

June 25, 2020

Food and Drug Administration
Division of Dockets Management
5630 Fischers Lane, Room 1061
Rockville, Maryland 20852

RE: Docket No. 1995N-0294

To Whom It May Concern:

I write on behalf of the Plant Based Foods Association (PBFA). PBFA was founded in 2016 to build a strong foundation for the plant-based foods industry to succeed and thrive. Today the association has grown to 170 member companies. While grocery sales overall are flat, retail sales of plant-based foods are growing quickly, at a rate of 11 percent overall since last year.

PBFA appreciates FDA's continued work on issues related to standards of identity and the complexities of food labeling in the 21st century. We appreciate the tensions of regulation, statute and tradition against innovation in ingredients, manufacturing processes and consumer expectation that has led the agency to reopen the 2005 Proposed Rule, which is a follow on of the ANPRMs on food standards from 1995 & 1996.

PBFA and its members appreciate the thoughtful approach that the agency is taking in considering changes to Standards of Identity (SOI). At its inception, SOI were intended to protect consumers against economic adulteration and reflect consumer expectations. Standards of identity were implemented at time when there were no requirements for disclosure of food ingredients or nutrition information, and there was no other mechanism to communicate a food's ingredient profile and safety. Like many well intentioned and appropriate-at-the- time government practices, the utility of the standards of identity of this era are no longer appropriate for their intended purpose. Innovation and progress have outpaced SOI regulations.

The 2005 proposed rule, jointly issued by FDA and USDA, set out a framework of principles for evaluating food standards of identity, and acknowledges that outmoded standards of identity can have adverse consequences on innovation in food. The proposed rule itself is not intended to change standards of identity, nor will it assure that all standards are revisited, but is intended to create the framework and principles by which the agency will consider petitions to establish, revise or eliminate standards. The principles are all meant to promote honesty and fair dealing, and like standards of identity themselves are born from a desire to protect consumers from economic adulteration. While the agency is unlikely to undertake a wholesale review of all standards, industry can petition for the establishment revision or elimination of a standard or group of standards and the agency may also undertake review of its own accord.

PBFA urges the agency to create a regulatory landscape that fosters innovation. While the agency is charged with protecting consumers, currently, outdated standards of identity discourage manufacturers from using innovative ingredients, practices or processes for new food products.

There is much discussion about the use of the word "milk" to identify plant-based alternatives. For PBFA members, and as the data shows, for many consumers, the word simply describes the functionality of the product. PBFA urges the agency to avoid an over-reliance on nutritional

equivalence as the marker by which changes in standards of identity should be measured. Many consumers are seeking out plant-based milks and other animal alternatives to avoid certain components such as saturated fat and cholesterol.

In addition, many consumers cannot eat dairy due to allergies or intolerance. Approximately 65 percent of the U.S. population is lactose intolerant. PBFA urges the agency to consider the widespread agreement among nutrition experts that the nutrients in cow's milk products can be found in a variety of foods (including plant-based alternatives). No longer is the viewpoint that the best or sole source of these nutrients is cow's milk. Also, mounting scientific evidence suggests that a diet based primarily on plant-based foods can promote optimal health.

American consumers are sophisticated and well informed. Consumers who purchase plant-based foods are keenly aware of why they are making these choices and do so for many reasons: sustainability, health, allergies, ethics, variety and taste.

To ensure that consumers see a consistent labeling approach among PBFA members, in 2017, the association convened a Standards Committee to establish voluntary standards for the labeling of plant-based alternatives. In 2018, PBFA released standards for the plant-based milk category, and in 2019, for the plant-based meat category. In May of this year, the association release labeling standards for plant-based yogurt. Each time, we shared our progress and the final document with the FDA, as well as other policymakers, and have received positive feedback. We are now turning to the cheese category, so we continue to make progress toward more plant-based categories being covered by self-regulation. PBFA has also added a requirement that all companies seeking PBFA's Certified Plant Based stamp adhere to these guidelines.

PBFA suggests that FDA take an approach that answers one essential question: Is the label truthful and non-misleading? The Nutrition Facts panel, combined with the required Statement of Identity, already provide ample information. Moreover, the free speech clause of the First Amendment protects companies that label their foods with truthful, non-misleading names.

PBFA encourages FDA to support one of the few areas of growth within the food industry and one that is experiencing rapid innovation. The FDA has the unique opportunity to support this growing industry and the millions of American consumers who are voting with their dollars. PBFA urges the agency to adopt an approach that allows for labels that are clear, transparent, and descriptive.

This is the solution we believe is best for consumers and the industry. PBFA and its members are committed to working with FDA and look forward to finding a solution to this important issue.

Sincerely,

Michele Simon
Executive Director
Plant Based Foods Association