



National Milk Producers Federation

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Burnett Dairy Cooperative
California Dairies, Inc.
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Dairy Farmers of America, Inc.
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Upstate Niagara Cooperative, Inc.

February 21, 2023

WIC Administration, Benefits, and Certification Branch
Policy Division
Food and Nutrition Service
P.O. Box 2885
Fairfax, Virginia 22031-0885

Re: Docket No. FNS-2022-0007

Dear Sir or Madam:

The National Milk Producers Federation (NMPF) offers these comments in response to the proposed rule entitled "Special Supplemental Nutrition Program for Women, Infants, and Children (WIC): Revisions in the WIC Food Packages," published in the *Federal Register* November 21, 2022. NMPF was organized in 1916 to provide a forum for dairy producers and the cooperatives they own to participate in public policy discussions. NMPF advocates policies to Congress, U.S. and foreign government agencies, industry organizations, the news media and the public.

NMPF is supportive of some of the United States Department of Agriculture's (USDA) updates to the packages for the Supplemental Program for Women, Infants and Children (WIC) to provide additional flexibility, variety and choice for participants. The proposed rule has a number of positive provisions, for dairy as well as other healthy, nutrient-dense foods. However, we are strongly opposed to the proposed dairy reductions. Reducing the amount of dairy available in WIC packages will decrease participants' access to valuable nutrients needed during pivotal life stages, such as the first 1000 days of a child's life and their mother's pregnancy and lactation, and those proposed reductions could lead to long-term negative health consequences.

1. WIC is Important to the United States' Vulnerable Populations

The WIC program has been instrumental in providing essential nutrients to populations that need them the most. WIC serves nearly half of the babies born in the United States (1). A recent study found that children who received WIC benefits during their first 24 months had better diet quality than those who discontinued after infancy (2). Beyond just nutritional benefits, the WIC program has been found to decrease spending on healthcare costs. A study in California found participating in WIC during pregnancy lowered the number of preterm births and resulted in a mean savings of \$2.48 for every \$1 spent on prenatal WIC benefits (3). Dairy foods have been an integral part of the WIC program because of dairy's unique, nutrient-dense profile which provides an array of nutrients

critical for the life stages covered by WIC. Dairy foods are among the most highly redeemed items in WIC. In fact, milk, cheese and yogurt are all in the top five redeemed foods in the WIC program, with cheese coming second only to eggs, according to a recent USDA study (4).

Dairy's Nutrient Profile Supports WIC Participants

WIC participants have specific nutrient needs related to their life stages, which is why the program plays such a significant role in the health of participants. Nutrition security during the first 1000 days can have a lifelong impact, playing a critical role in brain, cognitive and physical development (5). Dairy foods provide critical nutrients – for example, one serving of milk offers 13 essential nutrients, with milk being the top source of calcium, potassium and vitamin D for children 2-18 years of age (6,7). In fact, milk, cheese and yogurt provide 7 of the 14 nutrients recommended by the American Academy of Pediatrics for optimal brain development- protein, zinc, selenium, iodine, choline, vitamin B12 and vitamin A (8). The Dietary Guidelines for Americans (DGA) noted that women who do not regularly consume dairy products, eggs, seafood or use iodized table salt may not be consuming enough iodine, which is essential for neurocognitive development of the fetus (9). Further evidence supports that insufficient intakes of iodine, choline and vitamin B12 may increase risk of pregnancy complications, preterm birth and low birthweight which may result in adverse effects on neurocognitive development. Dairy is a source of all of three of these nutrients for pregnant and lactating women. Higher yogurt and cheese intakes were also found to be associated with less postpartum weight retention among higher risk women, and greater yogurt intake was associated with lower risks of postpartum obesity (10).

Dairy's nutritional benefits have also been found to have lasting health impacts- consumption of dairy products has been associated with bone and immune health and protection from diet-related chronic disorders and diseases, including overweight, type 2 diabetes, hypertension and stroke, metabolic syndrome and cardiovascular disease (11-14).

