

Proposed Florida Standard of Identity for Honey
Florida State Beekeepers Association
November 3, 2007

We, the Florida State Beekeepers Association Inc. request the Florida Department of Agriculture and Consumer Services, State of Florida, adopt CODEX STANDARD 12-1981, Rev.1 (1987), and Rev. 2 (2001)(subject to the requested deviations identified in letter to Docket Management Branch, dated March 3, 2006)(see attached) as the Standard of Identity for Honey.

BACKGROUND

On August 31, 2006, Barbara Schneeman, Director, Office of Nutritional Products, Labeling and Dietary Supplements, Center for Food Safety and Applied Nutrition (FDA), wrote Kristen C. Gunter, attorney representing American Beekeeping Federation Inc., American Honey Producers Association Inc., National Honey Packers and Dealers Association, Sioux Honey Association, and Western States Honey Packers and Dealers Association who petitioned FDA(with unanimous approval) to adopt the Standard of Identity of Honey (CODEX STAN 12-1981, Rev.1 (1987), and Rev. 2 (2001)(subject to above-referenced deviations), advising attorney Gunter that the Food and Drug Administration (FDA) had not been able to reach a decision on the petition within the first 180 days because of “other agency priorities and the limited availability of resources.” Schneeman concluded, “We will complete our review of your petition and consider any amendments to our regulations as warranted and in the context of other program priorities within the Center.”

While others (U.S. Senator Conrad Kent and fifteen U.S. Senators) continue to appeal to the U.S. Department of Agriculture for the adoption of the above-referenced standard, the FDA has not shown any indication they will re-consider a review anytime within near future and have instead looked to the states to enact legislation to accomplish enforcement. Even if FDA does enact the standard, they most assuredly lack the manpower to enforce the standard; On a National Public Radio broadcast, May 25, 2007, experts stated that “the FDA has about 650 food inspectors to cover 60,000 domestic food producers and 418 ports of entry. The agency plans to close nearly half of its 13 food-testing labs in the near future.” Given the more serious threats of bio-terrorism, most would agree, it is those issues which should take priority in enforcement attention.

Florida has always been a strong advocate in protecting the purity of honey and supporting the beekeeper. Laws for honey certification and honey bees first appeared in the Florida Statutes in 1953 (F.S. 586), and laws against adulteration and misbranding of products go back as far as 1939 (F.S. 500.10/11.) Florida also enacted the Produce Labeling Act of 1979 (the COOL Law F.S. 504.12), requiring Country Of Origin Labeling (COOL) for fresh fruits and vegetables, bee pollen, and honey. “Proponents of state and federal COOL legislation have long touted Florida’s law as a model because of its long history, and seeming cost-efficiency and workability. And for COOL proponents in the honey industry,

the law is particularly illustrative because unlike the federal rule, it specifically mentions “honey” and “bee pollen” as products covered under the Act (*ABJ*, 10/07, pg 841.) Texas has also taken the initiative and enacted COOL legislation which covers their honey products. It should also be noted of Florida’s quick response, when in February 2006, FDACS learned of the problem of honey adulterated with fluoroquinolones. After collecting and analyzing samples of honey for residues of two fluoronquinolones, ciprofloxacin and enrofloxacin, the FDACS reported immediately to the FDA that residues of these antibiotics were found in honey that was traced back to a firm from China. In response to the possibility of further incidences, FDACS developed a very effective method for preparation and analysis of honey for fluoroquinolone residues.

Charles Bronson, Commissioner of the Florida Department of Agriculture and Consumer Affairs, was among the first to write a support letter to FDA advocating the adoption of a honey identity standard. Bronson also successfully convinced the National Association of State Agriculture Departments to do the same.

As with the FDA however, the Florida Department of Agriculture always operates within the constraints of legislative funding which limits their manpower for enforcement of agricultural protection laws. The complexities and sophistication of test analyses also restrain FDACS’ ability to introduce accurate analytical data as evidence in the Administrative Courts to enforce F.S. Chapter 586, F.S. 504.12, and F.S. 500.10-11.

