

### Executive Order 12998

This action has been reviewed under Executive Order 12998, Civil Justice Reform. This action is not intended to have preemptive effect with respect to any State or local laws, regulations or policies that conflict with its provisions or that would otherwise impede its full implementation.

## II. References

(1) Study of WIC Participant and Program Characteristics, 2000. Available at Internet site: <http://www.fns.usda.gov/oane/MENU/Published/WIC/WIC.HTM>.

(2) Review of the Nutritional Status of WIC Participants (CNPP), December 1999. Available at Internet site: <http://www.usda.gov/cnpp/Pubs/Wic/>

(3) *Nutrition and Your Health: Dietary Guidelines for Americans, Fifth Edition*, USDA and U.S. Department of Health and Human Services, Washington, DC, 2000. Available at Internet site: <http://www.usda.gov/cnpp/Pubs/DG2000/>

(4) WIC and the Nutrient Intake of Children (ERS), Food Assistance and Nutrition Research Report No. FANRR5, April 2000. Available at Internet site: <http://www.ers.usda.gov/publications/fanrr5/>

(5) Institute of Medicine. Dietary Reference Intakes. Panel on Macronutrients (Energy, Carbohydrate, Fiber, Fat, Fatty Acids, Cholesterol, Protein, and Amino Acids (September 5, 2002, 936 pp.))

(6) Institute of Medicine. Dietary Reference Intakes. Panel on Micronutrients (Vitamin A, Vitamin K, Arsenic, Boron, Chromium, Copper, Iodine, Iron, Manganese, Molybdenum, Nickel, Silicon, Vanadium, and Zinc (2002, 800 pp.))

(7) Institute of Medicine. Dietary Reference Intakes. Standing Committee on the Scientific Evaluation of Dietary Reference Intakes (Calcium, Phosphorus, Magnesium, Vitamin D, and Fluoride (1997, 448 pp.))

(8) Institute of Medicine. Dietary Reference Intakes. Dietary Antioxidants and Related Compounds (Vitamin C, Vitamin E, Selenium, and Carotenoids (2000, 529 pp.))

(9) Institute of Medicine. Dietary Reference Intakes. Panel on Folate, Other B Vitamins, and Choline (Thiamin, Riboflavin, Niacin, Vitamin B6, Folate, Vitamin B12, Pantothenic Acid, Biotin, and Choline (2000, 592 pp.))

(10) WIC Program Regulations Pertaining to Supplemental Food [7 CFR 246.10] available at Internet site: <http://www.fns.usda.gov/wic/PDFfiles/WICRegulations-7CFR246.pdf>

(11) FNS Instruction 804-1 "WIC Program—Food Package Design: Administrative Adjustments and Nutrition Tailoring."

(12) Standard reference values for nutrients in foods are available from USDA, Agricultural Research Service, Nutrient Data Bank, [http://www.nal.usda.gov/fnic/cgi-bin/nut\\_search.pl](http://www.nal.usda.gov/fnic/cgi-bin/nut_search.pl)

## III. General Background

Since the creation of the WIC Program in the 1970's, and the last revision of the WIC food packages in the early 1980's, much has been learned about the nutritional needs of pregnant women, infants, and preschool aged children. In recent years the ability of the WIC Program to meet nutritional needs of WIC participants through its food packages and nutrition education has received growing attention. Significant interest in updating the food packages based on new information about the needs of low-income women, infants, and children has been voiced by WIC Program administrators, the medical and scientific communities, advocacy groups, and Congress.

Authorizing legislation requires that the supplemental foods provided by WIC contain nutrients known to be lacking in the diets of the target population [see the Child Nutrition Act, as amended (CNA), section 17(b)(14), (42 U.S.C. 1786)]. Indeed, because of the WIC Program and the larger nutrition safety net, progress has been made in filling many of these nutrient gaps. However, nutritional science and the Dietary Guidelines for Americans have evolved, and the overall nutritional needs and consumption patterns of WIC's target population have changed. The Department acknowledges the continuing advances in nutritional research since the current food packages were established in 1980. Recommended dietary practices are constantly evolving in response to new knowledge and may hold significant implications for the WIC Program. Food technology has also advanced substantially, resulting in a large number of new products.

With this Notice, the Department is seeking guidance on issues/questions concerning revisions to the WIC food packages that would address the nutritional needs of the WIC population given current scientific information and consumption patterns. The food package recommendations should not increase the cost or administrative burden to the WIC Program nor change the supplemental nature of the Program. Any modifications to the WIC food

packages should be based on scientific evidence.

## IV. Program Background

The authorizing legislation for the WIC Program, section 17 of the CNA established the WIC Program to provide supplemental foods and nutrition education to low income pregnant, breastfeeding, and postpartum women, infants, and children up to age 5 who are at nutritional risk. Nutritional risk is determined by a competent professional authority and includes conditions such as inadequate weight gain during pregnancy; history of inappropriate growth patterns in infants and children; anemia; and inadequate dietary patterns.

Sections 17(a) and (b)(14) of the CNA (42 U.S.C. 1786(a) and (b)(14)) clearly established the WIC Program as "supplemental" in nature; that is, the WIC supplemental foods are not intended to provide a complete diet but are designed to provide specific nutrients determined by nutritional research to be lacking in the diets of the WIC population. WIC was never intended to be a primary source of food, nor of general food assistance. Rather, WIC benefits are intended to meet the special nutritional needs of a very specific population. In addition to WIC, the Department administers a variety of other complementary nutrition assistance programs that work together to provide a more complete diet to low-income persons. Low-income families can, and frequently do, receive benefits from more than one of these programs. The largest of these programs, the Food Stamp Program, provides general food assistance intended to increase the food buying power of low-income households.

In addition to food assistance, WIC provides nutrition education, including breastfeeding promotion and support, and information about the dangers of alcohol, tobacco and other drug use to participants. The nutrition education provided by WIC enables participants to make informed decisions in choosing foods that, together with the supplemental foods contained in the WIC food packages, can meet their total dietary needs. The intent is to help participants to continue healthful dietary practices after leaving the Program.

WIC is a unique nutrition assistance program in that it also serves as an adjunct to good health care during critical times of growth and development to prevent the occurrence of health problems and to improve the health status of Program participants. Numerous studies have shown that WIC