

# U.S. Sens. Baldwin, Risch: Slam FDA rule that allows plant-based products to use dairy's good name, hurts consumers

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*WASHINGTON, D.C.* – Today, U.S. Senators Tammy Baldwin (D-WI) and Jim Risch (R-ID) led a bipartisan group of colleagues calling out the Biden Administration's misguided draft guidance that allows non-dairy product imitators to use dairy names, like milk, when labeling their products.

In February, the Food and Drug Administration (FDA) contradicted their own regulations by releasing draft guidance that would allow plant-based products to continue to use dairy terms despite not containing dairy, nor having the nutritional value of dairy products. In their letter today to FDA Commissioner Dr. Robert Califf, the Senators again called on the Biden Administration to require accurate labeling and define the nutritional differences between plant-based imitation products and dairy products to protect consumers.

“We are disappointed because under this guidance we expect the agency will continue to neglect to enforce standards of identity for plant-based products that mimic or imitate dairy products such as milk, cheese, yogurt and butter,” **the Senators wrote.** “The inaction by FDA harms public health as a result of consumer misperception over dairy products' inherent nutritional value. As a result, it is imperative that FDA enforce its existing standards of identity for dairy in both current and future guidance.”

As plant-based substitutes for dairy flood the market, the draft guidance released in February will hurt America's dairy producers and add to consumer confusion over

nutritional content. According to a 2018 survey by IPSOS, more than 70% of consumers believed that plant-based, non-dairy substitutes contain equivalent or greater amounts of protein than dairy milk. However, an actual comparison of nutritional profiles shows that most types of non-dairy substitutes are nutritionally inferior to their nutrient-dense dairy counterparts.

“FDA’s lack of enforcement, and now its recent draft guidance, both fail to provide Americans with the transparent and truthful labeling necessary for preventing such misperceptions that have been demonstrated to lead to harmful nutrition-related health consequences,” **the Senators continued.**

Senators Baldwin and Risch have led the charge to crack down on imitation products using dairy’s good name. They authored bipartisan legislation, the [DAIRY PRIDE Act](#), to combat the unfair practice of non-dairy products using dairy names by requiring non-dairy products made from nuts, seeds, plants, and algae to no longer be mislabeled with dairy terms such as milk, yogurt or cheese.

Joining Senators Baldwin and Risch in signing the letter were Senators Mike Crapo (R-ID), Angus King (I-ME), Roger Marshall (R-KS), Peter Welch (D-VT), Susan Collins (R-ME), John Fetterman (D-PA), Mike Rounds (R-SD), Tina Smith (D-MN), and Amy Klobuchar (D-MN).

A full version of the letter is available [here](#) and below.

An online version of this release is available [here](#).

Dear Commissioner Califf,

We write to you today regarding the Food and Drug Administration’s (FDA) Draft Guidance for Industry: Labeling of Plant-Based Milk Alternatives and Voluntary Nutrient Statements. We are disappointed because under this guidance we expect the agency will continue to neglect to enforce standards of identity for plant-based products that mimic or imitate dairy products such as milk, cheese, yogurt and butter. The inaction by FDA harms public health as a result of consumer misperception over dairy products’ inherent nutritional value. As a result, it is imperative that FDA enforce its existing standards of identity for dairy in both current and future guidance.

The draft guidance released on February 23, 2023 provides only voluntary options

for the plant-based industry to disclose their products' nutritional inferiority relative to their dairy counterparts. Additionally, the draft guidance does not enforce standards of identity for dairy, allowing some imitation products to continue to use dairy terms. In doing so, FDA is failing to address the root cause of consumer confusion over nutritional content. Studies have demonstrated that consumers incorrectly believe non-dairy, plant-based substitutes are nutritionally equivalent or even nutritionally superior to their dairy counterparts. For example, according to a 2018 survey by IPSOS, more than 70% of consumers believed that plant-based, non-dairy substitutes contain equivalent or greater amounts of protein than dairy milk. However, an actual comparison of nutritional profiles shows that most types of non-dairy substitutes are nutritionally inferior to their nutrient-dense dairy counterparts. This confusion over nutrition is especially stark among those who are purchasing imitation dairy products, as the same IPSOS survey shows that 62% of plant-based beverage buyers cite nutrition as important to their purchase decision.

Given the central role dairy plays in providing essential nutrients, the consumer misperception of nutritional equivalency between imitation products and dairy products can lead to serious health consequences. Doctors and health scientists have reported on these risks, including increasing rates of malnutrition and nutrition-related diseases associated with consuming nutritionally inferior imitation products as a replacement for dairy beverages. The most recent Dietary Guidelines for Americans explicitly addresses nutritional inferiority by grouping dairy products and plant-based products separately, and providing the following explanation: "[o]ther products sold as 'milks' but made from plants (e.g., almond, rice, coconut, and hemp 'milks') may contain calcium and be consumed as a source of calcium, but they are not included as part of the dairy group because their overall nutritional content is not similar to dairy milk and fortified soy beverages." It is precisely these type of nutritional content concerns that FDA regulations are supposed to prevent.

FDA's lack of enforcement, and now its recent draft guidance, both fail to provide Americans with the transparent and truthful labeling necessary for preventing such misperceptions that have been demonstrated to lead to harmful nutrition-related health consequences. Due to the proliferation of the plant-based alternative market, and the potential for consumer confusion over the nutritional content of these products compared to the original dairy products, we request that any final guidance clearly define the nutritional differences between plant-based imitation products and dairy products, and require accurate labeling requirements for plant-based producers to use in the marketplace that are compliant with the agency's



own standards of identity for dairy.

Thank you for your consideration of our request.