



17 November 2008

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Via Federal eRulemaking Portal: www.regulations.gov

***US Chocolate and Confectionery Industry Urges Broad Definition of “Common Food Crops”
to Exclude Critical Ingredients from Scope of Lacey Act***

Docket no. APHIS-2008-0119

This submission is in response to the scope of the updated Lacey Act aimed at curbing illegal logging globally. Our comments specifically address the definition of “*common food crops and products thereof*” that would be exempted from the requirements of the Act.

Background on the US Chocolate and Confectionery Industry

Four hundred companies, all members of the National Confectioners Association, manufacture more than 90% of the chocolate and confectionery products in the United States.¹ Another 250 companies supply those manufacturers. The industry is represented in 35 states with particular manufacturing concentration in Pennsylvania, California, New Jersey, Illinois, New York, Wisconsin, Texas, Virginia, and Ohio. Approximately 65,000 jobs in the United States are directly involved in the manufacture of chocolate and confectionery products. When the distribution and sale of these products are taken into consideration, the beneficial effect for US employment triples.

Industry Position: Definition of “common food crops and products thereof” should be broad

At the public meeting held on October 14th, we were pleased to hear Mr. William Thomas, Associate Executive Director of Plant Health Programs at APHIS, state that a “*common food crop*” will essentially be defined as “something that can be consumed by a human”. The US confectionery and chocolate industries strongly support such a broad and expansive definition of “*common food crops and products thereof*” to include any plant-derived product or tree-derived product that can be consumed by humans.

Prime examples of plant-derived or tree-derived products destined for human consumption and used in the manufacture of confectionery and chocolate include but are not limited to cocoa and its derivatives, sugar and its derivatives, gums, carrageen and mucilage, as well as numerous flavors and extracts derived from plants and/or trees. All these products, in whatever form, should be included in the definition of “*common food crops and products thereof*” to ensure their exemption from the Lacey Act.

On behalf of our members, we welcome the practical approach proposed by APHIS at the public meeting to define “*common food crops and products thereof*” as broadly as possible and to exempt products for human consumption from the Lacey Act requirements.

Sincerely,

Lawrence T. Graham
President

¹ NCA members' intermediate cocoa inputs, chocolate and confectionery products fall under HS codes 1704.10, 1704.90, 1803.x0, 1804.00, 1805.00, 1806.10, 1806.31, 1806.32 and 1806.90.