

Docket No. FDA-2023-D-451

Labeling of Plant-Based Milk Alternatives and Voluntary Nutrient Statements; Draft Guidance for Industry

Comments of the AMERICAN CHEESE SOCIETY

The American Cheese Society (ACS) welcomes this opportunity to comment about the *Labeling of Plant-Based Milk Alternatives and Voluntary Nutrient Statements; Draft Guidance for Industry*. ACS believes that the labeling of plant-based milk alternatives as “milk” is misleading to American consumers. It also questions whether plant-based beverage producers will “voluntarily” label their products to show that they are not as nutritious as dairy milk.

The American Cheese Society is a not-for-profit trade association, headquartered in Englewood, CO, that represents the interests of its 2,300 members throughout the United States and abroad. ACS is the leading organization supporting the understanding, appreciation, preservation and promotion of artisan, farmstead and specialty cheeses produced in the U.S. It provides the cheese community with educational resources and networking opportunities, while encouraging the highest standards of cheesemaking focused on safety and sustainability. Most ACS members are small (less than 500 employees) or very small businesses (less than \$1 million in revenue) that support local communities and the rural farm economy.

Whereas ACS’s main focus is on cheesemakers, members also include retailers, cheesemongers, distributors, importers and others who make up the specialty cheese business. Cheese is the second largest category in specialty foods, accounting for \$5.4 billion in sales in 2021, according to the 2022 State of the Specialty Food Industry published by the Specialty Food Association. Sales of specialty cheese increased by 26.9% between 2019 and 2021.

Specialty cheese is a thriving industry vital to the economy and U.S. consumers.

Summary of Position

The American Cheese Society (ACS) supports the following important definitions which clearly express the unique qualities of dairy and dairy products. These terms reflect longstanding traditions in dairy farming and cheesemaking, as well as current regulatory and labeling requirements. It is ACS’s position that these products, and the terms used to define them, must be preserved, and that they should always be used accurately in the interest of transparency for consumers.

ACS supports the Code of Federal Regulation (CFR) definition of “milk” from 21 CFR 131.110(a)

Milk: Milk is the lacteal secretion, practically free from colostrum, obtained by the complete milking of one or more healthy cows. Milk that is in final package form for beverage use shall have been pasteurized or ultrapasteurized, and shall contain not less than 8 1/4 percent milk solids not fat and not less than 3 1/4 percent milkfat. Milk may have been adjusted by separating part of the milkfat therefrom, or by adding thereto cream, concentrated milk, dry whole milk, skim milk, concentrated skim milk, or nonfat dry milk. Milk may be homogenized.

ACS supports the definition of “milk products” from 21 CFR 1240.3(j)

Milk products: Food products made exclusively or principally from the lacteal secretion obtained from one or more healthy milk-producing animals, e.g., cows, goats, sheep, and water buffalo, including, but not limited to, the following: lowfat milk, skim milk, cream, half and half, dry milk, nonfat dry milk, dry cream, condensed or concentrated milk products, cultured or acidified milk or milk products, kefir, eggnog, yogurt, butter, cheese (where not specifically exempted by regulation), whey, condensed or dry whey or whey products, ice cream, ice milk, other frozen dairy desserts and products obtained by modifying the chemical or physical characteristics of milk, cream, or whey by using enzymes, solvents, heat, pressure, cooling, vacuum, genetic engineering, fractionation, or other similar processes, and any such product made by the addition or subtraction of milkfat or the addition of safe and suitable optional ingredients for the protein, vitamin, or mineral fortification of the product.

ACS believes that nutrient statement should be “mandatory,” not voluntary

The FDA recommends that PBMA products that are labeled with the term “milk” in their names, such as “oat milk” or “almond milk,” and that have a nutrient composition that is different than milk, include a voluntary nutrient statement that conveys how the product compares with milk based on USDA’s Food and Nutrition Service fluid milk substitutes nutrient criteria. FDA says that these statements will help consumers make informed dietary choices when it comes to understanding certain nutritional differences between plant-based products that are labeled with “milk” in their names and dairy milk.

ACS doubts that industry will include a “voluntary” statement that shows how a product compares with milk, particularly when the products does not have an equivalent or better nutrient composition. Many industry studies have proven the nutritional benefits of dairy milk. As FDA states, “Dairy foods provide important nutrients that include protein, calcium, vitamin A, vitamin D, magnesium, phosphorus, potassium, riboflavin, vitamin B12, zinc, choline, and selenium. Three of these nutrients — calcium, potassium and vitamin D — are among those flagged by the *Dietary Guidelines* as dietary components of public health concern because people aren’t consuming enough of them.”

FDA is saying that dairy foods provide important nutrients yet permitting the manufacturers of plant-based milk alternatives, especially almond and oat alternatives, to “voluntarily” label their lack of these nutrients.

Conclusion

ACS believes that FDA should follow the Code of Federal Regulation (CFR) definition of “milk” and “milk products.” Allowing plant-based milk alternatives to be labeled as “milk” is misleading. ACS also stresses that the nutrient statement should be “mandatory” not voluntary.

ACS thanks FDA for consideration of its comments.



President

American Cheese Society