

Soyfoods Association of North America

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Comments on RIN 0584-AD77: Interim Final Rule for the Special Supplemental Nutrition Program for Women, Infants and Children (WIC): Revisions in the WIC Food Packages

The Soyfoods Association of North America (SANA), which represents the interests of small and large soyfood manufactures, soy processors, suppliers, soybean farmers, and other industry stakeholders, appreciates the opportunity to comment on RIN 0584-AD77: The Interim Final Rule for the Special Supplemental Nutrition Program for Women, Infants and Children (WIC): Revisions in the WIC Food Packages. Specifically, SANA offers new data on the nutrient content of the soymilks in the current market place and comments on impact of other parts of the rule on the access of WIC participants to the dairy alternative, fortified soy-based beverage (soymilk).

USDA Proposed Nutrient Content Prevents Access to Soymilk in the Market Place

Despite receiving numerous comments refuting the proposed nutrient composition USDA proposed for soymilk to qualify as a dairy alternative for the WIC Food Packages for women and children, USDA retained those originally proposed nutrients in the Interim Final Rule¹. Currently, there are no soymilks in the market that meet USDA's minimum nutrient requirements for a soymilk²:

- Calcium 276 milligrams (mg) per cup.
- Protein 8 grams per cup.
- Vitamin A ... 500 International Units (IU) per cup.
- Vitamin D 100 IU per cup.
- Magnesium .. 24 mg per cup.
- Phosphorus 222 mg per cup.
- Potassium 349 mg per cup.
- Riboflavin 0.44 mg per cup.
- Vitamin B12... 1.1 mcg per cup.

In the Interim Final Rule, USDA states, "FNS is aware of at least one soy-based beverage in the marketplace that meets these requirements..."³ SANA requests USDA identify the soymilk brand that meets the entire specified nutrient profile, including 8 grams of protein and 349 mg potassium per 8 ounce serving.

¹ Federal Register vol. 72(234): 68973

² Ibid.

³ Ibid: 68974.

A review of the attached nutrient composition data for soymilks on the current market will show that no nationally distributed soymilk brand meets the USDA minimum nutrient requirements for a dairy alternative in the WIC program. SANA compiled the nutrient data in the spring of 2007 upon request from the USDA's National Nutrient Database for Standard Reference that was revising codes for soymilk and soymilk products. The attached table of soymilk nutrient composition data is arranged according to market share and includes all nationally distributed brands of soymilk. Unfortunately, the collection of these data was not completed until the comment period on the WIC proposed rule on the food package changes was closed. SANA met with FNS officials in March of 2007 and presented these data, but was not able to submit the table as part of the public docket on the WIC food package proposals.

After a thorough review of this table, SANA believes you will agree that no nationally distributed brand of soymilk meets USDA's minimum nutrient requirements for a soymilk to qualify for the WIC program. Although USDA opened the food packages to include a dairy alternative to meet "cultural diversity" needs, the nutrient composition required for soymilk excludes soymilks in the current market and denies access of non-dairy consuming WIC participants to an alternative source of calcium, protein, and other key nutrients. USDA's soymilk nutrient requirements would require additional but not justified fortification of products on the market to supply protein (not a priority nutrient for WIC recipients identified by the IOM) and potassium (a priority nutrient supplied by the increased fruits and vegetables).

One of the key requirements for a food to be added to the WIC package is wide availability. Overall, the current fortified soy-based beverages ("soymilk") enjoy widespread distribution, are available in 99% of supermarkets, and, thus, would be easily found by WIC participants. The necessary addition of protein and potassium would require development of new soymilks for a limited population scattered unevenly across the United States and shopping in thousands of different markets from natural food stores, Asian markets, supermarkets, neighborhood shops, and megastores nationwide.

