

amounts paid by the Secretary for the procurement of the contract brand. Rebates collected under the agreements will be credited to the appropriation available for carrying out the WIC Overseas program and will be available for the program in the same period as the other sums in the appropriation.

The Secretary will provide for an appeals process that will allow individuals who are denied certification or recertification to appeal those decisions. The process will include a requirement that individuals denied certification or recertification be advised of their right of appeal, the relevant time limits, and the procedures to effect an appeal and will further provide a second level of review to individuals adversely impacted by an appeals decision.

E. Regulatory Procedures

This interim rule will impose additional information collection requirements to the public under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3511). Individuals will be required to apply for certification and periodic recertification to receive benefits.

This rule is being issued as an interim final rule, with comment period, as an exception to our standard practice of soliciting public comments prior to issuance. The Assistant Secretary of Defense (Health Affairs) has determined that following the standard practice in this case would be impracticable, unnecessary, and contrary to public interest. This determination is based on the fact that this change directly implements a statutory entitlement enacted by Congress expressly for this purpose. All public comments are invited and will be carefully considered. We anticipate the issuance of a final rule within 6 months of the end of the comment period.

Executive Order 12866 requires certain regulatory assessments for any “significant regulatory action” defined as one that would result in an annual effect on the economy of \$100 million or more, or have other substantial impacts. The Regulatory Flexibility Act (RFA) requires that each federal agency prepare, and make available for public comment, a regulatory flexibility analysis when the agency issues a regulation which would have a significant impact on a substantial number of small entities. This final rule is a significant regulatory action and has been revised by the Office of Management and Budget under Executive Order 12866. The annual cost of this program is estimated to be about \$24 million per year, beginning in Fiscal

Year 2002. This rule is not economically significant and will not significantly affect a substantial number of small entities. The information collection notice was published on March 21, 2003 (68 FR 13906).

List of Subjects in 32 CFR Part 199

Department of Defense; Food assistance programs; women, infants and children

■ Accordingly, 32 CFR Part 199 is amended as follows:

PART 199—[AMENDED]

■ 1. The authority citation for part 199 continues to read as follows:

Authority: 5 U.S.C. 301 and 10 U.S.C. chapters 53 and 55.

■ 2. Title 32, CFR part 199 is amended by adding § 199.23 to read as follows:

§ 199.23. Special Supplemental Food Program.

(a) *General provisions.* This section prescribes guidelines and policies for the delivery and administration of the Special Supplemental Food Program for Women, Infants, and Children Overseas (WIC Overseas Program). The purpose of the WIC Overseas Program is to provide supplemental foods and nutrition education, at no cost, to eligible persons and to serve as an adjunct to good health care during critical times of growth and development, in order to prevent the occurrence of health problems, including drug and other substance abuse, and to improve the health status of program participants. The benefit is similar to the benefit provided under the U.S. Department of Agriculture (USDA) administered Women, Infants, and Children (WIC) Program.

(b) *Definitions.* For most definitions applicable to the provisions of this section, refer to § 199.2 of this chapter. The following definitions apply only to this section:

(1) *Applicant.* Pregnant women, breastfeeding women, postpartum women, infants, and children who are applying to receive WIC Overseas benefits, and the breastfed infants of applicant breastfeeding women. This term also includes individuals who are currently participating in the Program but are re-applying because their certification is about to expire.

(2) *Breastfeeding women.* Women up to 1-year postpartum who are breastfeeding their infants. Their eligibility will end on the last day of the month of their infant's first birthday.

(3) *Certification.* The implementation of criteria and procedures to assess and

document each applicant's eligibility for the Program.

(4) *Children.* Persons who have had their first birthday but have not yet attained their fifth birthday. Their eligibility will end on the last day of the month of their fifth birthday.

(5) *Competent Professional Authority (CPA).* An individual on the staff of the WIC Overseas office authorized to determine nutritional risk, prescribe supplemental foods, and design nutrition education programs. The following are authorized to serve as a competent professional authority: Physicians, nutritionists, registered nurses, and dietitians may serve as a competent professional authority. Additionally, a CPA may be other persons designated by the regional program manager who meet the definition of CPA prescribed by the USDA as being professionally competent to evaluate nutritional risk. The definition also applies to an individual who is not on the staff of the WIC Overseas office but who is qualified to provide data upon which nutritional risk determinations are made by a competent professional authority on the staff of the local WIC Overseas office.

(6) *Contract brand.* The brand of a particular food item that has been competitively selected by the DoD to be the exclusive supplier of that type of food item to the program.

(7) *Date-to-use.* The date by which the drafts must be used to purchase food items.

(8) *Department.* The Department of Defense (DoD), unless otherwise noted.

(9) *Dependent.* (i) A spouse, or
(ii) An unmarried child who is:

(A) Under 21 years of age; or
(B) Incapable of self-support because

of mental or physical incapacity and is in fact dependent on the member for more than 1/2 of the child's support; or
(C) Is under 23 years of age, is enrolled in a full-time course of study in an institution of higher education and is in fact dependent on the member for more than one-half of the child's support.

(10) *Drafts.* Paper food instruments, similar to vouchers, issued in the WIC Overseas offices to program participants. Participants may redeem their drafts at participating commissaries and NEXMARTs for the types and quantities of foods specified on the face of the draft.

(11) *Economic unit.* All individuals contributing to or subsidizing the income of a household, whether they physically reside in that household or not.