

ALERT

Labeling of Foods Comprised of or Containing Cultured Seafood Cells: FDA Requests Public Comment

November 6, 2020

The U.S. Food and Drug Administration (FDA) published a request for information in the Federal Register in connection with labeling of foods made with cultured seafood cells. FDA will use the information received to decide how it will develop labeling requirements for cell-cultured seafoods in the future. FDA will accept comments from the public for 150 days – or until March 8, 2021 – under Docket No. FDA-2020-N-1720. You can submit comments [here](#).

Numerous firms worldwide are developing animal-cell-based foods. As it relates to cultured seafood, production costs are dropping and broader commercialization of the technologies are not far off. FDA and the United States Department of Agriculture (USDA) have announced that they will develop joint principles for product labeling and claims “to ensure products are labeled consistently and transparently.” However, we are seeing more movement from FDA on the seafood front given almost all seafood falls under its jurisdiction.

If the experience of the plant-based meat industry is prologue, regulatory determinations regarding how animal-cell-based foods may or must be labeled will be hotly contested. Controversy over the labeling of plant-based products led to a patchwork of state laws, but the hope is that FDA’s proactive efforts as it relates to cell-based seafood labeling will largely preempt state jurisdiction.

Companies developing cell-based seafood products and interested stakeholders should consider submitting comments to FDA to provide insight as to how FDA should label foods comprised of or that contain cultured seafood cells. FDA is particularly interested in assessing the

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material differences between cell-cultured seafood products and their conventional counterparts to understand whether the inclusion or exclusion of certain words or phrases on labels would mislead consumers. FDA has specifically requested comment on: (1) the names or statements of identity that should be used for foods comprised of or containing cultured seafood cells; (2) how consumers will understand the terms that have been suggested; (3) how consumers interpret terms regarding the nature or source of the food; and (4) whether, and under what circumstances, additional qualifying label language may be necessary.

Wiley's Food & Drug Practice is available and able to advise and assist on the topics associated with the issues discussed in this alert.