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## ABA Successful in Pushing FDA to Provide Relief to Bakers on Trans Fat Labeling – Enforcement Discretion for Products with .5 Grams of Trans in Some Circumstances

Several weeks ago, Robb MacKie and Lee Sanders led a small group of food industry representatives in a meeting with the regulatory office at the White House to make our case and urged flexibility with the pending *trans* labeling deadline. Since that time, ABA has continued to work with the regulatory office at the White House and the Chief Counsel of the FDA to find some sort of relief. ABA learned on December 29 that there would be revised guidance issued on December 30 to address some of our concerns. The addendum calls for FDA enforcement discretion for those companies that have a pending extension request with FDA prior to December 31, 2005 on products with a *trans* fat level of .5 grams or less. While this is not the full blanket extension for all products that ABA requested in October, it will provide some relief for a limited scope of products.

“ABA has worked diligently on behalf of our membership urging both FDA and OMB to recognize the burden on industry created by Hurricanes Katrina and Rita and to provide relief through a *trans* labeling extension– while we had hoped for a full blanket extension for all products, we are optimistic that the limited enforcement discretion that was outlined in the final guidance on December 30 will assist the majority of bakers during this transition period,” said Lee Sanders, ABA Senior Vice President, Government Relations and Public Affairs.

The revised guidance was posted to the FDA website on December 30. The link to this newly updated guidance can be found at <http://www.cfsan.fda.gov/~dms/transgu3.html> FDA received over 300 requests for extensions for *trans* labeling. Given the Agency’s limited resources to handle all of these pending requests prior to January 1, 2006 effective date, the agency intends to consider the exercise of its enforcement discretion for the labeling of foods by firms that requested an extension by December 31, 2005 provided that:

1. Such requests include all the information outlined in the December 14, 2005 guidance;
2. The labels of the products that are the subject of the request do not bear any statements about *trans* fat;
3. The labels otherwise comply with all FDA labeling requirements, including the Food Allergen Labeling and Consumer Protection Act of 2004 (FALCPA) (Pub. L. 108-282) so that the label accurately reflects ingredients and the nutrient profile, including saturated fat; and
4. The amount of *trans* fat in the product is 0.5 gram or less per labeled serving.

FDA intends to consider its enforcement discretion for such products subject to a pending request until the agency has responded to the company concerning the request.

Should you have additional questions, please contact Lee Sanders, ABA Senior Vice President, Government Relations and Public Affairs, [lsanders@americanbakers.org](mailto:lsanders@americanbakers.org)

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