The DGA recognizes these benefits, including dairy foods in all three healthy dietary patterns and in the newly established dietary patterns for toddlers 12-23 months. In addition, cheese and yogurt are among the solid foods recommended by the DGA for introduction before 12 months of age (8).

2. NMPF Supports Proposed Flexibilities and Increasing Access for All Participants

NMPF is supportive of many of the proposed changes to the WIC program. These changes include-

1. Requiring the authorization of lactose-free milk;
2. Increasing yogurt substitution amounts for milk;
3. Allowing reduced-fat yogurts for 1-year-old children without restrictions; and
4. Additional flexibilities for yogurt size containers (15).

As noted in the proposed rule and the 2017 NASEM report, these provide participants with additional flexibility and choice to select the dairy options that best fit their lifestyle. This, in turn, increases participants' access to vital nutrients and the related health benefits.

Requiring lactose-free milk and increasing yogurt and cheese substitutions are important steps to ensuring dairy and its nutrients are accessible for *all* WIC participants. Lactose-free milk has the same 13 essential nutrients as regular milk but without the lactose, which can be difficult to digest for some individuals. Yogurt and cheese are also low-lactose options (16,17).

With the implementation of the above listed proposed changes, dairy's health benefits will be available to all participants. FNS is to be commended for providing guaranteed options to individuals who are lactose-intolerant, which allow more people to benefit from dairy's comprehensive and unique nutrient package. If FNS were to take the alternate approach – offering non-standardized substitute products instead of guaranteeing lactose-free and low lactose dairy options – the agency would actually reduce participants' access to critical nutrients because the substitutes are, in fact, nutritionally inferior to real dairy products.

3. USDA Shouldn't Reduce the Amount of Dairy in the WIC Package

Dairy is a nutrient powerhouse, providing a nutrient package that is hard to match. A single serving of milk offers 13 essential nutrients - three of which are identified as among the four nutrients of public health concern by the DGA. The DGA also found that nearly 90% of Americans don't meet the recommended servings of dairy products per day (8). As such, access to dairy should not be reduced in a program designed to serve the nutrition needs of participants at nutritional risk, especially considering the crucial nutrients dairy provides to WIC participants (described above).

WIC is a "Supplemental" Nutrient Program

Some have said that the proposed rule suggests reductions in dairy foods because the current amounts of dairy foods in WIC are close to DGA food intake recommendations, and WIC is supposed to be a supplemental program. Yes, WIC was designed to be a supplemental *nutrition* program – providing foods high in supplemental *nutrients* (not foods, nutrients) vital for the health of program participants at critical life stages, nutrients identified as typically under consumed by program participants. As stated above, dairy plays a pivotal role in supplying these essential nutrients through the WIC program – including three of the four nutrients of public health concern.

As noted by NASEM in its 2017 report, reductions in foods lead to reductions in nutrients provided in each food package (18). If the nutrients have been identified as important *and* under consumed, then reducing participants' access to the nutrients by reducing access to healthful food runs contrary to the program's nutrient-focused purpose. We are concerned that reducing the overall amount of dairy in WIC food packages will negatively affect the nutritional intakes of program participants because it will reduce their access to dairy's nutrients – and likely nutrients from other foods as well, as discussed below – at key health and developmental life stages.

Additionally, if the desire for foods to be supplemental is a factor driving the reduction in access to nutrients, at what point does the reduction lead to unacceptably low levels? Looking at NASEM's discussion of reduced foods in its 2017 report on which FNS's proposed rule is based, "Reductions in foods provided in more-than-supplemental amounts led to reductions in some nutrients in each food package. However, most nutrients prioritized by the committee are provided in amounts equivalent to at least 50 percent of the EAR or AI in the revised packages. However, potassium and fiber (higher priority across packages), choline (higher priority, pregnant women), vitamin D (lower priority, pregnant women), and copper (lower priority, postpartum women) are provided in amounts *below 50 percent of the EAR or AI in the revised packages*. The committee experienced the same limitations to meeting recommended amounts of all nutrients in a balanced diet as the DGAs did in developing their food patterns. The challenge was compounded by the committee's cost-neutrality constraint."

