



GROCERY MANUFACTURERS OF AMERICA
MAKERS OF THE WORLD'S FAVORITE BRANDS OF
FOOD, BEVERAGES, AND CONSUMER PRODUCTS

2401 PENNSYLVANIA AVE., NW
SECOND FLOOR
WASHINGTON, DC 20037
PHONE (202) 337-9400
FAX (202) 337-4508
www.gma-brands.com

2005 '03 SEP 29 AM 11:14

September 26, 2003

Division of Dockets Management (HFA-305)
Food and Drug Administration
5630 Fishers Lane
Room 1061
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 FR 41507, July 11, 2003.

Dear Sir or Madam:

The Grocery Manufacturers of America (GMA)¹ requests an extension of 90 days to January 9th, 2004, for the comment period on the above referenced Advanced Notice of Proposed Rulemaking.

On a number of previous occasions, GMA has commented to FDA on the issue of *trans* fat nutrition labeling and claims, in particular on the implications of the footnote proposed in November 2002. In our comments of December 15, 2002, we pointed out that FDA had contracted with the Institute of Medicine to prepare recommendations on applying the dietary reference intakes to nutrition labeling and that the results were not expected until October 2003. GMA urges the agency to wait for the Report from the Committee on Uses of Dietary Reference Intakes before requesting comments on the use of *trans* fat in labeling schemes. The work of this IOM Committee will help to address the questions that FDA posed in the July 2003 ANPR with respect to the context for *trans* fat nutrition label information. It is virtually impossible to address nutrient content claims and disqualifying or disclosure levels for heart healthy health claims until we have had the opportunity to read the Committee's Report.

For instance in the the July 2003 ANPR FDA seeks comments on whether it should consider statements about *trans* fat, either alone or in combination with saturated fat and cholesterol, as a footnote in the Nutrition Facts panel, or as a disclosure statement in conjunction with claims to enhance consumers' understanding about such cholesterol-raising lipids and how to use the

¹ GMA is the world's largest association of food, beverage and consumer product companies. With U.S. sales of more than \$500 billion, GMA members employ more than 2.5 million workers in all 50 states. The organization applies legal, scientific and political expertise from its member companies to vital food, nutrition and public policy issues affecting the industry. Led by a board of 42 Chief Executive Officers, GMA speaks for food and consumer product manufacturers and sales agencies at the state, federal and international levels on legislative and regulatory issues. The association also leads efforts to increase productivity, efficiency and growth in the food, beverage and consumer products industry.

03N-0076

EXT 5

information to make healthy food choices. GMA believes it is premature to comment on the different proposed *trans* fat footnotes in the ANPR for the aforementioned reason cited above.

What is FDA's position on trigger levels for the various proposed footnotes? Can we expect FDA to decide that if the agency selected the following footnote, "As part of a nutritionally balanced diet, intake of saturated fat, *trans* fat, and cholesterol should be kept low" this footnote would be required on every food that contained saturated fat, *trans* fat or cholesterol if the food exceeded the trigger level? Will the IOM Committee on Use of Dietary Reference Intakes in Nutrition Labeling have specific real-world guidance to apply the recommendation from the IOM Macronutrient Report with respect to saturated fat, cholesterol, and *trans* fat? For all three of these nutrients, the Macronutrient Report recommended intake should be kept as low as possible while consuming a nutritionally adequate diet (i.e., consumers should focus first on nutritional adequacy, while avoiding saturated fat, cholesterol, and *trans* fat to the extent that doing so does not compromise intake of essential nutrients).

Our members remain concerned about the possibility of having to face three mandatory label changes in a span of seven years : 1) the separate line declaration of *trans*, 2) changes involved with footnote, claims and disqualifying/disclosure levels, and 3) changes that will result from the Uses Committee report. As the Final Regulatory Impact Analysis in the *trans* fat final rule made plain, rules requiring any changes to labels for those companies declaring *trans* fat would cost the industry more than \$100 million.

GMA has not made a decision on whether we will pursue additional consumer research on *trans* fat. Before we can make this determination, we need to learn of FDA's plans for consumer research on *trans* fat. The food and beverage industry may identify areas that they feel need additional consumer research. In addition, the report of the IOM Committee on Use of Dietary Reference Intakes in Nutrition Labeling may also provide additional ideas for consumer research.

The food industry wants to work with the Agency to meet the information needs of consumers concerning *trans* fats. In order to do this, however, the approach must be based on sound science and adequate consumer research data to ensure that the nutrition information on our food products is appropriate and meaningful to consumers. There is simply not enough time to design and implement meaningful consumer research to answer the many questions posed in the ANPR on footnotes, claims and other statements within the allotted time. Given the many unknowns that remain around the concepts of *trans* fat labeling, GMA is requesting an extension of the comment period of the July 2003 ANPR to January 9th 2004.

Thank you for your consideration of this critical issue to our industry.

Sincerely,



Alison Kretser MS, RD
Director, Scientific and Nutrition Policy