

FDA's 'Added Sugar' Label Proposal Stings Honey, Maple Cos.

By Joyce Hanson

Law360 (June 19, 2018, 9:21 PM EDT) -- The U.S. Food and Drug Administration has been slammed with negative comments about its proposed rule change that would make producers of honey and maple syrup label their products as "added sugars," with companies and consumers alike variously criticizing the FDA's draft guidance as misleading, unnecessary and "completely absurd."

The new rule requires an "Added Sugars" line in the Nutrition Facts box on food labels, along with a "% Daily Value" number. The FDA's latest plan to address producers' concerns by adding an obelisk symbol, or "+," next to the number on single-ingredient containers of pure honey or pure maple syrup — to refer consumers to information that no sugar was actually added — has backfired, as many of the 3,673 individuals who commented by the June 15 deadline said the addition would only cause confusion.

"As a certified organic producer of Pure Vermont 100% Pure Maple Syrup, I find this proposed change to the Nutrition Facts completely absurd," Jon Osborne, owner of small Vermont maple farm Osborne Family Maple, wrote on the FDA's electronic comment web page. "There are absolutely no sugars added. The existing Nutrition Facts are accurate. Use your limited time and resources on matters that improve the safety of our food system, not silly things like this. Please let me know where and when to testify against this proposed rule change."

John Hawkins, another commenter, who said he makes dozens of presentations a year on honeybees and beekeeping, highlighted the fact that real honey is a whole product with nothing added by human hands.

"Requiring a label indicating 'added sugars' further confuses the issue of real honey versus flavored corn, rice or cane syrup mixtures that claim to be honey," Hawkins wrote.

Keri E. Borders, a Mayer Brown LLP litigator who concentrates her practice on defending consumer package good manufacturers, retailers and distributors, told Law360 on Monday that the FDA seeks to inform consumers about added sugars as a health risk, "given that increased sugar consumption is related to health problems such as diabetes and high blood pressure — and honey and maple syrup are sugars."

While regulators are likely concerned about sugar as a public health policy, Borders said, food manufacturers are worried because they don't want their products to be confused with other products that might be adulterated with other sweeteners.

"Consumers want products that are 100 percent honey or 100 percent maple syrup, and there are products out there in the market that are not," Borders said. "Pure maple syrup is very expensive. The concern is that there could be a product out there that says it's maple syrup, but it's not 100 percent maple syrup. Maybe it's 50 percent maple syrup or a little touch of maple syrup flavor, but it's really pancake syrup, which is high fructose corn syrup and food coloring. The maple manufacturers are concerned that if consumers read that sugar is added sugar, they might wonder, 'Did the maple manufacturer add sugar? Is this not 100 percent maple syrup?' That's the concern from the industry's point of view."

Also commenting on the FDA's "added sugar" proposal were the International Maple Syrup Institute and the National Honey Board, which in April both requested an extension of the comment period for the draft guidance released in February.

The maple institute in its request worried that an indication of added sugar on the label of a pure maple product "would imply additional ingredients beyond the sap from which it was derived," while the honey board said it has been "feverishly working on some quantitative research to understand how the obelisk the FDA has proposed improves the understanding of the 'added sugar' labeling on honey."

Also backing the maple and honey producers was U.S. Sen. Angus King, I-Maine, who said on the Senate floor on June 13 that the FDA's goal of updating its Nutrition Facts panel on food packages is laudable but that the proposal "goes off the rails" when it comes to the "added sugar" labeling for maple and honey.

"To add the phrase 'added sugar' to maple syrup and honey makes no sense and is, indeed, confusing to the consumer because if you read a maple syrup label that says 'added sugar,' your natural assumption is somebody has put some more sugar in there," King said.

The FDA on Tuesday said in a constituent update that the agency is reviewing the comments on its draft guidance and plans to make a revision.

"FDA recognizes the complexity of this issue and is grateful for the feedback it has received, including more than 3,000 comments received during the comment period on the draft guidance that closed on June 15," the agency said in a statement. "The agency plans to take these comments into consideration to swiftly formulate a revised approach that makes key information available to consumers in a workable way."

The agency noted that when it issued its final rule to update the Nutrition Facts label, it included "added sugars" as one of a number of required nutrients to declare on the label, providing a definition of added sugars based on the "2015-2020 Dietary Guidelines for Americans."

"FDA's definition of added sugars includes sugars that are either added during the processing of foods or are packaged as such (e.g., a jar of honey, container of maple syrup, or a bag of table sugar)," the agency said. "This definition forms the basis of the Dietary Guidelines recommendation that Americans eat no more than 10 percent of their daily calories from added sugars in order to reduce their risk of chronic disease like heart disease."

Update: This article has been updated with a comment from the FDA on Tuesday.

--Editing by Breda Lund.

All Content © 2003-2018, Portfolio Media, Inc.