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USDA, FSIS  
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Washington, DC 20250

Via E-mail: [fsis.regulationscomments@fsis.usda.gov](mailto:fsis.regulationscomments@fsis.usda.gov)  
and  
U.S. Mail

RE: Product Labeling: Definition of the Term "Natural" [Docket  
No. FSIS 2006-0040]

Dear Sir or Madam:

The Vinegar Institute (VI) is an international trade association representing manufacturers and bottlers of vinegar and suppliers to this industry. Of particular note, the vast majority of vinegar manufacturers in the United States are members of the Institute. VI submits the following comments on the United States Department of Agriculture's (USDA) notice regarding definition of the term "natural" in the December 5, 2006 *Federal Register* (71 FR 70503). Additionally, a representative of The Vinegar Institute attended the December 12 public meeting on this issue. Like many interested stakeholders, we believe it is time for USDA to revisit the definition of "natural" and appreciate the opportunity to provide input on this issue in advance of rulemaking.

Vinegar is a product regulated by the Food and Drug Administration (FDA) and is clearly "natural" under FDA's policy, provided the starting source for the alcohol is derived from a natural food source and contains no synthetic ingredient. We have recently become aware that under USDA's policy, a meat or poultry product containing white distilled vinegar cannot make an unqualified "natural" claim because of the distillation of the alcohol used to produce this product. USDA takes this position despite its regulations that specifically include distillation as an acceptable processing method for "natural flavors"<sup>1</sup> and "organic" claims,<sup>2</sup> and vinegars are specifically excluded from the definition of "chemical preservative" in the USDA Food Standards and Labeling Policy Book. We believe that industry and consumers are negatively impacted as a result of these inconsistent interpretations. Our detailed comments follow.

<sup>1</sup> See 9 CFR 317.2(f)(1)(i)(B). We believe that "natural flavors" would qualify for a "natural" claim, and that the listed processing methods in the regulation for a "natural flavor" qualify as minimal processing.

<sup>2</sup> See 7 CFR 205.270(a).

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USDA and FDA Policy on "Natural" Claims and Vinegar

In 1982, USDA's Food Safety and Inspection Service (FSIS) published policy guidance for the use of the term "natural" on the labeling of meat and poultry products, provided such labeling demonstrated that:

1. the product does not contain any artificial flavor or flavoring, coloring ingredient or chemical preservative (as defined in 21 CFR 101.22) or any other artificial or synthetic ingredient; and
2. the product and its ingredients are not more than minimally processed. Several examples of "minimally processed" are provided in the policy, though it is acknowledged that there are exceptions to this general view, and that the presence of an ingredient that has been more than minimally processed would not necessarily preclude a product from being promoted as "natural." However, it is noted that such exceptions would be granted on a case-by-case basis with additional information being required on the label of the product.

FSIS has stated that other vinegar varieties also produced through fermentation (e.g., cider and rice vinegars) are acceptable for use in meat and poultry products making an unqualified "natural" claim. As noted earlier, it has recently come to our attention by a representative of USDA's Food Safety and Inspection Service (FSIS) that based on USDA's policy, a meat or poultry product containing white distilled vinegar cannot be considered "natural" because "distilled vinegar has always been considered more than minimally processed and therefore has never qualified for 'all natural.'" The FSIS representative asserted that distilled vinegar is made by the acetic fermentation of dilute distilled alcohol; and expressed the opinion that this type of vinegar has not been permitted in products identified as "natural" because the starting material is distilled alcohol.

We were not previously aware of this position, and we strongly disagree with this interpretation. A short survey of the VI membership has shown that the vast majority of Institute members, as well as VI staff, were unaware of FSIS' interpretation until a few months ago. To our knowledge, there has never been any public disclosure of the policy's interpretation. Further, until a few months ago, the actual label approval process has allowed many products containing white distilled vinegar to make an unqualified "natural" claim.

We would like to point out that, according to the USDA Food Standards and Labeling Policy Book, the term "vinegar" is equivalent to what we refer to in this letter as "white distilled vinegar." Therefore, the vast majority of labels approved in the past with the ingredient "vinegar" probably refer to vinegar that has been produced with distilled alcohol from a natural source. This includes numerous labels approved for "natural" claims.

It is the belief of VI that, with the exception of recent months, FSIS actions have not made it clear to the vinegar industry that it considered white distilled vinegar as anything but natural. As such, it appears that there has been a *de facto* reversal in policy since FSIS is currently no longer approving natural labels for meat and poultry products using white distilled vinegar. This is placing an undue burden on vinegar manufacturers and meat processors that have historically used vinegar in natural meat and poultry products, and have constructed business models in reliance on their understanding of FSIS policy.

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FDA, U.S. Consumers, & the Vinegar Industry regard White Distilled Vinegar as Natural  
The Vinegar Institute contends that white distilled vinegar should be considered "natural" under USDA's policy, provided the starting source for the alcohol is derived from a natural food source and contains no synthetic ingredient.