Reading closely, this quote lays out-

- the connection between reducing foods and reducing nutrients;
- a proposed acceptable level of 50 percent of the EAR or AI;

- a list of specific nutrients the reductions brought to *below 50 percent of the EAR or AI*; and
- a statement that the challenge to meet recommended amounts of nutrients was “compounded by the committee’s cost-neutrality constraint.”

Reading as a backdrop for the proposed reductions in dairy-

- Of the five nutrients reduced to below 50 percent of the EAR or AI – potassium, fiber, choline, vitamin D, and copper – dairy is a source of choline and a good source of potassium and vitamin D, both of which are also nutrients of public health concern; and
- NASEM proposed these reductions as part of a cost-neutral set of proposals, stating that the cost-neutrality “constraint” compounded the challenge to meeting recommended amounts of all nutrients.

Because the rule is not budget neutral, nor is it required to be budget neutral, there are no budgetary reasons to cut any foods or groups. NASEM’s proposed cuts would lead to five nutrients being at unacceptably low levels, and dairy is a source of three of the five unacceptably low nutrients, including two of public health concern. If the cuts are not required for budgetary reasons, and if leaving dairy at its current amounts provides more of the nutrients the cuts would cause to fall to unacceptable levels, then there is no reason to reduce dairy and three compelling reasons to leave dairy at its current amounts (choline, potassium, and vitamin D).

We recognize that the proposed rule provided for higher amounts of foods in certain categories than NASEM recommended in its 2017, although the proposed rule retained NASEM’s recommended cuts to dairy. As such, some of the nutrient levels modelled in the proposed rule’s packages may not be the same as the nutrient levels modelled in the 2017 NASEM report. However, given dairy’s unique nutrient profile and the cuts to dairy remaining in the proposed rule, the concern of vital nutrients dropping to unacceptably low levels also remains.

We also recognize that leaving dairy at its current amounts may cause other nutrients to be offered at higher than 50 percent of the EAR or AI. But, considering these nutrients are *under consumed currently* (a good example is calcium, of which dairy is an excellent source), considering the purpose of the program is to *prevent nutrient intake from dropping to unhealthy low levels*, and considering there is no budgetary requirement to reduce dairy, leaving dairy at its current amounts is the better option than reducing dairy amounts in WIC food packages. This is because leaving dairy at its current amounts will help ensure participants have access to at least a minimally acceptable “supplemental” level of important nutrients.

When essential nutrients are lacking in the diets of most WIC participants, and these nutrients are supplied by a nutrient-dense food like milk, maintaining quantities of that food in the program becomes more important than meeting a narrow view of what constitutes “supplemental” amounts. The adjustment to supposedly “supplemental” levels will result in a further reduction in intakes of already-under-consumed nutrients, with public health consequences that cannot be anything other than adverse. This is of particular importance in WIC, a program that serves participants who are at nutritional risk at life stages during which nutrition plays an especially important role in life-long health and development *and* the nutrients in question are typically under consumed.

Reducing Dairy May Lead to Decreased WIC Participation

Furthermore, reducing the amount of dairy foods participants can access through WIC may well decrease overall WIC participation. Milk, cheese and yogurt are three of the top five foods redeemed in WIC, with cheese being second only to eggs program-wide. If participants cannot get

the foods they value through WIC, WIC participation among the target population will likely fall. Participants must carry some burden (office visits, etc.), and as benefits become less attractive, the marginal propensity to bear those burdens may shift. Lower WIC participation would be detrimental to public health, particularly considering that currently only about half of all women, infants and children who are eligible for WIC actually participate (19). With participation already low, this leads us to wonder why USDA would propose decreasing dairy foods in the WIC package when they are among the most popular foods for participants.