USDA may have wrongly assumed that new products would be developed and distributed for the 10% of the WIC population that USDA estimates might use these "specially" fortified beverages. If any soymilk manufacturer chose to develop and distribute soymilk meeting the USDA nutrient standards for the anticipated small numbers of WIC participants, costs of these soymilks to WIC participants would rise significantly and effect the overall cost neutrality of WIC food packages. The distribution of specially designed soymilk to reach the small number of WIC participants wanting dairy alternatives would not be within normal distribution routes. In the interest of maintaining accessibility and the cultural diversity of the WIC food packages, SANA recommends USDA reevaluate the minimum nutrient requirements for a soymilk and base the decision on the information provided in the SANA Soymilk Nutrient Composition data for soymilks in the current market place.

NSLP legislation required dairy alternatives to be nutritionally equivalent but not of exact nutrient composition

SANA recognizes that USDA, in setting forth the WIC interim rules on inclusion of dairy alternatives in the WIC food packages, is following the legislative provision, Section 102 of Public Law 108—265 that "gives schools the option to offer an acceptable nondairy substitute to non-disabled children who cannot drink fluid milk for medical or dietary reasons." Although PL 108-265 indicated that a nondairy beverage substituted for the fluid milk provided in school meals should be nutritionally equivalent to

fluid milk, there is no clear definition of nutritional equivalence.⁴ The law indicates that the standards should include fortification of calcium, protein, vitamin A, and vitamin D to levels found in cow's milk.⁵ There is, however, variation in the amount of these nutrients that appear in cow's milk at different fat levels. The level of calcium, vitamin A, vitamin D, and protein quality of fortified soymilks are similar to cow's milk. Yet, fortified soymilks differ substantially from whole cow's milk in iron, folic acid, saturated fat, polyunsaturated fat, *trans* fat, and cholesterol content.

The statutory language does not apply to the Supplemental Food Program for Women, Infants, and Children (WIC) food packages, and the food products available to the school meal programs differ from those available on the commercial market. As noted above, the fortified soymilk products on the market today do not and will not probably ever supply all the nutrients at the levels USDA set out in the Interim Final Rules for the revised WIC food packages. The intent to provide a more culturally sensitive food package for WIC recipients, that USDA has lauded publicly with issuance of the rules, will not be a reality. States will need to seek waivers from these nutritional requirements to assure WIC recipients seeking dairy alternatives can find them in any supermarket where they shop.

Consistency with other USDA federal nutrition programs

SANA appreciates USDA establishing nutritional standards for nondairy beverage alternatives (such as "soymilk") to fluid milk that are consistent across all the federal nutrition programs, including the National School Breakfast and Lunch programs as well as the Supplemental Food Program for Women, Infants, and Children. To adapt to the different type of access that participants of the federal nutrition programs have to the food supply (i.e., lunch rooms versus grocery stores), USDA needs to consider permitting a modicum of flexibility in meeting the designated nutritional equivalency of cow's milk. Current fortified soymilks easily meet all the essential nutrients that women and children need for growth and development. The nutritional standards for soy-based beverages need only be slightly revised for potassium and protein, nutrients readily available from other WIC foods, to ensure that all the nutrition programs will have access to affordable, nutritionally sound milk substitutes that provide the key nutrients missing in the diets of the program participants not currently drinking milk.

It is important for USDA to do a more complete comparison of nutrients in whole milk and soymilk to assess the benefits for school children, since soymilk more closely reflects the 2005 Dietary Guidelines for children and women in terms of saturated fat, cholesterol, dietary fiber, magnesium and vitamin E than does cow's milk.

Medical documentation is unnecessary if dairy alternatives are nutritionally equivalent to cows milk

SANA as well as the WIC directors, pediatricians, and other health professionals strongly disagree with the USDA's required medical documentation for the dairy alternatives that must be nutritionally equivalent to cow's milk, and thus will be excellent sources of calcium, vitamin A, vitamin D, and other nutrients. By allowing children soy products as a substitute for liquid milk, USDA is helping children with health issues related to milk consumption and cultural or religious preferences obtain adequate calcium intake during formative years. A study in the *American Journal of Clinical Nutrition* confirms that soy products are consumed by 90% of healthy Asian children, with 95% of these children

⁴ Public Law 108-265. Child Nutrition and WIC Reauthorization Act of 2004. 108th Congress. June 30, 2004. Section 102. 118 STAT. 731 – 118 STAT 732.

