



NATIONAL DAIRY COUNCIL®

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June 20, 2005

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

RE: Docket No. 2004N-0463. Advance Notice of Proposed Rulemaking: Food Labeling; Prominence of Calories

Dear Sir or Madam:

The NATIONAL DAIRY COUNCIL® (NDC) submits the following comments on the docket referenced above.

NDC is an organization that initiates and administers nutrition research, develops nutrition programs, and provides information on nutrition to health professionals and others concerned about good nutrition. The NATIONAL DAIRY COUNCIL® has been a leader in nutrition research and education since 1915. Through its affiliated Dairy Council units, NATIONAL DAIRY COUNCIL® is recognized throughout the nation as a leader in nutrition research and education.

NDC commends the agency for opening the dialog on ways to enhance the food label as an educational tool to help consumers manage calories in their diet and to better address the obesity issue in the U.S. NDC and its state and regional affiliates have a long history of promoting the Nutrition Facts Panel (NFP) as an educational tool for healthy eating and to enhance nutrient dense and calorie reduced food choices such as reduced fat, low-fat and fat-free milk and other dairy products. NDC, through its strong U.S. farmer funded nutrition and dairy product research program, has taken a leadership role in providing Americans meaningful and actionable solutions for a healthy diet as well as for weight management. For example, in 2003 NDC, in conjunction with U.S. dairy industry partners and endorsed by major health professional organizations, launched a national nutrition education and marketing program called 3-A-Day of Dairy™ which promotes healthy eating through nutrient dense food selection that is consistent with the 2005 Dietary Guidelines and the MyPyramid Food Guide.

NDC appreciates the opportunity to provide comments on the topics of this Advance Notice of Proposed Rulemaking related to giving more prominence to calories on the nutrition label to assist consumers in preventing weight gain and reducing obesity.

Specifically, NDC wishes to comment on the following questions requested in this ANPR:

1. The prominence of calorie information on food labels
2. The value of “calories from fat” on food labels
3. The use of calorie information on food labels

## **1. Questions on the prominence of calorie information on food labels**

NDC recognizes the urgent need for solutions to the obesity issue in the U.S. and supports the agency's efforts in exploring ways to use the food label to help consumers manage calorie intake. However based on the Obesity Working Group (OWG) report [1], NDC also recognizes the lack of data in this area and strongly supports the need for consumer research on whether food labels can help consumers manage calories for weight management and to determine the best methods for educating consumers about calories on the food label.

NDC is concerned about over focusing on calories on the food label at the expense of undermining consumer's awareness of the overall nutrient density or lack of nutrient density of a food item. Although it is important to explore food labeling methods to raise consumer awareness about calories, it is equally important to find ways to communicate calories within the context of a products nutrient density. Nutrient density and encouragement of nutrient dense food choices is a key element of the 2005 Dietary Guidelines and underpins the Food Guide in MyPyramid.gov. To this point, NDC suggests that modifying the listing of calories on the food label may be most effective when confined to the NFP in order to ensure communication of the total nutrient composition of the product. As pointed out by the OWG [1], research shows that most consumers are familiar with the nutrition information on food labels. Similarly, focus group research by NDC revealed that although moms don't always consult a products nutrition label when shopping, the label is reviewed most often to compare products to determine which is more nutritious [2]. The most common items they looked for on the NFP were fat (75%) and calories (69%) followed closely by sodium and sugar. These data underscore that consumers are educated to use the NFP and have come to expect it as a source of nutrition information.

NDC recognizes the potential value of using graphic enhancements such as increased font size, extra bold and style of type within the NFP to increase the prominence of calories. NDC supports research in this area to determine the effectiveness and value of these approaches before promulgating rulemaking. This issue was underscored from the OWG report [1] showing that when the calorie line was enlarged in the NFP along with other changes, most changes were not noticed by the participants.

NDC recognizes the potential value of providing a %DV for total calories as a reference point for gauging the caloric content of food products within the context of a 2000 calorie diet. However, research cited by the OWG [1], the IOM/NAS 2003 Guidance Report on Nutrition Labeling and Fortification [3], and NDC focus group research indicates that very few consumers use the %DV either because they don't understand its meaning or they thought it wasn't relevant to them because they didn't consume a 2000 calorie diet [2]. The use of a %DV for calories has a high potential to be misleading to consumers because of: 1) the broad range of caloric needs among population groups; 2) being inconsistent with the MyPyramid.gov individualized approach to healthy eating and caloric needs; and 3) the risk of causing inappropriate food choices if a food is selected solely on the basis of calories (e.g. diet soda) rather than more nutrient dense foods (e.g. skim milk). Before further consideration of this approach, consumer research is greatly needed on methods that can effectively communicate a %DV for calorie, nutrient density and individual caloric needs that is consistent with the MyPyramid.gov program.

