

The Impact of Public Comments on the Declaration of Added Sugars on Honey, Maple Syrup, and Certain Cranberry Products

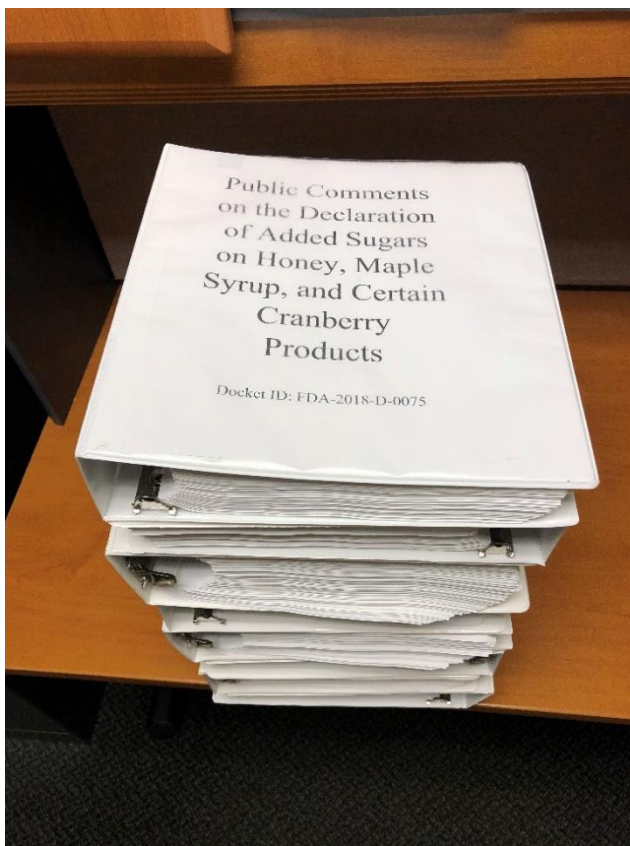


Figure 1 and 2 show the 3,627 comments printed and put in binders to show the magnitude of how many comments were submitted.

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Background: Between the dates of March 3rd and June 15th 2018 there was a public comment submission period on “The Declaration of Added Sugar on Maple Syrup, Honey and Certain Cranberry Products,” docket ID: FDA-2018-D-0075. Individuals were allowed to post their thoughts and ideas on the proposed guidance. The website for consumers to submit comments was <https://www.regulations.gov/docket?D=FDA-2018-D-0075>. By the end of the submission period there were 3,699 comments posted. An Excel spreadsheet was created which contains the name of the person who posted the comment, the date it was posted, the location it was posted and whether or not they support the guidance or their comment fell into the “other” category. This category was reserved for comments that didn’t clearly take a position, were neutral, or asked clarifying questions about the guidance. After factoring in this information, there were approximately 3,627 comments posted, after accounting for duplicates.

Role of Vermont’s Attorney General: On June 4th 2018, Attorney General T.J. Donovan held a press conference at a Vermont sugar bush in Richmond, Vermont. He spoke about wanting common sense and transparency in labels from the FDA. He called for Vermonters and consumers of pure maple syrup to let the FDA know that there should be an exception for 100% pure, single-ingredient products, like pure maple syrup. The office of the Attorney General, through its Consumer Assistance Program (CAP) established a web portal to allow Vermonters to quickly and easily submit a comment. Subsequent to the announcement the number of public comments skyrocketed. The table below demonstrates the influx of comments that were posted after the press conference versus how many were posted beforehand.

Date	Amount of Comments	Percentage
Before June 4 th	296	8.2%
After June 4 th	3,331	91.8%
Total Number of Comments:	3,627	100%

Figure 3 demonstrates a table of comments that were posted before June 4th and then after June 4th

Amount of Disagreement: Almost every comment submitted to the FDA opposed the proposed guidance that would require an “added sugar” declaration for honey, maple syrup, and certain cranberry products. 98% of the comments either requested an exception for single-ingredient products, or requested the FDA leave maple/honey labels undisturbed.

A few comments that stood out were comments submitted by children. There were about 15-20 comments submitted from a school in Fairfield Vermont. The submitters were 8-10 years old and they had learned the process of making maple syrup from their teacher. They all wanted the FDA to know that there is no sugar added during the process of making maple syrup, therefore no label should say there is. These comments stood out because these kids have not reached the age of majority. However, in this instance they did have a voice and were able to participate in the rule making process.

