



December 20, 2004

Ms. Margaret Malanoski
Policy Analyst
Office of Management and Budget
New Executive Office Building
Room 10202
725 17th Street, NW
Washington, DC 20503

Dear Ms. Malanoski:

I am writing on behalf of the Meat and Poultry Nutrition Labeling Coalition about a question that has been raised regarding the variability of labeling on ground or chopped meat and poultry products at retail, and how it will be addressed in the mandatory nutrition labeling regulations for single-ingredient and comminuted meat and poultry products expected to be published in early 2005. The question deals with the use of composite data, similar to how it is used for single ingredient cuts, in determining the reported nutrient content of ground or chopped meat and poultry products processed in-store. According to the proposed rule, as long as companies provide both the % fat and the % lean on the label, the Food Safety and Inspection Service (FSIS or the agency) will allow the use of the terms and will permit the 20% variance of Class II nutrients as provided in the current mandatory labeling program. Class II nutrients are those naturally occurring in a food. According to 9 CFR section 317.309, these include vitamins, minerals, protein, total carbohydrates, dietary fiber, other carbohydrates, polyunsaturated or monounsaturated fats, and potassium. The actual excerpt from the proposal is as follows:

Enforcement and Compliance

Ground or chopped products. FSIS conducts a continuous sampling program of products that fall under the mandatory nutrition labeling program. If the proposal to mandate nutrition labeling of ground or chopped meat and ground or chopped poultry products is adopted, the procedures set forth for product sampling and nutrient analysis in Secs. 317.309(h)(1)-(8) and 381.409(h)(1)-(8) will be applicable to ground or chopped meat and to ground or chopped poultry products, respectively. Under this proposal, the Agency will sample and conduct nutrient analysis of ground or chopped products to verify compliance with nutrition labeling requirements, even if nutrition labeling on these products is based on the most current representative data base values contained in USDA's National Nutrient Data Bank or the USDA Nutrient Database for Standard Reference and there are no claims on the labeling. Therefore, if these proposed provisions for ground or chopped meat and poultry products are adopted, the Agency will treat these products as it treats all other products for which regulations already require nutrition labels on their package.

Additionally, the following is an overview of some other issues of concern resulting from the mandatory nutrition labeling final rule.

- **Labeling ground product at store level** - There are challenges inherent in the grinding process for ground and chopped meat and poultry products at the store level, for instance in a full service case offering. The equipment, labels and time required to measure and accurately label all ground or chopped meat and poultry products sold out of a full service case, particularly for smaller retail operations, will be quite costly. The ability to use composite data as noted in the response above could alleviate some of these expenses. Being able to refer to nutritional postings on point of sale materials in lieu of on-pack labeling for these items would be even more practical for the industry.
- **Ground Beef Calculator** - It is our understanding that the Nutrient Data Lab would release the new Ground Beef Calculator shortly after the completion of the update of the ground beef nutrient database that occurred summer 2002. As of yet, the Ground Beef Calculator has not been launched. The new ground beef database format provides many more options than its predecessor, offering data at 5% increments (i.e., 80/20, 85/15, 90/10, 94/6, etc.). However, many retailers offer even more finite lean/fat ratios based on customer demand (i.e., 93/7, 97/3, etc.). *Given the proposed rule requires that all ground meats be labeled, it is imperative that the Ground Beef Calculator be completed and ready for use at the time of the announcement of the final rule in order for retailers to accurately label ground beef products.*
- **Required recordkeeping** - While accurate recordkeeping is essential for the proper execution and evaluation of a mandatory program, we request that no additional requirements be placed on the industry for proper compliance to the rule.
- **Implementation period** - In order to allow industry to change systems and get operations in order for proper compliance of the new rule, an 18 month implementation period similar to that provided for the NLEA is essential.
- **Consumer research support** - When developing educational materials to use with consumers to promote the benefits and opportunities provided through a mandatory nutrition labeling program, it is essential to use consumer research methods to test language and format. This will ensure that all materials are consumer friendly and apt to be understood and used.
- **Federal preemption** - A clear statement of federal preemption of state regulations will be important for providing consistency throughout the industry for both ease and accuracy in compliance and monitoring of the final rule.

We hope this additional information is of use to you. Please feel free to contact Dagmar Farr (202-220-0619 or dfarr@fmi.org) or Tom Wenning (703-516-8805 or twenning@nationalgrocers.org) for any additional information you may need. We look forward to working with you in the future.

Sincerely,

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cc: Mr. Paul Noe, Counselor to the Administrator, Office of Management and Budget
Ms. Dagmar Farr, Group VP, Legislative and Consumer Affairs, Food Marketing Institute
Mr. Tom Wenning, Senior VP and General Council, National Grocers Association