



International Dairy Foods Association
Milk Industry Foundation
National Cheese Institute
International Ice Cream Association

November 13, 2009

Food Safety and Inspection Service
U.S. Department of Agriculture
5601 Sunnyside Avenue
Room 2-2127
Beltsville, MD 20705

**RE: Docket No. FSIS 2006-0040A: Advanced Notice of Proposed Rulemaking
"Product Labeling: Use of the Voluntary Claim 'Natural' in the Labeling of
Meat and Poultry Products"**

To Whom It May Concern:

The International Dairy Foods Association appreciates the opportunity to comment on "natural" claims on products regulated by FSIS.

The International Dairy Foods Association (IDFA), Washington, DC, represents the nation's dairy manufacturing and marketing industries and their suppliers, with a membership of 550 companies representing a \$110-billion a year industry. IDFA is composed of three constituent organizations: the Milk Industry Foundation (MIF), the National Cheese Institute (NCI) and the International Ice Cream Association (IICA). IDFA's 220 dairy processing members run more than 600 plant operations, and range from large multi-national organizations to single-plant companies. Together they represent more than 85% of the milk, cultured products, cheese and frozen desserts produced and marketed in the United States. IDFA can be found online at www.idfa.org.

While products made by IDFA's member companies do not typically fall under the jurisdiction of FSIS, many dairy products, particularly cheese, are used as ingredients in FSIS-regulated foods, such as meat-topped pizzas or cheeseburgers. It is from this standpoint that we offer the following comments on "natural" claims. We believe that "natural" product claims should focus on the derivation of the ingredient used in a product, and that case by case review will ensure that "natural" is used appropriately on labels while allowing flexibility to use the word truthfully in other labeling contexts.

A single regulation for "natural" claims would not be feasible

IDFA believes that defining the term "natural" in regulation is not feasible because its meaning depends upon the context in which it is being used. This is the same conclusion

reached by the Federal Trade Commission (FTC), the USDA and the FDA when the agencies undertook an extensive review of the term “natural” in advertising and labeling in the 1970’s. After nearly a decade of review, the FTC terminated the proceeding in 1983, reaching the conclusion that “the context in which natural is used determines its meaning.” ^{1/}

This conclusion is just as true in 2009 as it was in 1983, more than 25 years later. The term “natural” is still used in many different contexts, and its meaning alters from one context to another. For example, the website www.dictionary.com lists thirty-eight definitions for “natural.” ^{2/} Several of these could be appropriate descriptors for food. In addition, The American Heritage Dictionary defines “natural” as, among other things, “not produced or changed artificially.” ³ As described below, nowhere is this context more important than in the use of the term “natural” to describe cheese products. Accordingly, IDFA urges FSIS not to define the term rigidly in a rulemaking proceeding, but instead to continue to apply agency policy on a case-by-case basis in its label reviews.

We would instead recommend that FSIS update the current guidance so that the expectations of “natural” labeling are clear to all, including the food industry and consumers. Guidance will still allow for flexibility and interpretation on a case-by-case basis.

Multi-functional ingredients with a preservative effect should not disqualify “natural” products

There are many common, naturally-derived ingredients used in foods that can serve multiple purposes and in some cases, one of these purposes may be as a preservative. One example would be salt. Salt can serve many purposes in food processing, including cheesemaking, such as flavoring and texturizing but also to extend shelf life. Salt is a natural ingredient. It has been used in cheesemaking and other food processing for countless years. There is no reason to exclude this naturally-derived ingredient because it could act to preserve food safety and quality.

Claims for “natural” products and other statements using the word “natural” should be considered on a case-by-case basis

There should be allowance for different uses of the term “natural” on a label, such as “natural ingredients.” This would allow for ingredients that are naturally derived, but may not be typically allowed in an “all natural” type product, such as beet juice for color. These ingredients are still naturally derived and are therefore “natural ingredients.” This type of statement would be a truthful representation of the product and the ingredients used to make the product.

^{1/} Termination of Proposed Trade Regulation; Rule on Food Advertising, 48 Fed. Reg. 23270 (May 24, 1983) (statement of FTC Chairman James C. Miller, III).]

^{2/} Natural. Dictionary.com. *Dictionary.com Unabridged (v 1.1)*. Random House, Inc. <http://dictionary.reference.com/browse/natural> (accessed: December 21, 2006).

³ Natural. Dictionary.com. *The American Heritage® Dictionary of the English Language, Fourth Edition*. Houghton Mifflin Company, 2004. <http://dictionary.reference.com/browse/natural> (accessed: December 28, 2006).

Other phrases that use the term "natural" should also be allowed, as long as they truthfully represent the product, such as "made with natural flavors" or "naturally and artificially flavored."