The Vinegar Institute as well as the FDA agree that white distilled vinegar is a natural food product. While FDA does not have a premarket label review program, it maintains a policy with respect to "natural" labeling, and it enforces this policy by taking action against misbranded and mislabeled products, including those products that make false or misleading statements on their labels. FDA enforces its policy regarding the use of "natural" claims through enforcement actions, and, to our knowledge, FDA has not taken enforcement action against white distilled vinegar products that appropriately make unqualified "all-natural" claims. It is also overwhelmingly clear that U.S. consumers and users hold this same opinion. Additional information follows.

The Vinegar Institute previously commissioned consumer surveys with Synovate, a market research company. The objective of the surveys was to examine the attitude toward and usage of white distilled vinegar by core and non-core vinegar users. Additional details regarding the surveys are noted below. It is important to note that the results are nationally representative and projectable.

In 2004, The Vinegar Institute conducted a mail survey of over 600 core users of white distilled vinegar. (A core user was defined as someone who purchases white distilled vinegar three or more times annually and uses it once a month or more often.) Seventy-one percent of these core users "agreed completely" that white distilled vinegar "Is a natural product."

Similarly, in 2005, The Vinegar Institute undertook a telephone survey of 1,000 non-core users of white distilled vinegar. The non-core users were separated into light users (827) and non-users (173). (A light user is defined as someone who uses white distilled vinegar, but does not use/purchase it as frequently as core users, and a non-user is defined as someone who has never used white distilled vinegar). Sixty-eight percent of non-core users either agreed completely or agreed that white distilled vinegar "Is an all-natural product."

#### Minimally Processed Requirement for Natural and Vinegar

It is our understanding that FSIS does not consider distillation techniques as fundamentally more than minimal processing, but considers each application of the technology on a case-by-case basis. For example, many natural flavors are extracted via distillation. We do not understand the rationale for FSIS' decision to consider distillation more than minimal processing in the case of alcohol for vinegar production. Natural distillation of grain alcohol does not change the starting material. It is only used to economically concentrate the starting material and to avoid shipping water. This is similar to using apple juice concentrate to make single strength juices or to reconstitute to make apple vinegars. Distillation, much like juice concentration, is simply heating a liquid above its boiling point and condensing the vapors at the top of the column.

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Vinegar has had a worldwide presence for centuries, long before modern food processing came into play. Many years ago, corn and other grains would have to be ground with a millstone and cooked over kettles, handled with wooden rakes and filtered with cloth by hand and then fermented. It is unreasonable to expect the alcohol and vinegar industries not to take advantage of technology, especially when the resulting end-product is the same.

The starting material for white distilled vinegar is a sugar slurry, originating typically in the U.S. from cane, corn, wheat and/or milo. The sugars are fermented by natural yeast into alcohol. The alcohol is concentrated by distillation for transportation to the vinegar production facilities. Distillation is the concentration method approved by the Alcohol and Tobacco Tax and Trade Bureau (TTB) for commerce of spirits in the United States.<sup>3</sup> The alcohol is then diluted to fermentation strength and converted to vinegar by fermentation.

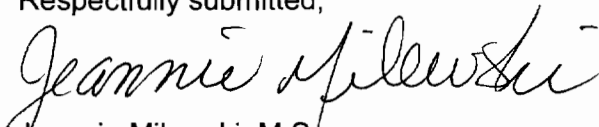
In its notice, USDA has specifically questioned whether the "minimally processed" criterion is reasonable in light of advances in food processing technologies. VI and its members feel that the USDA "minimally processed" criterion is confusing and needs to be further clarified to avoid case-by-case exceptions and also to provide consistency. We look forward to the opportunity to provide comments in future rulemaking related to the "minimally processed" criterion.

#### Conclusion

We applaud the Agency for inviting public comment on its policy for "natural" prior to initiating rulemaking. However, in the interim it is not appropriate for an Agency to seemingly reverse course abruptly and without warning, as it appears to have occurred in the case of white distilled vinegar. We believe that any changes must be implemented at the conclusion of the rulemaking process, not at its onset.

We appreciate your consideration of these comments and respectfully request that FSIS quickly reverse its recent interpretation and conclude that white distilled vinegar is natural within the case-by-case exception criteria at a minimum. We also would welcome the opportunity to meet with USDA personnel to further discuss this issue. Additionally, we look forward to providing additional comments on any future rulemaking in this area.

Respectfully submitted,

  
Jeannie Milewski, M.S.  
Executive Director

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<sup>3</sup> See 27 CFR Parts 19 (Distilled Spirits Plans Regulations) and 27 CFR Parts 20, 21, & 22 (Industrial Alcohol & Denatured Rum Regulations).