



Florida Department of Agriculture & Consumer Services

BOB CRAWFORD, Commissioner

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Please Respond to:

August 1, 2000

Dockets Management Branch (HFA-305)
Food and Drug Administration
Room 1061
5630 Fishers Lane
Rockville, MD 20852

RE: Docket No. 00N-1351

The Florida Department of Agriculture and Consumer Services (FDACS) appreciates the opportunity to offer comments on the Food and Drug Administration's (FDA) use of the term "fresh" in labeling for food processed using newer nonthermal technologies. Under current regulations, the term "fresh" generally means that the food is in its raw state and has not been frozen or subjected to any form of thermal processing or any other form of preservation. These regulations do, however, provide for the use of approved waxes or coatings; post-harvest application of approved pesticides; application of mild chlorine or acid washes on produce; or the treatment of raw foods with ionizing radiation up to a maximum dose of 1 kiloGray. In addition, regulations allow for the use of the term "fresh" when it does not imply that the food is unprocessed (e.g. milk, which is generally understood to be pasteurized).

With the advent of newer food processing technologies which both control or eliminate food pathogens, and which minimally alter taste, texture and other innate characteristics of the food, FDA has sought input regarding whether the use of the term "fresh" would be appropriate labeling applied to these products. Specifically FDA has sought comment on a series of questions, which we address below.

- 1) *Do consumers associate the term "fresh" with organoleptic characteristics, nutritional characteristics, or some other characteristics?*

FDACS believes that the consumer generally associates "fresh" with organoleptic characteristics of raw or unprocessed foods (including juices). In addition it is this agency's opinion that the consumer also perceives a positive nutritional or health benefit associated with consumption of these foods. This perception has been stressed with the recent health messages by numerous organizations to consume more fresh fruits and vegetables as a part of a healthier lifestyle.



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- 2) *Do consumers want a way to identify foods that taste and look fresh but have been processed to control pathogens?*

Yes. It is FDACS' belief that today's consumer is generally well informed, and has a desire to make informed choices regarding the foods they choose to eat. We believe that the consumer is entitled to, and will demand, labels that provide information regarding any post harvest processing, regardless of whether there is an identifiable change in taste, texture, etc. It will be important for those wishing to consume "untreated" foods, as well as for those seeking a processed product.

- 3) *What does industry think the term "fresh" means?*

No comment.

- 4) *Is the term "fresh" when applied to foods processed with the new technologies misleading to consumers?*

Yes. FDACS believes that consumers will feel that this is deceptive labeling. Again, although it may be difficult to distinguish these processed foods from those which have not been processed, consumers will know there is a difference, and will demand that labeling provide that distinction. FDACS further believes that consumers will expect that the use of the term "fresh" remain unchanged, and that regulators should provide alternative labeling to apply to those foods which have been processed using these newer methodologies.

- 5) *Do the new technologies preserve the foods?*

FDACS will defer discussion of individual technologies to those with appropriate expertise. We encourage the FDA to seek strong, sound science to evaluate responses to this question.

- 6) *Are the new technologies truly nonthermal?*

FDACS understands that there is a small thermal component to each of these technologies. More importantly, however, is the consumer's understanding of what "fresh" means. As indicated above, we believe that foods processed using these technologies should not be labeled "fresh", and should include label language to indicate the food has been processed. We encourage industry to consider suggestions regarding terms that highlight the advantages of these technologies over others.

- 7) *Are there quantifiable parameters, e.g., level of nutrients, vitamins etc., that could be measured to determine if a food is "fresh"?*

FDACS will defer discussion of this topic to those with appropriate expertise.

- 8) *Is there a term other than "fresh" that can be used for foods processed with the new technologies?*

Labels should definitely use a term other than "fresh" for these products. FDACS does not have a preference for a particular term or phrase.

- 9) *Would consumers understand a new term?*

Yes, provided FDA, state agencies, industry, and other interested parties engage in an educational program.

- 10) *What is the economic impact of allowing use of the term "fresh" for foods processed with the new technologies?*

It is difficult to predict consumer responses, and subsequent economic impact, resulting from the inability to distinguish processed from unprocessed "fresh" foods. Without a doubt, small business will be at a disadvantage in that many will not be able to afford the new technologies. In the fresh juice industry this may be more problematic, as this is currently a niche market, which will be lost if consumers cannot distinguish between the two types of products. The small producer will lose the current market advantage of the term "fresh" and many will likely lose their business entirely.

- 11) *Would allowing the term "fresh" on foods processed with new technologies place small firms not able to use these technologies at an economic disadvantage.*

Yes. Please see comments above.

In summary, FDACS opposes the expansion of the interpretation of the term "fresh" at this time, for the reasons indicated above. We feel that consumers deserve to know whether a product has been processed, in order to make informed choices, and labeling should accurately distinguish between processed and unprocessed product. As these products may favorably impact public health through the reduction of pathogens, it is particularly important for those populations who are at greater risk to food borne illnesses to be able to purchase products treated with the newer technologies, which may have many of the organoleptic advantages of unprocessed foods. Similarly, it allows those individuals who wish to purchase unprocessed foods to do so.

Again, FDACS appreciates the opportunity to offer comments on this very important topic.

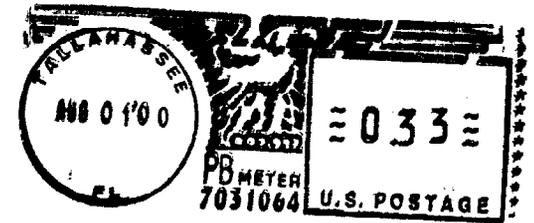
Sincerely,



BOB CRAWFORD
COMMISSIONER OF AGRICULTURE



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