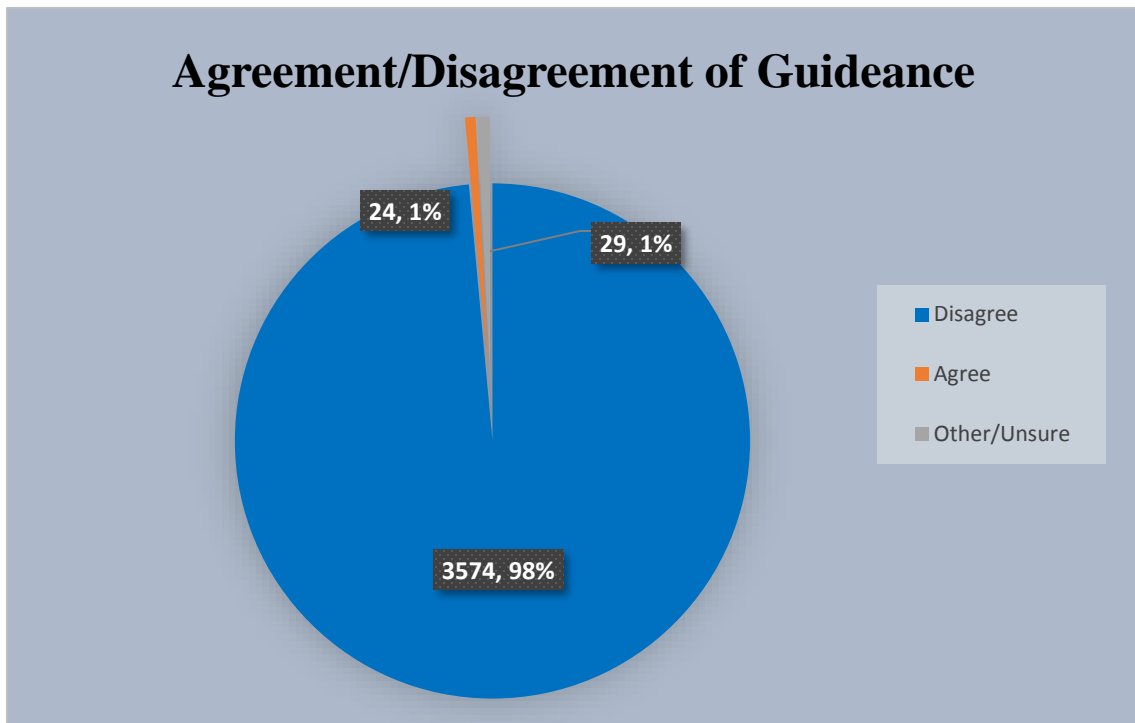


Figure 4 is a pie chart demonstrating the amount of comments that agreed with the guidance, disagreed or other. The percentages of each value is also included.

Location of Comments: Most of the comments came from the state of Vermont. At least 1,280 Vermonters – and probably many more - submitted comments to the FDA. This was by far the largest amount of comments from a single state. We do not know the precise amount of Vermonters because a majority of the commenters chose not to identify themselves, 1,683 to be exact. Due to this, the number of Vermonters who commented is likely much higher. 3 comments came from Canada and 7 came from Washington D.C. The six states not present were Iowa, Nebraska, Nevada, Mississippi, Missouri, and South Dakota.

