

PA Milk Marketing Board  
Carol A. Hardbarger

### *The Name Game*

There has been a flurry of activities and discussions over the past few years about whether plant-based beverages should use the word “milk” in their names. Those of us in the dairy industry believe they should not even be allowed in the same grocery case as our dairy products, and we even have the Food and Drug Administration’s (FDA’s) own definition in our toolbox of arguments:

*Milk means the lacteal secretion, practically free from colostrum, obtained by the complete milking of one or more healthy cows, which may be clarified and may be adjusted by separating part of the fat therefrom, concentrated milk, reconstituted milk, and dry whole milk. Water, in a sufficient quantity to reconstitute concentrated and dry forms, may be added.* (Code of Federal Regulations, Title 21, Volume 2, 133.3a).

Industry stakeholders and agencies, including the Board, and members of our PA General Assembly have communicated directly with the FDA and also provided input through a public comment process. The original cutoff date for public comment was November 27, 2018, which was extended by FDA to January 28, 2019.

January 28, 2019. That was two years ago.

I took the time recently to contact the FDA representative that is listed as the contact for the initiative; I called her, left a message, and subsequently sent her an email on January 26<sup>th</sup>, 2021 that simply asked for information about the status of the examination of use of dairy terms to label plant-based beverages.

In a reply, received January 29, I was informed that there were over 13,000 comments received and was provided with the following quote

“...we are considering our next steps. We are now working to use the data, research, and information provided in those comments to add clarity around the labeling of plant-based dairy alternatives, which is a priority for FDA. The Agency is also considering citizen petitions it has received related to this issue and notes that some First Amendment issues must be considered when providing clarity around the use of names of dairy foods in the labeling of plant-based dairy alternatives.”

If you are interested, the public comments are available at <https://www.regulations.gov/docket?D=FDA-2018-N-3522>.

Forgive me for my lack of tolerance with the delay in addressing this issue. I know that the wheels of government sometimes turn slowly, and I know we have had to deal with the pandemic, but we are talking about two years!

FDA says it is taking the issue seriously according to the email I received. It wants to “modernize” standards of identify and examine the use of the names of dairy foods in the labeling of plant-based beverages. FDA says that names may not be confusing and must accurately identify or describe the items in as simple and direct terms as possible.

I will refer you to the 2<sup>nd</sup> paragraph of this article and FDA’s own definition for milk. Now read again the paragraph above this one. I think enough time has passed to provide a serious examination of this matter.

If you feel as passionately about this issue as we do, please contact the US Senate Committee on Agriculture, Nutrition and Forestry at 202-224-4882, Fax 202-228-2125 (no email provided); and the US House Agriculture Committee at 202-225-2171, Fax 202-225-8510 (email [agriculturedemocrats@mail.house.gov](mailto:agriculturedemocrats@mail.house.gov)). There are several free fax services available online.

Ask the committees if they are aware that over two years have passed since the public comment period for the initiative has been closed. Encourage them to push the investigation forward. MMB is aware that crop farming is also an extremely important part of US agriculture, but it would be advantageous to both sides to have this issue settled.

PMMB is always available to respond to questions and concerns. I can be reached at 717-210-8244 and by email at [chardbarge@pa.gov](mailto:chardbarge@pa.gov).