standards only allow the use of saccharin as a sweetening ingredient.

With respect to the implementation of the proposed amendments, they will clearly not become effective until published (with or without modifications) as a final rule. JPA urges FDA to be receptive to petitions for new or revised standards prepared in accordance with the general principles prior to publication of a final rule.

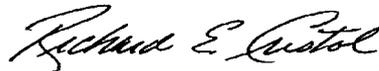
The Juice Products Association accepts the opportunity to take on the task of adapting to final changes to the Standards of Identity, and is willing to adopt sound criteria that will expedite modernization of the proposed standards.

Division of Dockets Management (HFA-305)
August 17, 2005
Page 3

However, without effective enforcement from the governing bodies for these Standards, compliance will be ineffective. A lack of application will lead to weak, ineffective standards; a result being a low level of compliance and lack of uniformity throughout the food industry.

JPA appreciates the opportunity to comment on the proposed amendments set forth in the Notice.

Respectfully,

A handwritten signature in cursive script that reads "Richard E. Cristol".

Richard E. Cristol