CRS Reports & Analysis

Legal Sidebar

FDA Naturally Requests Public Comments on the Use of "Natural" on Food Labels

12/11/2015

On November 12, 2015, the Food and Drug Administration (FDA) announced that the agency will begin collecting public comments on the use of the term "natural" on the labeling of food products, including foods that are genetically engineered (GE) or contain GE ingredients. A notification for public comment, such as that issued by the FDA on November 12, generally serves as the beginning of the regulatory process.

Neither the Federal Food, Drug, & Cosmetic Act (FFDCA), nor the corresponding FDA regulations, directly define "natural" in the food labeling context. The FDA had issued an informal policy statement, in 1991, that ultimately defines "natural" through exclusion. According to the FDA, "natural" on a food label "mean[s] that nothing artificial or synthetic (including all color additives regardless of source) has been included in, or been added to, a food that would not normally be expected to be in the food."

Prior to this November 12 notification, the FDA had declined to establish a formal definition for "natural" through rulemaking and to expand upon the meaning of "natural" beyond the above explanation in the informal policy statement. In the 1990's, the FDA considered establishing a definition for the term "natural" in response to consumer requests and the widespread use of "natural" to indicate a variety of food traits, as reported by the FDA. During this notification process, the FDA asked for specific public comments as to how the agency should define "natural" so that the term would facilitate consumer understanding while avoiding any false or misleading information. The FDA, however, ultimately declined to engage in rulemaking to define "natural" at that time. According to the agency, the public comments did not reveal a specific direction to develop a definition for "natural" for the agency to follow.

So why has the agency embarked on the same process again over two decades later? Over the past few years, the FDA has received several citizen petitions from various industry representatives and interest groups. In a March 14, 2014 petition to the FDA, the Grocery Manufacturers Association requested the agency to issue a regulation that would state that "it is neither false nor misleading to label a food as 'natural' or similar terms solely because the food is or contains a food derived from biotechnology." In addition to these citizen petitions, federal district courts have also contacted the FDA for an administration determination as to whether food products containing ingredients produced using GE may be labeled as "natural." According to the November 12 notice, the FDA has declined to make such an administrative determination and has responded to the courts' request by stating that if the agency chose to amend its current policy on "natural," it would do so using a more public process. There has also been congressional interest in the topic. Section 302 of the Safe and Accurate Food Labeling Act (H.R. 1599), which passed the House of Representatives in July, would require the FDA to regulate the term "natural" on food labeling.

In the November 12 notice, the FDA specifically asks whether (and if so when) the use of the term "natural" in the labeling of food would be false and misleading. The agency poses such questions as: should the agency prohibit the term "natural," should only raw agricultural commodities bear the term "natural," should genetic engineering practices be a determinative factor in deciding whether a food is "natural," and whether the term "natural" should apply to unprocessed foods only.

The deadline to file comments via http://www.regulations.gov/ is February 10, 2016. For more information about

"natural" and GE food labeling issues, see CRS Report R43705, *Legal Issues with Federal Labeling of Genetically Engineered Food: In Brief*, by Emily M. Lanza.

Posted at 12/11/2015 09:54 AM