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Washington, DC 20548

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B-310897

December 17, 2007

The Honorable Tom Harkin  
Chairman  
The Honorable Saxby Chambliss  
Ranking Minority Member  
Committee on Agriculture, Nutrition, and Forestry  
United States Senate

The Honorable George Miller  
Chairman  
The Honorable Howard P. "Buck" McKeon  
Ranking Minority Member  
Committee on Education and Labor  
House of Representatives

Subject: *Department of Agriculture, Food and Nutrition Service: Special Supplemental Nutrition Program for Women, Infants and Children (WIC): Revisions in the WIC Food Packages*

Pursuant to section 801(a)(2)(A) of title 5, United States Code, this is our report on a major rule promulgated by the Department of Agriculture (USDA), Food and Nutrition Service, entitled "Special Supplemental Nutrition Program for Women, Infants and Children (WIC): Revisions in the WIC Food Packages" (RIN: 0584-AD77). We received the rule on December 7, 2007. It was published in the Federal Register as an interim rule on December 6, 2007. 72 Fed. Reg. 68,966. This interim rule has a stated effective date of February 4, 2008, and an implementation date of August 5, 2009.

The interim rule revises regulations governing the food package for women, infants, and children to align with the current Dietary Guidelines for Americans and infant feeding practice guidelines of the American Academy of Pediatrics. Through this rule, USDA also intends to better promote and support the establishment of long-term breastfeeding, provide program participants with a wider variety of food, and provide state agencies with greater flexibility to accommodate cultural food preferences.

Enclosed is our assessment of the USDA's compliance with the procedural steps required by section 801(a)(1)(B)(i) through (iv) of title 5 with respect to the rule. Our review indicates that the USDA complied with the applicable requirements.

If you have any questions about this report, please contact Michael R. Volpe, Assistant General Counsel, at (202) 512-8236.

signed

Robert J. Cramer  
Associate General Counsel

Enclosure

cc: Nancy Montanez Johner  
Under Secretary, Food, Nutrition,  
and Consumer Services  
Department of Agriculture

REPORT UNDER 5 U.S.C. § 801(a)(2)(A) ON A MAJOR RULE  
ISSUED BY THE  
DEPARTMENT OF AGRICULTURE,  
FOOD AND NUTRITION SERVICE  
ENTITLED  
"SPECIAL SUPPLEMENTAL NUTRITION PROGRAM FOR  
WOMEN, INFANTS AND CHILDREN (WIC): REVISIONS  
IN THE WIC FOOD PACKAGES"  
(RIN: 0584-AD77)

(i) Cost-benefit analysis

The Department of Agriculture (USDA) analyzed the costs and benefits of this interim rule. USDA estimates that the changes in this interim rule will decrease costs by \$29.7 million over 5 years. USDA states that the benefits of this interim rule will be to bring the food packages provided to women, infants, and children under this program in line with the current Dietary Guidelines for Americans and the infant feeding practice guidelines of the American Academy of Pediatrics, to better promote and support the establishment of long-term breastfeeding, to provide program participants with a wider variety of food, and to provide state agencies with greater flexibility to accommodate cultural food preferences.

(ii) Agency actions relevant to the Regulatory Flexibility Act, 5 U.S.C. §§ 603–605, 607, and 609

USDA determined that this interim rule will not have a significant impact on a substantial number of small entities.

(iii) Agency actions relevant to sections 202-205 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. §§ 1532–1535

USDA determined that this interim rule contains no federal mandates under the Act that impose costs on state, local, or tribal governments or the private sector of \$100 million or more in any one year.

(iv) Other relevant information or requirements under acts and executive orders

Administrative Procedure Act, 5 U.S.C. §§ 551 et seq.

USDA promulgated this interim rule under the notice-and-comment procedures found in the Administrative Procedure Act. 5 U.S.C. § 553. USDA published the proposed rulemaking on August 7, 2006. 71 Fed. Reg. 44,784. USDA received 46,502 comment letters, to which it responded in this interim rule. 72 Fed. Reg. 68,967–81.

Paperwork Reduction Act, 44 U.S.C. §§ 3501–3520

This interim rule contains information collection requirements that require the approval of the Office of Management and Budget (OMB) under the Act. USDA has submitted these information collections to OMB for review and approval.

Statutory authorization for the rule

USDA promulgated this interim rule under the authority of section 1786 of title 42, United States Code.

Executive Order No. 12,866

USDA determined that this interim rule is economically significant. OMB reviewed this rule under the Order.

Executive Order No. 12,988 (Civil Justice Reform)

USDA reviewed this rule under the Order and determined that this rule is intended to have preemptive effect with respect to any state or local laws, regulations, or policies which conflict with it or which would impede its full implementation. The rule is not meant to be retroactive.