



June 27, 2023

Dockets Management Staff (HFA-305)  
Food and Drug Administration  
5630 Fishers Lane, Rm. 1061  
Rockville, MD 20852

RE: Docket (FDA-2023-D-1027); Questions and Answers About Dietary Guidance Statements in Food Labeling; Draft Guidance for Industry

Dairy Council of California appreciates the opportunity to submit comments for consideration by the Food and Drug Administration on *Questions and Answers About Guidance Statements in Food Labeling: Draft Guidance for Industry*. As a science-based nutrition organization, Dairy Council of California collaborates with partners to elevate the health of children and communities through the pursuit of lifelong healthy eating patterns. Funded by California's dairy farm families and milk processors and under the guidance of California Department of Food and Agriculture, Dairy Council of California's registered dietitian nutritionists and experts in nutrition science, education, agriculture literacy and community health engage with a variety of champions in school, health care and community settings, working together to achieve nutrition security. Each year these collective efforts improve access to nutritious foods and provide nutrition education for millions of people in California, across the nation and beyond, demonstrating the dairy community's contribution to sustainable nutrition and community health.

## **Dietary Guidance and Education Can Help Fill Nutrient Gaps**

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Dairy Council of California applauds efforts to improve dietary patterns and empower consumers with more informative and accessible labeling to choose healthier diets. Education happens everywhere through a variety of learning experiences and diverse community settings. Evidence shows that implementing multiple changes at various levels of the Social-Ecological Model—such as changing messages, food access and policy—is effective in improving eating patterns. Nutrition education and food literacy are integral components in improving the health of Americans and play a critical role in solutions that improve food environments, including those within retail and community settings.



Dietary guidance and nutrition education that focus on food groups allow people to customize their choices to meet their individual dietary needs and preferences. High-quality foods from the food groups help lay the foundation for a healthy eating pattern, and prioritizing food groups has the potential to positively impact health by encouraging people to eat foods that align more closely with dietary recommendations. Currently, many Americans are under-consuming vegetables, fruits and dairy, resulting in nutrient gaps.<sup>1</sup> Data indicates that Americans ages 2 years and older only consume about half of the daily servings of dairy recommended by the Dietary Guidelines for Americans.<sup>2</sup> However, even at the current consumption level, milk, yogurt and cheese provide Americans ages 2 years and older 52% of their calcium, 51% of their vitamin D, 14% of their potassium, 17% of their protein and at least 25% of their vitamin A, vitamin B12 and phosphorus,<sup>3</sup> making a significant contribution to diet quality with room for improvement.

### **Dietary Guidance Statements Should Consider the Dairy Food Matrix**

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Milk has a unique package of 13 essential nutrients, including potassium and vitamin D, two nutrients of major concern. Advances in nutrition science have demonstrated that milk and dairy foods have complex matrices of nutrients, minerals, bioactives, food structures and phospholipids. This complex profile helps explain why milk and dairy foods are associated with lower BMI<sup>4</sup> and reduced risk of developing chronic diseases such as type 2 diabetes and heart disease.<sup>5</sup> Whole foods have different health properties than do fractionated-recombined foods; even those of similar composition and nutrients are digested, absorbed and utilized differently within the body when they are included in natural matrices compared to being added in artificial matrices.<sup>6</sup> Some studies found benefits of certain foods on health and disease. However, when components of those foods are studied in isolation, the benefits disappear.<sup>7</sup>

Milk's nutrient profile delivered through the dairy matrix has a well-documented positive impact on diet quality and health. Milk and dairy foods and plant-based foods and beverages differ in nutrient content and bioavailability. Labeling all plant-based milk and yogurt alternatives as part of the Dairy food group does not reflect the nuance of milk's contribution to diet quality nor the varying nutrient content and bioavailability of plant-based alternatives that may prevent adequate intake or absorption and utilization of important nutrients.



## **Dietary Guidance Statements Should Consider the Impact on Life Stages**

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Nutrition during pregnancy and early childhood has far-reaching impacts on proper growth and development, which includes brain, bone and immune development, setting a foundation for health throughout the life span and likelihood of having a diet-related chronic disease later in life. Milk provides seven of the 14 nutrients identified by the Academy of Pediatrics as important for fetal brain development,<sup>8</sup> as well as key nutrients such as high-quality protein, calcium, vitamin D, zinc and vitamin B12 that support bone<sup>9</sup> and immune development<sup>10</sup> to meet increased needs during this period of rapid growth.

Leading pediatric and health organizations, including the American Academy of Pediatrics, the Academy of Nutrition and Dietetics, the American Academy of Pediatric Dentistry and the American Heart Association, established guidance for early childhood beverage intake that does not recommend plant-based milk alternatives for children largely because of inadequate protein content, low protein quality and other essential vitamin and mineral shortcomings. Instead, water and plain milk are the only recommended beverages for children ages 1 through 5.<sup>11</sup> Their conclusion on beverage recommendations for young children is based on decades of research assessing nutritional requirements for healthy growth, cultural influences on eating patterns and key developmental milestones.<sup>12</sup>

Additionally, adverse effects from the misuse of certain plant-based beverages have been well-documented and include failure to gain weight, decreased stature, kwashiorkor, electrolyte disorders, kidney stones and severe nutrient deficiencies, including iron deficiency anemia, rickets and scurvy. Such adverse nutritional outcomes are largely preventable.<sup>13</sup>

Though the Dietary Guidance Statements are for individuals ages 2 and older, guidance that does not distinguish between dairy foods and plant-based alternatives could create confusion and have unintended consequences on food and beverage choices during pregnancy and early childhood, impacting short- and long-term health outcomes for children and families.

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**Recommendation:** Dairy Council of California emphasizes the importance of considering the dairy matrix when providing guidance for Dietary Guidance Statements in Food Labeling. Due



to the variable nutrient content of plant-based dairy alternatives and the benefits of milk and dairy foods' unique nutrient package, matrix and important contribution to food-based dietary guidance, labeling initiatives to improve public health should not treat plant-based dairy alternatives as interchangeable with milk and dairy foods without consensus research to support this change. Dietary guidance and labeling should prioritize and support sustainable solutions for all life stages that enable consumption of nutritious foods such as milk and dairy foods, fresh fruit and vegetables, whole grains and high-quality animal and plant proteins.

Thank you for the opportunity to submit these comments.

Regards,

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