⁵ Ibid.

consuming soy food before 18 months of age. The use of tofu during weaning was preferred by many Asian mothers because of its availability, soft consistency, high palatability, and high nutritional value.⁶

SANA strongly recommends that medical documentation be removed as a requirement in *Package IV*. USDA includes fortified soy-based beverages (“soymilk”) as a substitute for cow’s milk in the *Food Guide Pyramid for Young Children, 1999*. In addition, the *2005 Dietary Guidelines* state that non-dairy, calcium-containing alternatives should be used by individuals who choose to avoid all milk products. The medical requirement unnecessarily restricts access to these dietary options. A study of food allergic children found that of offending food identified in 34 of 41 cases, cow’s milk was the most frequently reported cause (32%), followed by peanuts (29%), eggs (18%), tree nuts (6%) and soy (1%).⁷ This leads SANA to question the necessity of medical documentation for soy products, but not for other common food allergens, such as milk and eggs.

There is no human medical evidence that consumption of soymilk has adverse effects in children or women. On the contrary, consuming fortified soy-based beverages (“soymilk”) and calcium-set tofu during childhood has been shown to promote growth and boost bone health of children world wide.^{8,9} Fortified soy products (tofu, fortified soy-based beverages [“soymilk”]) are good sources of high quality protein, calcium, vitamin A, vitamin D, riboflavin and phosphorus, as well as many other vitamins and minerals such as iron. Additionally, soy products contain no cholesterol and are low in saturated fat.

Furthermore, WIC is a program for low-income women, infants and children. Women participating in the program may or may not have access to medical care. Women that prefer not to have their child consume dairy products for cultural, religious, or other reasons, may not be able to afford either the expense, inconvenience, or burden of a doctor’s visit. Unfortunately, the medical documentation requirement may lead to the repercussion of a child not consuming any calcium-containing products. This would be a dire consequence, particularly in an age group when receiving the proper nutrition for growth and development is crucial.

Consensus among WIC Directors, groups representing WIC recipients, and health professionals opposed the minimum nutrient requirements and medical documentation

USDA received 340 non-form letter comments that opposed the proposed minimum nutrient standard for soymilk.¹⁰ Many organizations that opposed USDA’s minimum nutrient standard for soymilk represent WIC participants, WIC directors, and nutrition groups. These organization’s comments should be weighted heavily, as they represent the people serving the WIC program and the WIC program participants. Below are excerpt from some of these organization’s comments on the Proposed Rule that supported different minimum nutrient standards for soymilk to qualify for the WIC food packages:

⁶ Quak SH, Tan SP. Use of soy-protein formulas and soyfood for feeding infants and children in Asia. *Am J Clin Nutr.* 1998;68:1444S-1446S.

⁷ Nowak-Wegrzyn A, Conover-Walker MK, Wood RA. Food-allergic reactions in schools and preschools. *Arch Pediatr Adolesc Med.* 2001;155:790-5.

⁸ Zhao Y, Martin BR, Weaver CM. Calcium bioavailability of calcium carbonate fortified soymilk is equivalent to cow's milk in young women. *J Nutr.* 2005;135:2379-82.

⁹ Weaver CM, Plawecki KL. Dietary calcium: adequacy of a vegetarian diet. *Am J Clin Nutr* 1994; 59(suppl):1238S-41S.

¹⁰ Ibid: 68973.

National WIC Association's Comments:

“Establish an alternative minimum nutrient standard for soy beverages. Currently, there are no calcium-fortified soy beverages in the marketplace that meet the proposed nutrient standard of 8 grams of protein and 349 milligrams of potassium per 8 ounce serving. NWA recommends that the specifications for protein and potassium in calcium-fortified soy beverages follow the FDA and industry standards for protein at 6.25 grams minimum and for potassium at 250 milligrams per 8 ounce serving. Since protein is no longer a priority nutrient and the addition of fruits and vegetable contribute to the food packages’ potassium content, this adjusted specification will not affect the nutritional needs of participants who substitute soy beverages for cow’s milk.”