## **2. Questions on the value of “calories from fat” on food label**

NDC scientists are not aware of any consistent data indicating that calories from fat are any more obesogenic than from carbohydrate or protein. The 2005 Dietary Guidelines Advisory Committee report [4] concluded that “Weight maintenance depends on a balance of energy intake and energy expenditure, regardless of the proportions of carbohydrate, fat, and protein in the diet”. The DRI Macronutrient report [5] points out foods containing high amounts of fat tend to be “energy dense”, and the fat is a major contributor to the excess energy consumed by persons who are overweight or obese. The energy density of a food can be defined as the amount of energy per unit weight or volume. “Calories from fat” in the NFP does not convey information on the energy density of the food item. NDC questions the nutritional logic of the “calories from fat” requirement on the NFP and is concerned that it conveys a message that all fats are undesirable which may cause some consumers to avoid foods high in n-6 and n-3 polyunsaturated fatty acids.

## **3. Questions on the use of calorie information on food labels**

Based on NDC consumer focus group research, calories is one of the most familiar items on the food label and was recalled as an item in the NFP by 69% of the participants [2]. The participants indicated that the label is reviewed most often to compare products to determine which is more nutritious. This is consistent with the OWG report (Appendix G) [1] which noted that “The calorie content of food is a common use of the food label, and was among the top three pieces of information sought by 80% of label readers in one survey.” The report also noted that in one of FDA’s surveys people reported that the most common uses of the NFP is to see how high or low the food is in calories. Little information is available, however, on the relationship between label use and weight management/weight loss or gain [1].

The notion of requiring the declaration of total calories per serving or total calories per package on the principal display panel (PDP) raises a number of issues that may result in inappropriate food choices and diets that are inconsistent with healthy eating. First, requiring the display of calories on the PDP has high potential for causing food selections based solely on calories while distracting consumer’s attention from the NFP and the full nutrient composition of the food. Second, calories per serving on the PDP could be misleading particularly on foods that are typically consumed in one eating occasion and contain more than one RACC serving per container. Third, requiring calories on the PDP without context may have the opposite effects from what is intended if consumer avoids a product that is very modest in calories (e.g. 1% low-fat milk) but is a highly nutrient dense food. NDC suggests that the agency confine calorie declarations to the NFP and urges that any modifications to increase the prominence of calories be thoroughly tested for consumer understanding and effectiveness.

The dairy industry has a long track record of reducing the levels fat and calories in their products while maintaining or increasing their overall high nutrient density. This is evidenced by the wide range of choices in the marketplace including fat-free, low-fat, reduced-fat milk, yogurt and cheese products. Although many dairy products qualify for the “low fat”, “low cholesterol” and “low sodium” nutrient content claims, many of these do not qualify for a “low-calorie” claim because they do not meet the low calorie definition of no more than 40 calories per RACC. Forty calories represents only 2% of calories based on a 2000 calorie diet. NDC suggests that the agency may want to reconsider the definition of “low-calorie” since the calorie cut-point for the

current definition is severely restrictive and unreasonable compared to the criteria for other “low” definitions including those for fat, saturated fat, sodium and cholesterol. The cut-point for these nutrients to qualify for their respective “low” claim ranges from 4.6 – 6.6% of the DV per RACC based on a 2000 calorie diet. Using the mean value of this range (5.6%) as a reasonable cut-point for redefining the low-calorie definition suggests that 112 calories per RACC based on a 2000 calorie diet as a reasonable definition to define a “low-calorie” food. There are numerous highly nutrient dense foods including fat-free and low-fat fluid milks and yogurts as well as other food products that fall under this level. Furthermore, this approach may provide needed incentives for manufacturers to reformulate products with reduce calories and provide consumers with a wider range of food products for managing caloric intake.

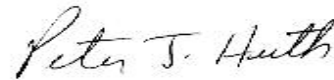
For more than 85 years, the National Dairy Council has worked to advance the state of scientific knowledge on the role and value of dairy foods in promoting and enhancing human nutrition and health. We look forward to playing an active role in the public process, and to assisting FDA in any way possible to achieve results that will benefit the health and well-being of all Americans.

Thank you for the opportunity to comment on these important issues.

Sincerely,



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## REFERENCES

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2. Nutrition labeling. Dairy Management Inc., (2005)
3. Dietary Reference Intakes: Guiding Principles for Nutrition Labeling and Fortification (2004) [www.nap.edu/openbook/0309091438/html](http://www.nap.edu/openbook/0309091438/html)
4. 2005 *Dietary Guidelines Advisory Committee Report*. Part D, Section 2: Energy. [www.health.gov/dietaryguidelines.org](http://www.health.gov/dietaryguidelines.org)
5. *Dietary Reference Intakes for Energy, Carbohydrate, Fiber, Fat, Fatty Acids, Cholesterol, Protein, and Amino Acids*. Institute of Medicine of the National Academies. The National Academies Press, Washington, D.C. 2002.