Another term that should continue to be allowed is "natural cheese." This term has been used for decades and its meaning is well-understood by consumers. "Natural cheese" is a term commonly used to differentiate a product from processed cheese, and consumers understand this intended meaning. "Natural cheese" commonly describes a product that is made by combining milk, bacterial cultures, salt and rennet to form a finished product with distinctive characteristics, based on the type of cheese being manufactured. This could apply to "natural cheddar cheese," "natural colby cheese," and so forth. The importance of the term is to differentiate the product from "processed cheese." For example, "natural cheddar cheese" can be easily distinguished from "pasteurized process cheddar cheese," and "natural colby cheese" can be readily distinguished from "pasteurized process colby cheese." This type of product characterization has been used for decades, and consumers know that each connotes different product characteristics, such as the melting characteristics of processed cheese, or the flavor characteristics of a natural cheese. Through this simple and consistent labeling, cheese makers have always been able to quickly and clearly indicate to consumers which product is "natural" and which product is "processed."

This use of the term "natural cheese" is reflected in a number of USDA publications. For example, in the USDA booklet "How to Buy Cheese" (Home and Garden Bulletin 256) published by the Agricultural Marketing Service, the section on labels and labeling states: "Labels on natural cheese, pasteurized process cheese, and related products carry important descriptive information." This is just one example of where USDA itself uses the term "natural cheese" to distinguish from "process cheese." Another USDA publication, "Dairy Products 2005 Summary" from the National Agricultural Statistics Service, defines processed cheese as "...made by pasteurizing, emulsifying, and blending *natural cheese*...." (Emphasis added.) This also shows that USDA consistently makes a distinction between "process cheese" and "natural cheese" as being distinct classes of cheese.

Accordingly, this longstanding use of the term "natural cheese" is one example of how the term "natural" has different meanings in different contexts and is not suitable for a single, rigid definition in a FSIS regulation. It also shows how the definition and use of the term "natural" cuts across many product lines, including many products regulated primarily by the FDA.

Cheesemaking is a traditional food processing method

Unlike FDA's guidance on "natural" claims, the current FSIS interpretation may be viewed as excluding products made using "non-traditional" food processing methods. We believe that natural claims should focus on the derivation of the ingredients used in the labeled food product, not on the methods used to process those foods.

Cheesemaking is a traditional processing method, used for centuries to make various types of cheeses. Cheesemaking methods may or may not be expressly described in the regulations governing standards of identity for cheese. For example, in many FDA-regulated standards of identity, the ingredients and processes used to make cheeses, such as cheddar and swiss, are defined. In addition to the method of cheesemaking laid out in the standards, these and other cheese standards also allow for "alternate make." This allowance provides for other methods of making a standardized cheese, as long as the end product meets the standard's requirements for composition of the cheese. To the extent that processing methods are considered when evaluating "natural" claims, cheesemaking processes should be viewed as consistent with minimal processing.

"Natural" claims should not imply any specific animal production conditions

"Natural" claims have traditionally been focused on the ingredients used in the manufacture or processing of a food product. This should continue to be the meaning of "natural" statements.

Statements regarding methods of animal production can and should be made separately from "natural" statements. Separate statements will allow for truthful and accurate representations of both the ingredients used in a food product and also how the animal-sourced ingredients were produced.

Any rules or guidelines set for "natural" claims should be consistent between FSIS and FDA

In conducting its review of use of the term "natural" on food products, it is essential that FSIS consult closely with the FDA to ensure a consistent Federal policy. Although some dairy products may be used as ingredients in foods that are regulated by FSIS, such as the cheese in pepperoni pizza or cheeseburgers, dairy products are primarily regulated by the FDA. The same is true for many non-dairy products as well. In the past, both agencies have sought to apply a policy on "natural" claims on a case-by-case basis, and IDFA urges both FSIS and FDA to continue to do so. It would be inappropriate for FSIS to develop a regulation on its own on an issue such as "natural" labeling that applies to so many different product categories regulated by each agency, not just products regulated by FSIS. IDFA believes that FSIS ought to be especially careful that it does not, inadvertently, set a precedent for products outside its regulatory domain.

Modified atmosphere packaging should not disqualify a product from making a "natural" claim

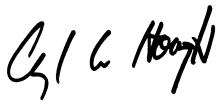
Modified atmosphere packaging, using carbon monoxide or other gasses, is used in a variety of foods, including nitrogen and carbon dioxide in dairy products. These gasses are not added to the food product itself and the gasses escape when the package is opened. They are not ingredients and would not need to be labeled in a product's ingredient list.

Since these gasses are not ingredients, they should not be considered in determinations of whether or not a product is eligible for "natural" labeling.

Conclusion

IDFA believes that FSIS should not develop formal regulations on the definition of the claim "natural." However, there should be clear guidance so that companies have confidence as they are developing products they are intending to label "natural." This will also give consumers a clear understanding of what a "natural" claim means on products they purchase and will allow for various truthful uses of the word "natural" depending on the specific label context. This FSIS guidance should be aligned with current FDA guidance and should focus on the derivation of ingredients in the product, rather than the processes used to make the ingredients or the function of the ingredients in the finished product.

Sincerely,

A handwritten signature in black ink, appearing to read "Clayton Hough". The signature is written in a cursive, slightly slanted style.

Clayton Hough
Senior Group Vice President and General Counsel