NFPA
The Food Safety People

NATIONAL
FOOD
PROCESSORS
ASSOCIATION

September 5, 2003

1820 '03 SEP -8 P2:16

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

REQUEST FOR EXTENSION OF COMMENT PERIOD
[Docket No. 03N-0076] Food Labeling: *Trans* Fatty Acids in Nutrition Labeling; Consumer Research to Consider Nutrient Content and Health Claims and Possible Footnote or Disclosure Statements
68 Federal Register 41507, July 11, 2003.

Dear Sir or Madam:

The National Food Processors Association (NFPA) requests an extension of 90 days, to January 7, 2004, for the comment period on the referenced Advance Notice of Proposed Rulemaking.

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The National Food Processors Association (NFPA) is the voice of the $500 billion food processing industry on scientific and public policy issues involving food safety, food security, nutrition, technical and regulatory matters and consumer affairs. NFPA's three scientific centers, its scientists and professional staff represent food industry interests on government and regulatory affairs and provide research, technical services, education, communications and crisis management support for the association's U.S. and international members. NFPA members produce processed and packaged fruit, vegetable, and grain products, meat, poultry, and seafood products, snacks, drinks and juices, or provide supplies and services to food manufacturers.

NFPA has submitted comments several times to FDA on the issue of *trans* fat nutrition labeling and claims, including comments on the issue of the *trans* fat footnote proposed in November 2002. In these previous comments, NFPA urged FDA to address the *trans* fat issue in the context of other processes and activities in which FDA was simultaneously engaged, most notably the Dietary Reference Intake (DRI) studies conducted by the Food and Nutrition Board (FNB), Institute of Medicine (IOM), National Academies. FDA is one of the sponsors of the DRI studies.

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In comments submitted April 17, 2000 (Docket No. 94P-0036), on FDA's proposed rule on *trans* fat nutrition labeling, NFPA urged FDA to coordinate the rulemaking on *trans* fat declaration with the development of the DRI report on macronutrients, a recommendation that FDA followed. Furthermore, in comments submitted December 16, 2002 to the same docket, addressing the proposed *trans* fat footnote issue, NFPA noted that, in light of the FNB study on uses of DRIs in nutrition labeling, FDA's proposal to add a *trans* fat Daily Value footnote and reference in the percent Daily Value column would be premature.

FDA has signaled that it will review and revise, if necessary, Daily Values for nutrition labeling following completion of the DRI project, including the work of the FNB Committee on Use of Dietary Reference Intakes in Nutrition Labeling. This Committee is charged to

> "assess the objectives, rationale, and recommendations for the methodology to select reference values for labeling the nutritive value of foods based on the Dietary Reference Intakes (DRIs).... The study will identify general guiding principles for use in setting reference values for nutrients on the food label, recognizing that there may be modifications of the approach based on special situations or physiological needs related to each nutrient; these modifications will be outlined and the rationale for them described. Consideration will be given to the use of food label reference values to compare different food products and to determine the relative contributions of foods to an overall diet; the scientific basis for principles to be used to guide the selection of values for different nutrients, possibly using examples from various classes of nutrients; whether a single set of standard values or different sets for various age and gender groups are needed; and how the reference values should be expressed."

Thus, the work of this FNB Committee directly addresses the questions that FDA posed in the July 2003 ANPR with respect to the context for *trans* fat nutrition label information. The FNB Committee is expected to issue its report in Fall 2003.

The FNB Committee's report can reasonably be expected to elaborate principles for developing label reference values or other information for nutrients in the DRI reports that have no intake recommendations, such as *trans* fat. NFPA believes it is clear that FDA should wait to examine the label reference value concept for *trans* fat together with all other nutrients, and not address *trans* fat outside of this framework. NFPA believes it is important to avoid the prospect of several sequential nutrition label revisions within the span of a few years. Companies with FDA-regulated food labels that declare *trans* fat face such a prospect: To change labels to include a quantitative declaration of *trans* fat content, by January, 2006; to change labels to incorporate a possible footnote or other reference statement for the *trans* fat declaration; and to

change labels to incorporate any new percents Daily Value for other nutrients. As the extensive Final Regulatory Impact Analysis in the *trans* fat labeling final rule made plain, rules requiring any changes to labels for those companies declaring *trans* fat would cost the industry more than $100 million.

NFPA also believes that the report on uses of DRIs in nutrition labeling may present concepts that the food industry must consider as it develops its response to FDA's July 2003 ANPR with respect to a possible *trans* fat footnote, or other label information focused on the context for a *trans* fat declaration.

For this reason, NFPA requests an extension of the comment period of the July 2003 ANPR. An extension to January 2004 likely will permit the food industry to consider the issues presented in the ANPR in the light of the forthcoming FNB report on uses of DRIs in nutrition labeling. NFPA urges FDA to consider additional extensions of the comment period on the ANPR if the FNB report is delivered late to FDA.

Thank you for the opportunity to comment on this important issue.

Sincerely,

John Cady

John R. Cady
President and CEO