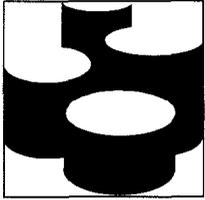


April 1, 2003

Can Manufacturers



Institute

Via: E-Mail and US Mail

Dockets Management Branch (HFA-305)
Attention Docket Numbers 02N-0276
U.S. Food and Drug Administration
5630 Fishers Lane, Room 1061
Rockville, MD 20852

**RE: Registration of Food Facilities under the Public Health Security and
Bioterrorism Preparedness and Response Act of 2002; Proposed Rule
68 Federal Register 5378 (February 3, 2003); Docket No. 02N-0276**

1625 Massachusetts
Avenue, N.W.

Washington, D.C.
20036

T. 202-232-4677
F. 202-232-5756

Dear Sir or Madam:

The Can Manufacturers Institute (CMI) appreciates this opportunity to submit comments concerning the Registration of Food Facilities Under the Public Health Security and Bioterrorism Preparedness and Response Act of 2002; proposed rule; 68 *Federal Register* 5378 (February 3, 2003); Docket No. 02N-0276. CMI is the national trade association of the metal can manufacturing industry and its suppliers in the United States. CMI members account for over 90 percent of annual domestic production of 136 billion cans; together they employ some 26,000 people with plants in 36 states.

CMI supports FDA efforts to protect the US food supply from terrorism. However, we are concerned that the scope of the Rule's registration requirements that "facilities engaged in the manufacturing/processing, packing, or holding of food for human or animal consumption in the United States," is too broad and would unnecessarily burden industries not intended under the Bioterrorism Act.

The Rule's definition of a "food facility" relies on the Federal Food, Drug, and Cosmetic Act's definition of "food" as (1) articles used for food or drink for man or other animals, (2) chewing gum, and (3) articles used for components of any such article. In addition, the Rule states that the definition of food includes "food and feed ingredients and additives, including substances that migrate into food from food packaging and other articles that contact food" and "substances that migrate into food from food packaging include immediate food packaging or components of immediate food packaging that are intended for food use." 68 *Fed. Reg.* at 5382.

CMI believes that the processes and procedures employed by metal can manufacturing facilities make the risk from tampering or terrorist acts practically nil. Simply put, our industry manufactures the can body and ends (lids) separately, so there is never a sealed product at can plants. Canmakers then separately ship the body

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and ends upstream and offsite to food and beverage facilities as needed. Can makers do not pack food into cans at their plants. Therefore, can manufacturers should be exempted from the registration requirements contained in the Proposal.

CMI appreciates the opportunity to submit these comments on this important matter. Please contact me at 202-232-4677 with any questions.

Sincerely,

A handwritten signature in black ink that reads "Geoffrey Cullen". The signature is written in a cursive style with a large, prominent "G" and "C".

Geoffrey Cullen
Director of Government Relations
CMI