



American Dietetic Association  
*Your link to nutrition and health.<sup>sm</sup>*

120 South Riverside Plaza, Suite 2000  
Chicago, IL 60606-6995  
800/877-1600  
[www.eatright.org](http://www.eatright.org)

Policy Initiatives and Advocacy  
1120 Connecticut Avenue, Suite 480  
Washington, DC 20036-3989  
202/775-8277 FAX 202/775-8284

---

December 2, 2004

Division of Dockets management (HFA-305)  
Food and Drug Administration  
5630 Fishers Lane  
Room 1061  
Rockville, Maryland 20852

Regarding: Docket No. 2004N-0454

Dietary Supplements: Premarket Notification for New Dietary Ingredient Notifications;  
Public Meeting

The American Dietetic Association (ADA) represents nearly 70,000 food and nutrition professionals serving the public through the promotion of optimal nutrition, health and well being. ADA commends the Food and Drug Administration for its efforts to refine and improve the premarket notification program for new dietary ingredients (NDI). ADA appreciates this opportunity to provide comments concerning the specific NDI issues identified by the FDA related to the content and format requirements for NDI notifications made under the Federal Food, Drug, and Cosmetic Act.

The ADA agrees with the principles and recommendations of the 2004 IOM Committee Report "Dietary Supplements: A Framework for Evaluating Safety," in particular as they apply to NDIs:<sup>1</sup>

*When the formulation or processing of a dietary supplement ingredient is changed, it should be considered a new dietary ingredient and subject to regulatory oversight as such.*

ADA supports efforts by the FDA to fully implement DSHEA in ways that are consistent with the protection of the health of the American public.

---

<sup>1</sup> The Institute of Medicine. 2004. *Dietary Supplements: A Framework for Evaluating Safety*. Washington, DC: National Academy Press.

## Specific Comments

### A. Status of a Substance as a “New Dietary Ingredient.”

The FDA should consider a history of use or other evidence of safety, as proscribed by Section 413(a)(2) of the act, including a description of all chemical forms and physical and chemical processing treatments, including possible food preparation techniques, that may have modified the native form of the ingredient. However, if the substance has a different chemical form from those historically consumed (prior to October 15, 1994), then the substance would be considered an NDI. It should be the responsibility of the petitioner to characterize all historically used forms of the dietary ingredient, as well as the NDI. The substance would also be considered a NDI if the substance had no record of human consumption; historical animal consumption data would not qualify a substance as a dietary ingredient.

Comparative data between historical patterns of use and the proposed conditions of use would require supporting documentation, including citations to sources of data. This would include the projected use of the ingredient in the proposed form, including the individual serving size, total daily dose, frequency of consumption and duration of use over lifetime.

Changes in chemical composition that may affect rate of absorption, metabolism, and/or the physiological effect of the substances could result in the substance being considered a NDI, or even a drug, depending upon the extent of the modification or the size of the effect. Should these changes result in a negative safety profile, the substance would no longer be considered a dietary ingredient.

### B. Chemical Identification of the NDI.

The ADA recommends that all types of chemistry information outlined by the FDA in the Federal Register notice be required. In addition, information about chemical stability should be provided in the case possible or probably mishandling of the substance that could impact safety.

If this substance is a botanical, ADA agrees that a complete profile, as described by the FDA, should be included. Laboratory data of the effects of variations of growing conditions, particularly on the benefit profile of the substance, should be required.

Complete processing methods, including the use of food grade solvents and other excipients, must be fully revealed, consistent with GMPs. Testing procedures and methods for adulterants must be documented. Stability data for both isolated NDIs and for products containing NDIs should be provided, including the effects of excipients on the stability and bioavailability of NDIs.

### C. Information About the Dietary Supplement.

Full disclosure of the composition and formulation of the dietary supplement product, including any contaminants, should be included in an NDI notification.

Also, the proposed product label and other labeling that recommends uses and possible alternative uses should be provided.

D. Establishing a Reasonable Expectation of Safety.

The ADA maintains that a new dietary ingredient should possess a documented beneficial purpose and a reasonable expectation of safety for the recommended and alternative uses. Studies to establish the safety of an NDI should not exceed those requirements for establishing the safety of a food additive, and they should also be equally robust.

E. The Role of Definitions in Evaluating NDIs.

The listed terms are already in general use and have accepted definitions. Traditional definitions, based on their chemical and/or physical characteristics and, should be applied.

F. Is There a Need for Guidance or Amendment of Current Recommendations?

The FDA should include all items (1-7) in draft guidances or amendments to current requirements to facilitate a more thorough and efficient review process. This benefits both consumers and the supplement industry.

In sum, the ADA believes that new dietary ingredients to be used in a dietary supplement should be evaluated at the same level of examination as new food additives. The addition of a substance to the diet, which will be consumed in a new chemical form or in a new pattern of use, should be carefully considered, regardless of its origin or the classification of the intended product (i.e. supplement or food). Furthermore, there should be a clearly defined benefit to justify the introduction a new dietary ingredient. Appropriate and scientifically sound clinical and experimental data should also be submitted to justify this benefit.

We hope these comments are useful to the working group as it considers the definition for bioactive food components. Please do not hesitate to call Mary Hager, PhD, RD, at (202) 775-8277 with any questions or requests for additional information.

Sincerely,

/s/

M. Stephanie Patrick  
Vice President  
Policy Initiatives and Advocacy

/s/

Mary H. Hager, PhD, RD, FADA  
Senior Manager  
Regulatory Affairs