

FDA TO MODERNIZE FOOD IDENTITY STANDARDS, STARTING WITH DAIRY PRODUCTS

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FDA Commissioner Scott Gottlieb has announced that the FDA is undertaking a comprehensive review of food standards of identity to ensure food labels are truthful and not misleading. No doubt that for some this announcement is a long overdue response to rapidly evolving innovation in the food production sector that continues to challenge standards for truthful and non-misleading food labeling.

The FDA intends to focus first on standards of identity for dairy products. In his statement, Gottlieb discusses the highly controversial topic regarding plant-based alternatives and the standard of identity for “milk,” e.g., soy, almond, etc. These plant-based alternatives “are not the food that has been standardized under the name ‘milk’ and which has been known to the American public as ‘milk’ long before the 1938 Federal Food, Drug, and Cosmetic Act (FD&C Act) was established,” Gottlieb says. He goes on to suggest that these plant-based products are creating at least some confusion amongst consumers, especially related to the nutritional characteristics when compared to traditional milk. More specifically, the FDA seems focused on the nutritional implications of this mistaken identity and its potential effect on the healthy development of young children.

The FDA’s announcement marks a significant step for the FDA in modernizing standards of identity that have not been reviewed or revised in decades. The FDA intends to have a lengthy information gathering period including extensive opportunity for public comment. Ultimately, we may expect new guidance in the coming year specifically related to dairy product standards of identity. Other standards of identity that have seen an influx of alternative ingredients and formulations will likely be the target for the FDA’s next comment and review phase.

For questions or more information, contact the author, [Luke Westerman](#), or any member of our [Retail](#) or [Agribusiness and Food](#) teams.

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