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August 18, 2000

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

Re: Food Labeling; Use of the Term "Fresh" for Foods Processed with Alternative Nonthermal Technologies (Docket No. 00N-1351)

The Produce Marketing Association is pleased to submit these comments in response to the Food and Drug Administration's request for comments on Food Labeling; Use of the Term "Fresh" for Foods Processed with Alternative Nonthermal Technologies.

PMA is the largest worldwide not-for-profit trade association representing companies that market fresh fruits and vegetables. Our membership of more than 2,500 ranges from supermarket retailers to grower-shippers, and from hotel and restaurant chains to overseas importers.

Within the United States, PMA's members handle more than 90% of fresh produce sold at consumer level. The association's mission is to create a favorable, responsible environment that advances the marketing of produce and floral products and services for North American buyers and sellers and their international partners.

We applaud the agency for examining the term "fresh" because it is an important claim to consumers, and, as such, is very important for marketing purposes. PMA's goal, like FDA's, is to assure that consumers are not misled, and that they can use information in the marketplace to make informed decisions.

Before we address your specific questions, we offer some general comments on "fresh" and the use of new technologies. Emerging technologies offer the capacity to improve food safety, and it is wise to evaluate continually how new technologies fit into current regulatory programs. Such evaluations may or may not lead to changes, but the process is valuable, whatever the outcome.

New technologies may further blur the line between raw products and processed products. Appropriately, FDA has allowed mild acid and chlorine washes, approved wax coatings and post-harvest pesticides, and

irradiation up to 1 kiloGray to be used on produce – both whole product and fresh-cut – and not preclude the use of the word “fresh” in describing those products. PMA believes that this remains appropriate.

In answering FDA’s questions about “fresh,” PMA is referring to produce that is whole or “cut” (chopped, shredded, cubed, sliced, etc.). We are specifically not referring to the word “fresh” when it is used in the phrase “fresh-squeezed juice” as we believe other organizations will comment sufficiently on that issue. We also specifically exclude nuts from our comments.

In addition, we acknowledge that we are not experts on these technologies themselves, and we will not answer questions that call for scientific expertise on the technologies (specifically, questions five, six, and 11).

1. Do consumers associate the term “fresh” with organoleptic characteristics, nutritional characteristics, or some other characteristic?

Yes. At the very least, consumers have a sense of what “fresh” is or what it is not, even if they could not define it if asked. This sense comes from what they see, smell, and feel. Yet all produce items will not have the same characteristics. For example, because of the nature of the products, one can smell a ripe fresh cantaloupe, but one cannot smell a ripe fresh honeydew. One can sense that a shriveled cucumber is no longer fresh, but certain citrus (clementines) may have skins that appear wrinkly when they are perfectly fresh. So defining fresh according to smell, sight, or feel could be difficult at best.

Nutrition is problematic in a “fresh” definition as well. A fresh head of broccoli may offer far more vitamins and minerals than a fresh head of Iceberg lettuce, but that does not mean that the lettuce is not fresh. In addition, frozen fruits may offer similar nutrition values to the same fruits sold “fresh” in the produce department, but no consumer would think that the frozen fruit is “fresh.”

We believe that the way to define fresh for produce – whole and cut – is by respiration. Fresh produce should be respiring.

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

Possibly. Consumers understand that foods can be processed in many ways, some of which control pathogens (e.g. pasteurization). They consume these products, understanding they are not fresh. Being “fresh” has nothing to do with pathogens or their reduction.

The word “fresh” should not have a safety factor or definition attached to it. Under the definition of “fresh,” no distinction should be made between “fresh” foods that have had these new technologies applied and those that have not. That information must be

conveyed in some other way.

3. What does industry think the term “fresh” means?

The produce industry understands fresh in the context of FDA’s current definition. More specifically, that fresh produce should be respiring.

4. Is the term “fresh” when applied to foods processed with the new technologies misleading to consumers?

This question is difficult to answer without addressing each technology and its effects on produce. To the extent that produce treated with new technologies is respiring, it would not be misleading to consumers to call it fresh.

5. Do the new technologies preserve the foods?

PMA does not have the expertise to answer this question.

6. Are the new technologies truly nonthermal?

PMA does not have the expertise to answer this question.

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

Only one. The measurement of “fresh” should be whether the food is respiring. As explained above, nutrients in fresh produce items vary widely from commodity to commodity (e.g. broccoli vs. lettuce). In addition, there are times when the nutrition content of a fresh produce item does not differ significantly from that of a canned or frozen item.

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

One can always imagine creating yet another term for foods, but consumers are overloaded with information. If the processes themselves are such that they require some sort of labeling to avoid misleading consumers, we would support such an approach. Otherwise, developing a new term is unnecessary.

In addition, as stated above, consumers have a firm sense of what “fresh” is, and they will use their own good common sense on “fresh” even if some other term is devised.

Any new term would have to apply specifically to certain technologies – and then when even newer technologies come along, yet another term might be required.

If a produce item is respiring, it should be called “fresh.” If it is not respiring, it should

not.

9. Would consumers understand a new term?

Consumers certainly could understand a new term, but they would still use their own intuitive common-sense definitions of fresh.

And the fact that consumers can understand a new term does not change the fact of information overload. The question might be better phrased: Would consumers use or appreciate or benefit by a new term? That answer is no. If produce is respiring, it should simply be called "fresh."

More important than terminology is "benefits marketing." To the extent that new technologies are used to provide one or more benefits to consumers, marketers will inform consumers about those benefits to persuade consumers to purchase those products. The marketplace will help to drive consumer information about new technologies if it is needed.

10. What is the economic impact of allowing the use of the term fresh for foods processed with the new technologies?

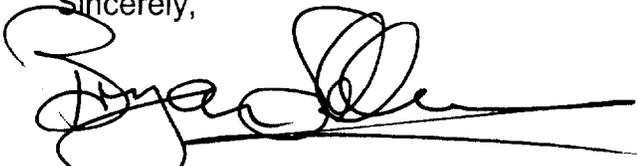
The word "fresh" has a very high value as a marketing term. Produce that is respiring should be allowed to be called "fresh."

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?

PMA does not have the expertise to answer this question.

PMA appreciates the opportunity to present these comments. We applaud the agency for its thorough review of this and other food issues. Please do not hesitate to call upon us if we can be of further assistance. We look forward to working with you.

Sincerely,

A handwritten signature in black ink, appearing to read "Bryan Silbermann", written over a horizontal line.

Bryan Silbermann, CAE
President
Produce Marketing Association

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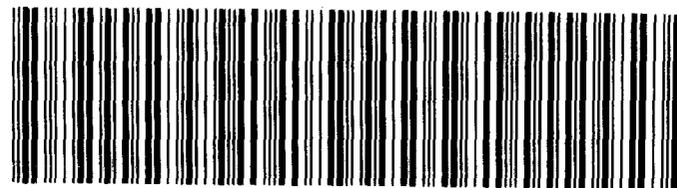
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