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February 17, 2004

*Rec'd 2/19/04  
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Division of Dockets Management  
Food and Drug Administration  
5630 Fishers Lane, Room 1061 (HFA-305)  
Rockville, MD 20852

**Re: Docket No. 2003F-0471; Food Additive Petition No. 3A4749;  
Glycerol Ester of Gum Rosin**

Dear Dockets Manager:

On October 30, 2003, acting through the AAC Consulting Group, Hercules Incorporated requested a copy of the above-referenced Food Additive Petition under the Freedom of Information Act, 5 U.S.C. § 552. The Agency's identifying log number for this request is 03-014483. The Agency has not yet provided a copy of the petition in response to this request.

We are writing to request two things: (1) that the Agency take no action with respect to this petition until Hercules has had a fair opportunity to review its contents; and (2) that the Agency promptly respond to our FOIA request.

Regarding our first request, as you know, the Agency's evaluation and possible granting of a Food Additive Petition is a rulemaking subject to the Administrative Procedure Act (APA). As a matter of due process and compliance with the notice-and-comment requirements of the APA, pending Food Additive Petitions must be reasonably available so that interested parties can fully understand the nature of the proposed action, evaluate the likelihood that the petition will be granted, and if appropriate bring to FDA's attention any factual or analytical errors in the petition. It is in the Agency's interest and the public's interest that this process be open and transparent.

Our second request -- that the Agency promptly supply a copy of the petition -- does not require much explanation or support. The requested document is a food additive petition under active review, for which no document search time should be required. A wait-time of several seems inconsistent with the spirit of open government that FOIA embodies.

We thank you for the attention this letter will receive and would appreciate a response from the Agency specifically addressing both of the requests presented above.

Sincerely,

G. L. McCallister  
Director, Regulatory Affairs

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*2003F-0471*

cc: Laura Tarantino, Acting Director, Office of Food Additive Safety  
Michael Howard, CFSAN Freedom of Information Staff  
Charles Celeste, AAC Group  
Mariel Quinones, AAC Group

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