To further support this point, a December 2022 Morning Consult survey of current WIC participants reported that 20% of respondents said they would not re-enroll in WIC if the proposed dairy cuts were implemented, and 34% responded that they were not sure if they would re-enroll if the proposed dairy cuts were implemented (20). Those two groups together represent more than half of WIC participants surveyed. Therefore, the proposed reductions to dairy would not just reduce access to dairy's nutrients, it may very well lead to WIC participants no longer accessing nutrients provided by other foods in WIC as well.

The Proposed Rule Isn't Budget Neutral

The NASEM 2017 report, on which the proposed rule is largely based, proposed the reduction in dairy under the requirement that changes to the WIC program remain budget neutral- reducing dairy was proposed to offset the suggested increases to other foods in the program. However, the proposed rule isn't budget neutral. In fact, the food package costs would increase by roughly \$771 million in FY 2024 and by similar amounts in subsequent years (15). Given the proposed rule is not budget neutral and is not required to be budget neutral, there is no budgetary need to reduce the amount of dairy in WIC packages. And the public health need is actually the opposite – to prevent the cuts – given dairy's vast health benefits, affordability and the fact that nearly 90% of Americans do not meet the dietary guideline's dairy intake recommendations. Reducing dairy in WIC is an unnecessary cut that participants' health simply cannot afford, especially when you add to this the concern that reductions in dairy may well lead to overall WIC participation falling.

4. Plant-based Beverages Are Not Nutritionally Equivalent to Dairy

USDA requested comments on the availability of plant-based beverages that meet the nutrition criteria for dairy products. NMPF urges USDA to continue to allow only nutritionally equivalent products as acknowledged by the DGA to be substitutes for milk, cheese and yogurt. USDA should take no actions which would imply that plant-based beverages are nutritionally equivalent to real dairy, since they are not.

This view is amply supported by nutrition science. The DGA states that beverages such as almond, rice, coconut or hemp "milks" are not nutritionally equivalent to milk and therefore are not included in the dairy foods group. It would be blatantly inconsistent with the DGA to accord equivalence to highly-processed plant-based beverages that are, factually, not equivalent to milk.

There are real-world health consequences for assuming nutritional equivalency when items are not nutritionally equivalent. The North American Society for Pediatric Gastroenterology, Hepatology and Nutrition (NASPGHAN) notes numerous adverse effects on young children when plant-based imitation milks are served, including failure to gain weight, decreased stature, kwashiorkor, electrolyte disorders, kidney stones and nutrient deficiencies (21).

Other prominent nutrition and medical groups also do not recommend plant-based milk imitators. These groups include the Academy of Nutrition and Dietetics (AND), the American Academy of Pediatric Dentistry (AAPD), the American Academy of Pediatrics (AAP), and the American Heart Association (AHA) (22).

Finally, the USDA Food and Nutrition Service (FNS), which operates the nation's child nutrition programs, is clear in its judgment about dairy imitators: "Most commercial almond, coconut and rice beverages are not nutritionally equivalent to fluid milk. (23)" Accordingly, beverages like these, which are not nutritionally equivalent, may not be credited toward reimbursements in the school meal programs.

NMPF recognizes the need for choices for individuals who are lactose-intolerant. The proposed authorization of lactose-free milk and flexibilities for substituting yogurt and cheese will ensure dairy's nutrients and health benefits are accessible to all WIC participants.

Conclusion

WIC has been proven to increase participants' diet quality and lead to positive health outcomes. Decreasing access to the nutrients dairy foods have to offer under the ill-conceived guise of keeping the program "supplemental" would only be detrimental to participants. Dairy foods have repeatedly been proven to close nutrient gaps in the populations served by the WIC program- populations that need these nutrients the most. NMPF appreciates the opportunity to submit comments and is hopeful USDA will return to the current levels of dairy in the WIC package in the final rule.

Sincerely,

A handwritten signature in black ink, appearing to read "Clay Detlefsen". The signature is fluid and cursive, with a long horizontal stroke at the end.

Clay Detlefsen, Esq.
Senior Vice President,
Environmental and Regulatory Affairs and Staff Counsel

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