



DEPARTMENT OF HEALTH & HUMAN SERVICES

Public Health Service

Food and Drug Administration
Rockville MD 20857

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DEC 15 2006

Mr. Avishalom Klammer
176-15th Street
Suite #206
Oakland, California 94612-4328

Re: Docket Number 02P-0166/CP 1

Dear Mr. Klammer:

This letter responds to your citizen petition dated April 5, 2002, in which you requested that the Food and Drug Administration (FDA) require "CLEAR, LEGIBLE & INTELLIGIBLE" expiration dates on all food products sold in the United States and that the expiration dates be presented in the following standardized format: month, date and year.

You contend that the expiration dates currently used on many food products, including imported products, are presented in an "unintelligible & indecipherable manner (in a form of a code consisting of a series of numbers with or without letters, and sometimes even smudged)." In addition, you express concern that some stores sell food products past their expiration dates, as evidenced by the fact that some canned foods you have purchased "didn't taste right, or tasted bad/spoiled to the point where [you] had to throw them out." You also state that you have purchased canned foods with rust on the can that made you sick on more than one occasion. In addition, you state that the current "expiration dating" situation presents a health hazard and deceives the public.

FDA is aware that some manufacturers use "codes" on their labels. These codes, which might appear on canned or boxed foods, are usually understood only by the manufacturer and others in the industry. Manufacturers may use these codes to track inventory, rotate stock, or locate a product with a suspected problem. However, we do not have information that supports the use of these codes as indicators of safety, freshness, or quality and they are not the same as expiration dates.

To implement the Infant Formula Act of 1980, FDA has required "use by" dates on infant formula. See Title 21 of the Code of Federal Regulations (CFR)(21 CFR 107.20(c)). Although there may be circumstances that would warrant the agency requiring expiration

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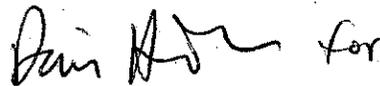
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dates on other foods, you have not submitted any data or other information that provides an adequate basis for imposing such a requirement on other categories of food. In the absence of such data or information, you have not shown that there are reasonable grounds for the specific labeling requirements you propose or that those specific labeling requirements are in the public interest and will promote the objectives of the Federal Food, Drug, and Cosmetic Act or FDA. See 21 CFR 10.40(a)(2). Therefore, in accordance with 21 CFR 10.30(e)(3), this letter is to advise you that FDA is denying your petition, without prejudice.

We nonetheless understand your concern about foods that you believe made you sick. We encourage you and other consumers who experience problems with an FDA-regulated product to promptly report the problem to us so that we may evaluate the situation and take any necessary actions. You may visit FDA's website at <http://www.fda.gov/opacom/backgrounders/problem.html> for information about how FDA handles adverse reactions and other problems associated with products that we regulate.

In closing, FDA encourages and supports the voluntary use of expiration date labeling on foods, and some foods, such as cereals, are voluntarily labeled with expiration dates. In addition, some State and local agencies require expiration date labeling, for example, on perishable dairy, bakery, and egg products. The agency notes, however, that a food may spoil before its labeled expiration date if, for example, it is stored under improper conditions. Therefore, we advise consumers not to ignore signs of spoilage in a food simply because the food has not yet expired according to a date on the label.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Margaret O'K. Glavin" followed by a flourish and the word "for".

Margaret O'K. Glavin
Associate Commissioner
for Regulatory Affairs