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OSHA Docket Office
U.S. Department of Labor
Room N-2625
200 Constitution Avenue, N.W.
Washington, D.C. 20210

Re: Ergonomics Guidelines for Nursing Homes; Docket No. GE2002-1

Dear Sir or Madam:

On behalf of the Food Marketing Institute (FMI) I am writing to offer our comments on OSHA's draft document, "Ergonomics for the Prevention of Musculoskeletal Disorders, Guidelines for Nursing Homes." While the subject of this first set of proposed ergonomics guidelines does not directly affect the retail grocery stores we represent, as you know FMI has agreed to provide appropriate input to OSHA as the agency develops voluntary guidelines for our industry. We would like to take this opportunity to comment on the basic principles which we believe the guidelines should encompass, and the shortcomings we see in the draft nursing home guidelines.

FMI conducts programs in research, education, industry relations and public affairs on behalf of its 2,300 member companies—food retailers and wholesalers—in the United States and around the world. FMI's U.S. members operate approximately 26,000 retail food stores with a combined annual sales volume of \$340 billion—three quarters of all food retail store sales in the United States. FMI's retail membership is composed of large multi-store chains, regional firms and independent supermarkets. Its international membership includes 200 companies from 60 countries.

Before commenting on the substance of the draft Nursing Home Guidelines, we would like to re-state FMI's strong support for Secretary Chao's ergonomics program, including the development of voluntary guidelines, which was outlined in April, 2002. As FMI President & CEO Tim Hammonds said in our News Release, "Cooperation, not confrontation in the courts or regulatory arena is the best strategy for improving workplace safety." FMI also pledged full cooperation to OSHA in June 2002 when the

agency announced that it would begin development of guidelines for retail grocery stores. As stated in our June 10 News Release, “we are pleased to answer OSHA Administrator John Henshaw’s call to join in the development of guidelines and information, which our member companies may use voluntarily to reduce injuries even further.” FMI continues to support Secretary Chao’s cooperative and voluntary approach to reducing strain-related and repetitive stress injuries.

Below are five principles we believe should be the cornerstone of any ergonomics guidelines produced by OSHA:

Ergonomics guidelines should address clearly identifiable problems and present proven solutions. We believe that ergonomics guidelines should focus solely on those jobs and/or job functions which are generally believed to present a real possibility for on-the-job strain-related injuries, and for which there are solutions with demonstrated success in reducing the possibility of these injuries.

As the business community argued extensively during debate over the Clinton administration’s ergonomics regulation, this is not always an easy task. In many cases there is insufficient scientific evidence to be able to say that a particular job or job function will cause injury in a significant number of employees. Clearly, individual physical characteristics and an individual’s activity outside the workplace may play a large role in that person’s predisposition to injury and each individual reacts differently to on-the-job and other stresses. For example, it is not possible to state definitively how many lifting or retrieving motions will cause injury (i.e. how many times per hour an employee may lift a 20 pound box per hour before causing injury). There is a great deal of scientific uncertainty in this area and we encourage OSHA not to attempt to include overly restrictive suggestions in the guidelines in these and other areas where there continues to be significant scientific uncertainty.

There is however a great deal of general information about proper lifting, bending and retrieving techniques which is based on scientific consensus research and has been shown to help most employees avoid job-related injuries, and this type of information should be included in OSHA’s guidelines. Much of this information has been included in FMI’s publication, “Working Smart in the Retail Environment Ergonomics Guide” which we have provided to OSHA.

Ergonomics guidelines should emphasize practical solutions over formal, bureaucratic programs. We strongly believe that OSHA’s guidelines should avoid the tendency to promote the use of formal, written programs with extensive paperwork and recordkeeping at the expense of offering practical solutions to specific, clearly identifiable problems. Companies should be encouraged to follow whatever

course they find most effective to reach the ultimate goal of reducing strain-related injuries. That may or may not include a formal, written program but that should be left to each individual company and its management team to decide.

It has been our experience that companies within our industry employ a wide range of approaches to reducing injuries and that some of the most successful companies may not utilize an extensive formal program. In fact, in many instances time spent on paperwork activities may be time spent away from actually implementing solutions to problems or working with employees to alter job functions or otherwise address ergonomic problems. This principle is particularly important for small companies, which still comprise the vast majority of businesses in the supermarket industry. Owner/operators of independent supermarket businesses work very hard and must juggle a large number of demands on their time. In most cases they do not have the time, resources or expertise necessary to devote to the formulation of an extensive written program and to maintain extensive recordkeeping. They are much more likely to make use of information that gives them simple, easy-to-understand and practical solutions to potential problems. Independent operators in our industry are eager to take whatever feasible steps they can to improve worker health and safety.