Center for Science in the Public Interest's Comments:

“In addition, we recommend that USDA establish an alternative minimum nutrient standard for soy beverages. Currently, there are no calcium-fortified soy beverages in the marketplace that meet the proposed nutrient standard of 8 grams of protein and 349 milligrams of potassium per 8 ounce serving. We recommend that USDA follow FDA’s and industry’s standards for protein (6.25 grams per 8 ounce serving) and potassium (250 milligrams per serving) for calcium-fortified soy beverages. Since protein is no longer a priority nutrient for WIC and the addition of fruits and vegetables contribute to the food packages’ potassium content, these adjusted specifications should not negatively affect the nutritional status of participants.”

Share Our Strength's Comments:

“In addition, we recommend that the USDA establish alternative minimum nutrient standards for calcium-fortified soy beverages. Currently, there are no calcium-fortified soy beverages in the marketplace that meet the proposed nutrient standard of 8 grams of protein and 349 milligrams of potassium per 8 ounce serving. We recommend USDA follow FDA and industry standards for protein (6.25 grams per 8 ounce serving) and potassium (250 milligrams per serving) for calcium-fortified soy beverages. Since protein is no longer a priority nutrient for WIC and the addition of fruits and vegetable contribute to the food packages’ potassium content, these adjusted specifications should not negatively affect the nutritional status of participants.”

Food Research and Action Center

Remove the Prescription Requirement for Soy Milk and Tofu: We commend USDA for including the option of soy milk and tofu to provide popular high-calcium foods for WIC participants from a diversity of cultures. In addition, these foods are an important alternative for participants with milk allergies and lactose intolerance, a problem disproportionately affecting Latinos, African-Americans and Asian-Americans. The new packages will work well for women because they have free access to choosing soy milk/tofu. However, the proposed requirement for a medical prescription for children to get soy milk or tofu should be removed because it presents an insurmountable barrier for most low-income WIC families.

American Academy of Pediatrics

Adjustment of allocations for milk and eggs. The AAP commends the adjusted allocations of milk and eggs to conform with current dietary recommendations. In the case of children age 1 to 4 years, the AAP urges the USDA to remove the requirement for medical documentation to allow the substitution of soy milk or tofu for milk products. The medical literature does not support any contention that soy milk or tofu are inappropriate substitutes for cow's milk for children in this age group. Families should be permitted to choose these alternatives freely, not only on the basis of medical concerns.

Grocery Manufactures Association's Comments:

“GMA/FPA has substantial concerns about the proposed nutrient requirements for fortified soy-based beverages (“soymilk”) to be authorized for purchase by WIC participants. We understand that nutrient requirements were determined using whole milk as a benchmark, but the nutrient levels are not consistent with nutritional concerns of the program or calcium-fortified products in the marketplace. USDA’s protein requirement of 8 grams per cup is not consistent with products in the marketplace. Additionally, protein is not a priority WIC nutrient and calcium delivery is sufficient in current products. Related to other nutrients, we support vitamin A and Vt. D requirements, but for other nutrients, such as potassium, parity to dairy products is not required, as the difference is not significant.”

The soymilk and tofu manufacturers of North America want to assure WIC participants have access to nutrient-rich soyfoods that can replace dairy products that they currently do not consume. The Soyfoods Association of North America (SANA) will work closely with the National WIC Association to monitor how states are able to implement this “dairy alternative” provision when the market lacks soymilks that meet the USDA nutritional requirements for soy based beverages to qualify for the WIC food packages and WIC recipients must secure medical documentation. SANA looks forward to providing any additional information USDA may need to remove these two restrictions regarding soymilk in WIC.

Best regards,

A handwritten signature in cursive script that reads "Nancy Chapman".

Nancy Chapman, RD, MPH
Executive Director

