



Updating Standards of Identity for Foods and Beverages

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Background on FDA's Standards of Identity

- Section 401 of the Food, Drug, and Cosmetic Act grants FDA authority to establish standards for food to **"promote honesty and fair dealing in the interest of consumers"**
- Establish the common or usual name and composition of the food
 - Ingredients
 - Method of production
 - Physical characteristics
- Consequence of non-compliance = **misbranded**



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Some Prior Efforts to Modernize Food Standards

1995: FDA Request for Comments on Existing Regulations

- Solicited input on benefits (or lack thereof) of food standards, and alternative means to "promote honesty and fair dealing"

2005: FDA/FSIS Proposed Rule—General Principles and Food Standards Modernization

- Would have established criteria by which agencies evaluate petitions to establish, revise, or eliminate a food standard
- Adherence to the principles would lead to standards that:
 - Allow for technological advances
 - Are consistent with international food standards
 - Are clear, simple, and easy to use

2006: Citizen Petition to Modernize Food Standards

- Submitted to FDA and FSIS by 12 major food industry associations
- Proposed amendments to food standards via regulation of general applicability to provide flexibility

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§100.5 Procedure for establishing, revising, or eliminating a food standard.

(b) A food standard proposed in a petition to establish a new food standard in parts 100 to 199 of this chapter must be consistent with all of the following general principles that apply to the new standard. Any revision to a food standard proposed in a petition to revise an existing food standard in parts 100 to 199 of this chapter must be consistent with all of the following general principles that apply to the proposed revision to the existing standard. The Food and Drug Administration will consider a petition that proposes eliminating a food standard if it is demonstrated that the current food standard is not consistent with any one of the general principles in paragraphs (b)(1) through (b)(4) of this section.

(1) The food standard should promote honesty and fair dealing in the interest of consumers.

(2) The food standard should describe the basic nature of the food to ensure that consumers are not misled by the name of the food and to meet consumer expectations of product characteristics and uniformity.



Recent FDA Statements on Modernizing Food Identity Standards

Jan. 2018: **FDA Strategic Policy Roadmap, Nutrition Action Plan**

"Modernizing certain standards of identity to address current barriers to the development of healthier products while making sure consumers have accurate information about the foods they eat. Among other steps, FDA intends to issue a request for information to identify and help prioritize which potential standards of identity should be modernized based on their public health value."

Mar. 2018: **FDA Nutrition Innovation Strategy**

Key Elements

Modernizing Claims	▼
Modernizing Ingredient Labels	▼
Modernizing Standards of Identity	▼
Implementing the Nutrition Facts Label and Menu Labeling	▼
Reducing Sodium	▼

The FDA can help facilitate innovation while protecting public health through food standards of identity. Standards of identity are regulatory requirements regarding the content and production of certain food products that do not include claims and marketing. It is important to take a fresh look at existing standards of identity in light of marketing trends and the latest nutritional science. The goal is to update the rules relative to and exempted types of products while allowing existing flexibility for standards to produce more healthful foods. In addition to standards of identity, there are rules for naming and describing products. The FDA will issue a Request for Information to help guide us in developing an approach to these steps.

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Recent FDA Statements on Modernizing Food Identity Standards (cont'd)

June 2018: **Commissioner's Statement** on FDA's "new steps to advance health through improvements in nutrition under the agency's **Nutrition Innovation Strategy**"

"[S]tandards of identity... serve an important purpose, letting consumers know what they're buying meets a certain standard in terms of what's in it. But it's important that we take a fresh look at existing standards of identity in light of marketing trends and the latest nutritional science."

"We also want to know if consumers are being misled in ways that can adversely affect their dietary decisions when certain products qualify themselves with terms such as milk or rice, but are made from ingredients that don't reflect the traditional assumptions about how products labeled that way are derived. [D]epending on what we learn, we may step up our enforcement efforts against false or misleading labeling. ... [I]f we believe consumers are being misled by the use of these terms in a way that could adversely affect their diets, we might set out a process to develop new guidance that would identify terms that might confuse consumers about a product's ingredients or nutrients. ... For example, we need to more closely examine whether certain almond- or soy-derived products should be able to call themselves milk."

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Recent FDA Statements on Modernizing Food Identity Standards (cont'd)

July 2018: **Commissioner's Statement** on "FDA's process for reviewing and modernizing **standards of identity for dairy products**"



"One area that needs greater clarity – and which has been the subject of much discussion of late – is the wide variety of plant-based foods that are being positioned in the marketplace as substitutes for standardized dairy products." "We intend to look at these differences in relation to potential public health consequences."

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