According to the Florida Agriculture Statistical Highlights 2006, Florida’s agriculture industry creates over 756, 993 jobs and has an overall economic impact of \$87.6 billion annually. Florida ranked first in the United States for sale of snap beans, fresh market tomatoes, cucumbers for fresh market, cucumber for pickles, bell pepper, squash and watermelons and first in the production of orange, grapefruit, tangerine and sugarcane for sugar; Florida ranked second in the sale of greenhouse and nursery products, sweet corn and strawberries. Many of the above-mentioned crops require honey bee pollination.

The National Agricultural Statistics released February 28, 2007 reports Florida ranked fourth in value of production of honey. Yet the average price of Florida honey sales in 2006 fell behind 3.2 cents over the national average and 5.8 cents in 2005. Honey production overall in 2006 fell 11 percent, as compared to 1 percent in 2005. While U.S. consumption of honey remains strong, every year more U.S. honey producers, unable to profit from the sale of their honey, go out of business, a trickle down effect that is causing devastation for all those involved in the beekeeping industry.

JUSTIFICATION

Mark Jensen, editor of American Honey Producers Association commented in the most recent issue of *Honey Producer*, “There probably hasn’t been a better time to really bring it home to consumers just how good a product (honey) we have here in GOOD OL’USA.” As stated in the March 3, 2006 letter which accompanied the Petitioner’s submission to the FDA, “A consumer study conducted in 2005 for the National Honey Board suggests that

U.S. consumers are very confused about what “honey” means in terms of the food’s composition. Forty-two percent of those interviewed believed that pure honey contains additives and 17% of those interviewed believed “honey” contains added syrup. With a variety of blended sweeteners and “honey pretenders” being introduced into the market, consumer understanding of the meaning of the term “honey” is likely to continue to erode.” Adopting a standard of identity for honey in Florida will help preserve “honey” as a traditional and wholesome food and promotes its consumption.

The recognizable concern of imports coming into the United States which may not meet our nation’s and more specifically the State of Florida’s purity laws is definitely increasing public concern. In their March 3rd letter, the Petitioners speculated the standard “will promote honesty and fair dealing not only in the interest of consumers, but in the interest of the honey industry as well. The Petitioners felt the standard could also serve as a “tool to help combat the economic adulteration of honey.”

The adoption of a standard of identify for honey in Florida provides a means to establish a commercial industry standard, rather than a request for government action. A buyer may seek remedies in civil court if the honey purchased does not meet state identity standards. The adoption of the identity standard does not require Florida legislative action, only compliance with the rulemaking procedure. Currently, the only recourse available to a purchaser of adulterated honey is to appeal to FDACS for administrative action. With a Florida standard for honey, the buyer can take action in a civil court where the burden of proof favors the purchaser, and the buyer can require the seller to self-incriminate, an action which is not available when the state is a party. In a civil action too, all that is required is to prove the product is not pure honey in accordance with the state standard; the purchaser does not have to identify the adulterants; testing is less expensive and does not necessarily have to meet the rigid requirements of the Frye test. A positive consequence of this remedy is Florida honey producers could better compete in the marketplace, resulting in higher prices for Florida honey. The American Honey Producers Association acknowledges that while U.S. consumption of honey remains strong, U.S. honey producers continue to be pushed out of the U.S. marketplace by unfairly traded Chinese honey. While some U.S. honey producers can rely upon pollination services to help maintain their livelihoods, the United States commercial beekeeping industry will not survive if its primary source of income is derived from pollination services. The same scenario is true in Florida as well.

At the Honey Industry Roundtable, held June 28, 2006 in Denver, Colorado, the participants (the same who petitioned FDA for a standard) concluded that the industry can (and should) take private legal course of action (against companies in false and misleading labeling) without government involvement. It is apparent that U.S. beekeepers have decided using standards in civil courts will produce more effective and long-lasting results.

Clearly, the U.S. honey industry and thus Florida honey producers are facing destruction without standards of identity for honey to preserve the wholesomeness of honey in the eyes of the consumer and to provide civil recourse when the honey is found to be adulterated. The adoption of a standard of identity for honey in Florida will be further evidence of

Commissioner Bronson's commitment to agriculture: "As Commissioner of Agriculture, I am determined to ensure that agriculture remains a cornerstone of Florida's strong economy and an integral part of our way of life. Growers and the public can depend on the Florida Department of Agriculture and Consumer Services to support and promote this critical industry."