



May 10, 2019

Dr. Stewart Townsend  
Lyrical Foods/Kite Hill  
3180 Corporate Place  
Hayward, CA 94545

**RE: TEMPORARY STANDARD PETITION FOR ALMOND MILK CREAM CHEESE  
AND ALMOND MILK RICOTTA**

Dear Dr. Townsend,

The Department has completed its evaluation of your petition for a temporary standard for almond milk cream cheese and almond milk ricotta dated February 12, 2019. Pursuant to Food and Agricultural Code (FAC) section 36633, the temporary standard request was evaluated based on the following:

- (1) Written testimony submitted by all interested persons during the hearing conducted February 27, 2019 through April 15, 2019.
- (2) The health and safety conditions under which the proposed product will be processed and distributed.
- (3) Existing definitions and standards established for comparable products.

All testimony submitted by interested persons was in opposition to the proposed temporary standards of identity. Commenters included milk cooperatives, dairy product manufacturers, and trade associations representing sectors of the dairy industry both within California and nationally. Testimony submitted to the Department centered on three major areas of concern including, 1) objections to the use of regulated dairy product standards of identity or commonly used dairy product names to describe plant-based foods; 2) consumer confusion created by market use of dairy terms on nondairy foods, particularly with respect to the nutrient content or nutritional equivalence of dairy products compared with plant-based alternatives; and 3) the ability of firms to already market nondairy plant-based substitute cheese products labeled as "imitation" pursuant to the product resembling milk product provisions of existing law (FAC Division 15, Part 3, Chapter 6).

Facilities processing and packaging products resembling milk products are already subject to regulatory food safety inspection by the Department and must meet the same sanitary requirements of a licensed milk products plant. Thus, the health and safety conditions under which the proposed products would be processed and distributed would not differ from those required of existing milk products or products resembling milk products regulated by the Department and separate standards of identity are not needed to ensure consumer safety or the protection of public health.





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Regarding existing standards for comparable products, the food “cream cheese” is defined under Title 21, Part 133.133 of the Code of Federal Regulations, and the dairy products “ricotta”, “part skim ricotta” and “whey-ricotta” have specifications for percent milk fat content and moisture content per Title 3, Division 2, section 415 of the California Code of Regulations (CCR). The food “Ricotta Cheese with Fruit Added” is also defined under Title 3, CCR section 415.03 requiring conformance with the same standards for moisture and milk fat as ricotta cheese or part skim ricotta cheese. Additionally, the Codex Alimentarius Standards cite “ricotta cheese” as an example of a “whey protein cheese” containing the protein extracted from the whey component of milk (CXS 192-1995, 01.6.6).

The Department finds the proposed temporary standards, being entirely non-dairy and plant-based, to differ significantly from all the above state, federal or international definitions of foods labeled as either cream cheese or ricotta, while proposing to use those names in conjunction with the term “almond milk”. Testimony submitted to the Department included the objection that the proposed temporary standards would utilize names defined under existing standards of identity for products that the dairy industry invests significant resources to manufacture in accordance with required state and/or federal quality and product specifications. The Department agrees that existing standards of identity for cream cheese and ricotta require the dairy industry to conform to specific ingredients and product formulations to avoid misbranding on product labeling in commerce, and that use of those terms for an entirely nondairy product as proposed could establish an unequal regulatory framework within the marketplace.

The Department also finds that the two proposed products may be freely marketed under existing law without temporary standards, provided they are labeled with appropriately descriptive terms such as “cream cheese substitute”, “cream cheese alternative” or “imitation cream cheese”.

Therefore, after careful consideration according to the criteria listed above, the Department pursuant to FAC sections 36633 and 36634 denies the petition to establish temporary standards for almond milk cream cheese and almond milk ricotta. Please be aware that FAC section 36635 allows an unsuccessful petitioner to resubmit not earlier than 60 days following the denial, provided the proposed standard has been modified so that a favorable ruling by the Secretary might reasonably be expected.

Should you have any questions please do not hesitate to contact us.

Sincerely,



Dr. Stephen Beam, Chief  
Milk and Dairy Food Safety Branch

cc: Dr. Annette Jones, Director, AHFSS-CDFA