



## VERMONT MAPLE SUGAR MAKERS' ASSOCIATION

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PHONE: 802-858-9444  
WWW.VERMONTMAPLE.ORG

Ms. Lynn M. Syzbist  
Office of Nutrition, Labeling, and Dietary Supplements  
5100 Paint Branch Parkway  
College Park, MD 20740

February 15, 2016

Dear Ms. Syzbist:

We write to request that FDA take enforcement action concerning misrepresentative labeling of food products whose labels incorrectly indicate the presence of maple syrup. They are misbranded in violation of section 403 of the Food, Drug and Cosmetic Act (FDCA), 21 U.S.C. § 343, and the food labeling regulations in 21 C.F.R. §§ 102.5. Some examples of these products are described below. The products listed below are, however, only a small sample meant for exemplary purposes, and many more such misbranded products exist in the marketplace.

This misbranded group of products declares “maple” on their packaging as a characterizing ingredient even where maple syrup (as defined in 21 CFR § 168.140(a)) is not actually present in the product. In food contexts, the term “maple” has long been used and understood to refer to “maple syrup” (in FDA’s August 12, 2015 letter to Hampton Foods, the term “mayo” was found to have “long been used and understood” to mean “mayonnaise”).

As maple syrup purveyors or producers, or parties otherwise invested in a healthy maple syrup marketplace, we have a particular interest in ensuring that products claiming to contain maple are properly labeled to prevent consumer confusion. Thus, we request that FDA take enforcement actions to stop the misbranding of this class of products, either by removing the maple branding from the packaging, or by adding maple syrup - a substance derived from the heat treatment of sap from the maple tree (as defined in 21 CFR § 168.140(a)).

The regulation violated by this misbranding governs “characterizing properties or ingredients,” and requires that “the common or usual name of a food shall include the percentage(s) of any characterizing ingredient(s) or component(s) when the proportion of such ingredient(s) or component(s) in the food has a material bearing on price or consumer acceptance or when the labeling or the appearance of the food may otherwise create an erroneous impression that such ingredient(s) or component(s) is present in an amount greater than is actually the case.” 21 CFR § 102.5.

Maple syrup, a premium ingredient, plainly has a material bearing on the price and/or consumer acceptance of food products that contain it, which is why it is frequently an ingredient named in the title



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of foods or displayed on its packaging. Thus, if a product name includes “maple,” or its packaging emphasizes the presence of maple (e.g., through vignettes of maple syrup, leaves, and trees), but the product does not actually contain any maple syrup, it is unlawfully misbranded under this regulation.

This unchecked misbranding has an adverse impact on manufacturers of products containing real maple syrup, as it allows cheaper products not containing premium ingredients to compete with those actually containing maple syrup. Further, it deceives consumers into believing they are purchasing a premium product when, in fact, they have a product of substantially lower quality.

The following products are examples misbranding under 21 CFR § 102.5:

- MOM Brands' Better Oats Maple & Brown Sugar Instant Oatmeal with Flax
- Madhava Natural Sweeteners Maple Agave Nectar
- Honey Stinger Organic Maple Waffle
- Quaker Oats Maple & Brown Sugar Instant Oatmeal
- Quaker Oats Maple & Brown Sugar High Fiber Instant Oatmeal
- GU Maple Bacon Energy Gel
- Quaker Oats Maple Pecan Raisin Flavored Oatmeal
- Hood Ice Cream Maple Walnut

FDA has legal authority to take the actions requested in this letter under the FDCA. Section 301(a) prohibits introduction into interstate commerce of any food that is “misbranded” while Section 301(b) prohibits “misbranding” of any food already in interstate commerce. Each product identified in this letter is currently in interstate commerce. We hope that many companies marketing misbranded products will consider including maple syrup in their products in order to comply with the law, however if they do not, we request enforcement action by the FDA.

Although this letter contains only eight products, such mislabeling is rampant in the marketplace, and we urge the FDA to take comprehensive action to protect consumers from deception regarding maple products.

Sincerely,

- Maple Syrup Producers' Association of Connecticut
- Indiana Maple Syrup Association
- Maine Maple Producers' Association
- Massachusetts Maple Producers' Association
- Michigan Maple Syrup Association
- Commercial Maple Syrup Producers of Michigan
- Minnesota Maple Syrup Producers' Association
- New Hampshire Maple Producers' Association
- New York State Maple Producers' Association
- Vermont Maple Sugar Makers' Association
- Wisconsin Maple Syrup Producer's Association
- International Maple Syrup Institute
- North American Maple Syrup Council



Vitamin B6 20%	Folate 25%			
Phosphorus 15%	Magnesium 10%			
*Percent Daily Values are based on a 2,000 calorie diet. Your daily values may be higher or lower depending on your calorie needs:				
Total Fat	Less than 65g	2,000	80g	2,500
Saturated Fat	Less than 20g		25g	
Cholesterol	Less than 300mg		300mg	
Sodium	Less than 2,400mg		2,400mg	
Potassium	Less than 3,500mg		3,500mg	
Total Carbohydrate	300g		375g	
Dietary Fiber	25g		30g	