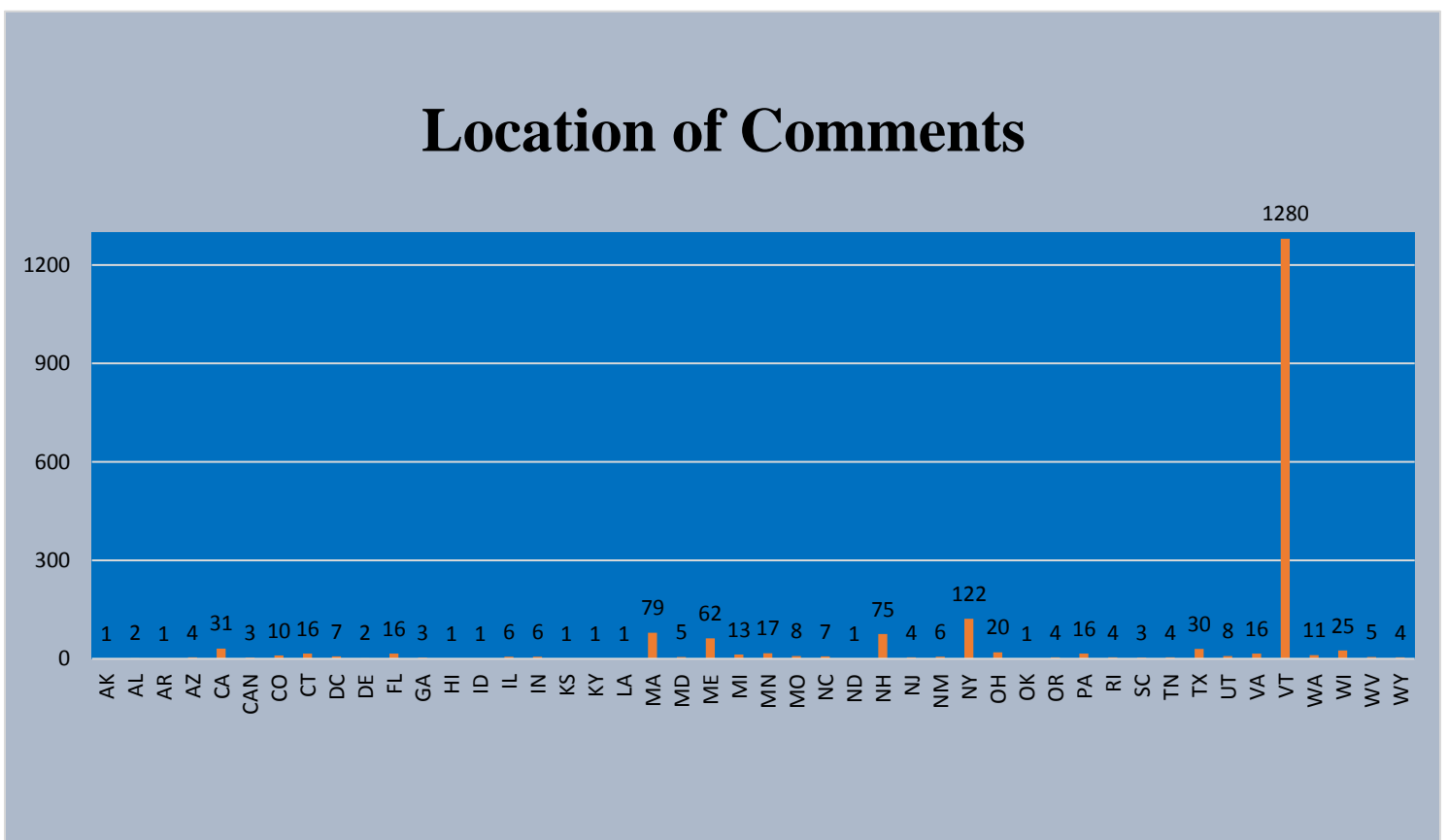


Figure 5 is a chart demonstrating where the comments originated from.

Outcome: On **June 19, 2018**, four days after the comment period ended the FDA released a Constituent Update. In this update it stated:

“[the] FDA recognizes the complexity of this issue and is grateful for the feedback it has received, including more than 3,000 comments received during the comment period on the draft guidance that closed on June 15. The agency plans to take these comments into consideration to swiftly formulate a revised approach that makes key information available to consumers in a workable way.” (FDA).

Available at: <https://www.fda.gov/food/newsevents/constituentupdates/ucm611186.htm>

On **September 6, 2018**, the FDA issued an updated statement:

“In this case, the more than 3,000 comments we received on the draft guidance indicate that there are further opportunities to update our proposed approach. We’re grateful for this feedback. It has helped us identify a solution that we think will more adequately address concerns and provide needed clarity to consumers.

We’re currently drafting our final guidance, which we anticipate issuing by early next year, well in advance of the January 2020 compliance date for larger firms for the updated Nutrition Facts label. **This guidance will provide a path forward for pure, single-ingredient “packaged as such” products *that does not involve the standard “added sugars” declaration on the Nutrition Facts label.*** We are not considering changes to the required percent daily value for these products, including for products like pure honey and maple syrup. We believe that such a solution strikes the balance of addressing producer concerns that their products could be perceived as being economically adulterated while still informing consumers on how these products contribute to their daily added sugar intake” (emphasis added).

Available at:

<https://www.fda.gov/NewsEvents/Newsroom/PressAnnouncements/ucm619596.htm>

Conclusion

The Attorney General thanks the hundreds, perhaps thousands, of Vermonters who participated in the public comment process, and whose efforts affected the outcome. He also thanks Commissioner Gottlieb and the FDA for listening to Vermonters, and looks forward to issuance of the final guidance reflecting the FDA position that an added sugar declaration is unnecessary for 100% pure maple and honey products.