We urge OSHA to keep in mind that many businesses in our industry, particularly the small, family-run community stores, cannot employ large teams of safety professionals and certainly do not have the resources for full-time ergonomists.

An additional concern about the use of formal, highly structured programs is the fact that such programs actually could prevent companies from adopting new techniques or more modern technologies that may be more effective in advancing worker safety. Once a formal program has been developed and implemented it may not be easy to make changes. It may be best for companies to maintain less structured programs allowing greater flexibility to make improvements in strategies for addressing work-related injuries. Each individual company should have the ability to decide the best approach for that company.

In our view the draft Nursing Home Guidelines document relies much too heavily on establishment of formal programs and procedures, and in fact, the document appears to assume that companies will establish quite rigid formal programs. For example, the document outlines extensive training procedures for employees in the typical nursing home, and according to the "Recommended Training Matrix," different training programs would need to be established for each of six employee categories. A voluminous amount of the text of the proposed guidelines outline things such as "Occupational Health Management of MSD's," "Ergonomics Program Evaluation," and "Worksite Analysis," all of which would require extensive formalized procedures, recordkeeping and paperwork to implement. While this may or may not be appropriate for the nursing home industry, it would not be effective for the supermarket industry. Many company managers, particularly those at smaller companies, would simply not have the time or

resources to implement these extensive recommendations. Finally, we feel it is important to point out again that time spent on developing formal programs and recordkeeping is less time spent actually correcting real problems and working with employees to create a safer workplace.

Ergonomics guidelines should be easy-to-use, and written in plain

English. The key to the success of any ergonomics guideline in our industry will be whether grocery store managers find the document easy to understand and easy to implement. If it is not, most simply will not use it, and OSHA will have failed in its efforts to further reduce strain-related injuries. We feel that the Guidelines for Nursing Homes are inadequate in this regard. The proposed guidelines envision companies establishing extensive, bureaucratic programs. If the grocery guidelines are written similarly, they would not be usable for most businesses in our industry, particularly the independent operators that do not employ the teams of safety professionals or ergonomists necessary to develop, implement and monitor an extensive formal program. Ergonomics guidelines, if they are to be successful, must be designed in such a way that they can be easily and efficiently adopted by large numbers of businesses. The draft guidelines devote an entire five pages to general principles that should be included in training programs for various jobs in nursing homes, just one element of the ergonomics program which each employer is expected to design. This is not user-friendly.

Ergonomics guidelines must be written in plain-English. They should use phrases and terms that will be easily understood by business owners and managers who are not safety or ergonomics experts. The documents should avoid the use of terms such as “control methods,” “ergonomic stressors,” “leading and trailing indicators,” etc.

Ergonomics Guidelines should offer employers options and flexibility.

The most effective Guidelines will be those that provide employers with suggestions or options for actions they may wish to take to reduce the likelihood of injury, rather than attempting to direct businesses into a particular type of solution. Again, we believe the guidelines are flawed in this area because of the high reliance on the establishment of formal, bureaucratic programs. While such programs may be feasible or desirable at some companies, for most they are not. Options or “tools” contained in guidelines may be drawn from a variety of sources including industry safety and health experts, trade association research, respected scientific research, etc.

Ergonomics Guidelines will only be successful if they are put to use; not sitting on a shelf. As we have stated above, we believe that the guidelines will only be put to use if they contain practical solutions to clearly identifiable problems, offer various options which businesses may use to address those problems, and are not heavily

reliant upon employers establishing formal ergonomic programs. Any guidelines for retail grocery stores, if written in a similar scope and fashion as the draft Nursing Home Guidelines, would not be used by most companies in our industry.

FMI is a member of the Steering Committee of the National Coalition on Ergonomics (NCE), which represents over 250 trade associations and individual businesses in a wide range of industries. The NCE has separately filed extensive comments on the draft Nursing Home Guidelines and FMI strongly endorses those comments. Furthermore, we strongly encourage OSHA to seek the input of the NCE throughout the development of future industry-specific guidelines.

FMI remains strongly committed to working with Sec. Chao and Administrator Henshaw to develop effective, useful guidelines which will help to continue to reduce strain-related injuries in grocery stores. We hope these comments will be helpful as the nursing home and other industry guidelines are developed.

Sincerely,

George Green
Vice President and General Counsel