**Ingredients:** Whole Grain Rolled Oats, Sugar, Flaxseed, Natural and Artificial Flavor, Salt, Caramel Color.

**Vitamins & Minerals:** Calcium Carbonate, Ferric Orthophosphate (source of iron), Alpha Tocopherol Acetate (vitamin E), Niacinamide\*, Vitamin A Palmitate, Pyridoxine Hydrochloride\*, Riboflavin\*, Thiamin Mononitrate\*, Folic Acid\*.

\*One of the B Vitamins

**Distributed By: MOM Brands®**  
Lakeville, MN 55044  
Made in U.S.A. ©2013 MOM Brands



Figure 1: MOM Brands' Better Oats Maple & Brown Sugar Instant Oatmeal with Flax



**Ingredients: Pure Organic Agave Nectar, Organic Natural Flavor.**

Figure 2: Madhava Natural Sweeteners Maple Agave Nectar



Figure 3: Honey Stinger Organic Maple Waffle





Total Fat	Less than 65g	80g
Sat Fat	Less than 20g	25g
Cholesterol	Less than 300mg	300mg
Sodium	Less than 2,400mg	2,400mg
Potassium	3,500mg	3,500mg
Total Carbohydrate	300g	375g
Dietary Fiber	25g	30g

**Ingredients:** Whole grain rolled oats, sugar, natural and artificial flavor, salt, calcium carbonate, guar gum, caramel color, niacinamide\*, reduced iron, vitamin A palmitate, pyridoxine hydrochloride\*, riboflavin\*, thiamin mononitrate\*, folic acid\*.

\*One of the B vitamins  
123-62

Figure 4: Quaker Oats Maple & Brown Sugar Instant Oatmeal



**Ingredients:** Whole grain rolled oats, maltodextrin, sugar, natural and artificial flavor, salt, calcium carbonate, guar gum, sucralose, niacinamide\*, reduced iron, caramel color, vitamin A palmitate, pyridoxine hydrochloride\*, riboflavin\*, thiamin mononitrate\*, folic acid\*.

\*One of the B vitamins

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Figure 5: Quaker Oats Maple & Brown Sugar High Fiber Instant Oatmeal

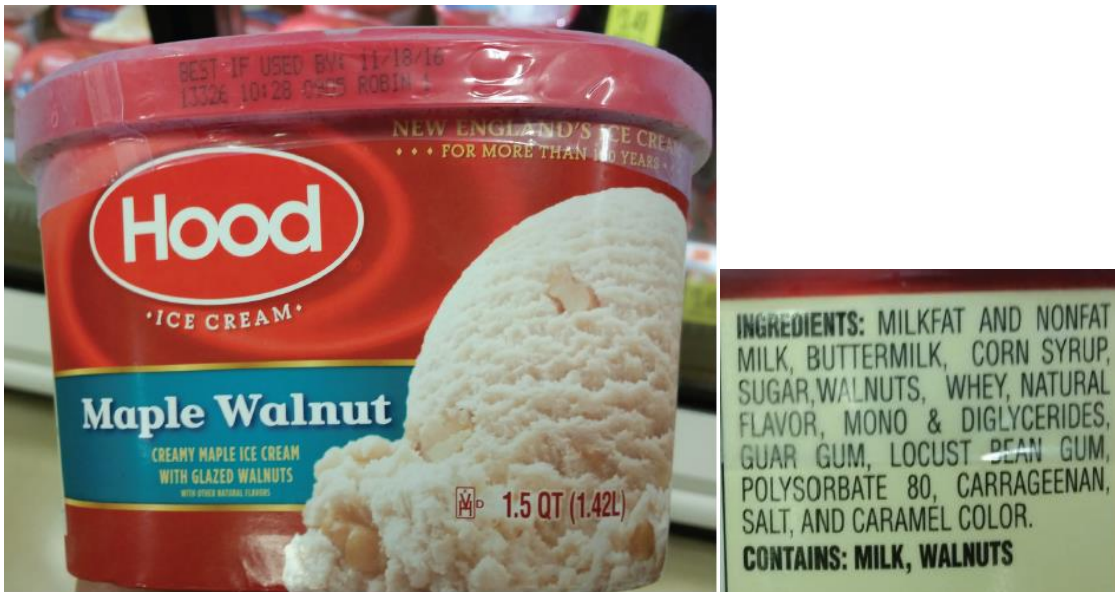


**Figure 6:** *GU Maple Bacon Energy Gel*



**Figure 7:** *Quaker Oats Maple Pecan Raisin Flavored Oatmeal*





**Figure 8:** Hood Ice Cream Maple Walnut