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WASHINGTON, D.C. 20543

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*April*

RELEASED

JUN 30 1970



Dear Senator Nelson:

Reference is made to your letter dated April 16, 1970, in which you requested that we investigate whether Monterey cheese imported from New Zealand under the quota category of "Other cheese" is being used in place of cheddar cheese in the manufacture of American-type processed cheese or cheese foods. You stated that the standards of identity of the Food and Drug Administration do not authorize the use of Monterey cheese for manufacturing processed American cheese or processed American cheese foods. You suggested that we make a spot check of a limited number of shipments imported from New Zealand to determine whether Government regulations are being violated.

Part 19 of title 21, Code of Federal Regulations (CFR), sets forth definitions and standards under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301) for cheese and cheese products. Sections 19.750(a)(6) and 19.750(e)(2)(ii) which pertain to pasteurized process cheese state:

"The weight of each variety of cheese in a pasteurized process cheese made from two varieties of cheese is not less than 25 percent of the total weight of both,\* \* \*. These limits do not apply to the quantity of cheddar cheese, washed curd cheese, colby cheese and granular cheese in mixtures which are designated as 'American cheese' as prescribed in paragraph (e)(2)(ii) of this section. Such mixtures are considered as one variety of cheese for the purposes of this subparagraph."

\* \* \* \* \*

"In case it is made of cheddar cheese, washed curd cheese, colby cheese, or granular cheese or any mixture of two or more of these, it may be designated 'Pasteurized process American cheese'; or when cheddar cheese, washed curd cheese, colby cheese, or granular cheese or any mixture of two or more of these is combined with other varieties of cheese in the cheese ingredient any of such cheeses or such mixture may be designated as 'American cheese'."

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The Assistant General Counsel of the Food, Drugs, and Environmental Health Division, Department of Health, Education, and Welfare, stated that 21 CFR 19.750(e)(2)(ii) requires that the end product bear the name of the other variety of cheese which is mixed with one or more of the stated cheeses and that such a product may not be called simply "American cheese." He also stated that the minimum weight requirements of 21 CFR 19.750(a)(6) apply to such an additional variety of cheese.

To determine whether Monterey cheese imported from New Zealand was being used in place of cheddar cheese in American-type processed cheese and cheese foods, we visited six cheese-processing companies and interviewed company officials. Officials of two companies informed us that they each had a license to import Monterey cheese from New Zealand; however, they had sold the imported cheese to other companies and had not used the cheese. Officials of the other four companies advised us that:

- since July 1, 1969, their companies had used a total of about 3.2 million pounds of imported Monterey cheese as a substitute for cheddar cheese in American-type processed cheese;
- the proportion of imported cheese contained in their processed cheese was less than 25 percent of the total weight of the processed cheese; and
- their end product which contained the imported cheese was labeled "Pasteurized Process American Cheese."

On the basis of the Assistant General Counsel's statement and the above information provided by the company officials, it appears that the four cheese companies are in violation of 21 CFR 19 of the Food and Drug Administration's regulations. These apparent violations by the four cheese companies were (1) the imported cheese did not account for at least 25 percent of the weight of the process cheese and (2) the label on the end product did not include the name Monterey cheese.

You also stated in your letter that a panel of cheese identification experts, in tests conducted at the Department of Agriculture, concluded unanimously that the cheese in question was not Monterey as claimed by the exporters but instead was cheddar. The panel's conclusion appears to be supported by officials of four of the companies we visited who advised us that the imported Monterey cheese is similar to cheddar cheese.

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An official of the Food and Drug Administration advised us on May 11, 1970, that the question of whether the imported cheese was properly identifiable as Monterey cheese was being considered by the agency. He stated that samples from the next shipment of New Zealand Monterey cheese received at either San Francisco or New York City would be obtained and analyzed to determine whether the product is Monterey cheese or another variety of cheese. He stated also that, should the imported product known as Monterey cheese be reclassified as another variety of cheese, the Bureau of Customs would have to charge future shipments of the imported cheese to the appropriate New Zealand cheese quota.

We plan to make no further distribution of this report unless copies are specifically requested, and then we shall make distribution only after your agreement has been obtained or public announcement has been made by you concerning the contents of the report.

Sincerely yours,

A handwritten signature in cursive script, appearing to read "James B. Stewart".

Comptroller General  
of the United States

The Honorable Gaylord Nelson  
United States Senate