

# Rules and Regulations

Federal Register

Vol. 74, No. 185

Friday, September 25, 2009

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

## DEPARTMENT OF AGRICULTURE

### Food and Nutrition Service

#### 7 CFR Part 246

RIN 0584-AD77

#### Special Supplemental Nutrition Program for Women, Infants and Children (WIC): Revisions in the WIC Food Packages

**AGENCY:** Food and Nutrition Service (FNS), USDA.

**ACTION:** Final rule; technical correction.

**SUMMARY:** This document corrects a typographical error published in an interim final rule concerning maximum monthly allowances of supplemental foods for infants in food (packages I, II,

and III) published in the **Federal Register** on December 6, 2007. A table contained a typographical error; this document corrects that error. All other information remains unchanged.

**DATES: Effective Date:** This correction is effective September 25, 2009.

**FOR FURTHER INFORMATION CONTACT:**

Debra R. Whitford, Chief, Policy and Program Development Branch, Supplemental Food Programs Division, Food and Nutrition Service, USDA, 3101 Park Center Drive, Room 528, Alexandria, VA 22302, (703) 305-2746; *Debbie.Whitford@fns.usda.gov*.

**SUPPLEMENTARY INFORMATION:**

**Correction**

Interim rule document “Special Supplemental Nutrition Program for Women, Infants and Children (WIC): Revisions in the WIC Food Packages” published on December 6, 2007, at 72 FR 68966, § 246.10, “Table 1.—Maximum Monthly Allowances of Supplemental Foods For Infants in Food Packages I, II, and III”, contained a typographical error in the heading of the 5th column. As a result, the January 2009 revision of the CFR contained the incorrect column heading. This document ensures the correct heading

will appear in the January 2010 edition of the CFR. For reasons of convenience and context, we are presenting table 1 revised in its entirety, though the only change is the above-mentioned typographical error.

**List of Subject in 7 CFR Part 246**

Administrative practice and procedure, Civil rights, Food assistance programs, Grant programs—health, Grant programs—social programs, Infants and children, Maternal and child health, Nutrition.

■ For reasons set forth in the preamble, the Food and Nutrition Service correctly amends 7 CFR part 246 as follows:

**PART 246—SPECIAL SUPPLEMENTAL NUTRITION PROGRAM FOR WOMEN, INFANTS AND CHILDREN**

■ 1. The authority citation for part 246 continues to read as follows:

**Authority:** 42 U.S.C. 1786.

■ 2. In § 246.10, revise table 1 to read as follows:

**§ 246.10 Supplemental foods.**

\* \* \* \* \*

TABLE 1—MAXIMUM MONTHLY ALLOWANCES OF SUPPLEMENTAL FOODS FOR INFANTS IN FOOD PACKAGES I, II AND III

Foods <sup>1</sup>	Fully formula fed (FF)		Partially breastfed (BF/FF)		Fully breastfed (BF)	
	Food packages I-FF & III-FF A: 0 through 3 months B: 4 through 5 months	Food packages II-FF & III-FF 6 through 11 months	Food packages I-BF/FF & III BF/FF A: 0 to 1 month <sup>2</sup> B: 1 through 3 months <sup>2</sup> C: 4 through 5 months	Food packages II-BF/FF & III BF/FF 6 through 11 months	Food package I-BF 0 through 5 months	Food package II-BF 6 through 11 months
WIC Formula <sup>4 5 6 7</sup> ..	A: 806 fl oz reconstituted liquid concentrate or 832 fl. oz. RTF or 870 fl oz reconstituted powder. B: 884 fl oz reconstituted liquid concentrate or 896 fl. oz. RTF or 960 fl oz reconstituted powder.	624 fl. oz. reconstituted liquid concentrate or 640 fl. oz. RTF or 696 fl oz reconstituted powder.	A: 104 fl oz reconstituted powder <sup>3</sup> . B: 364 fl oz reconstituted liquid concentrate or 384 fl oz RTF or 435 fl oz reconstituted powder. C: 442 fl. oz. reconstituted liquid concentrate or 448 fl. oz. RTF or 522 fl oz reconstituted powder.	312 fl. oz. reconstituted liquid concentrate or 320 fl. oz. RTF or 384 fl oz reconstituted powder.		
Infant cereal <sup>8</sup> .....	.....	24 oz .....	.....	24 oz .....	.....	24 oz.
Infant food fruits and vegetables <sup>8 9 10</sup> .	.....	128 oz .....	.....	128 oz .....	.....	256 oz.

TABLE 1—MAXIMUM MONTHLY ALLOWANCES OF SUPPLEMENTAL FOODS FOR INFANTS IN FOOD PACKAGES I, II AND III—Continued

Foods <sup>1</sup>	Fully formula fed (FF)		Partially breastfed (BF/FF)		Fully breastfed (BF)	
	Food packages I-FF & III-FF A: 0 through 3 months B: 4 through 5 months	Food packages II-FF & III-FF 6 through 11 months	Food packages I-BF/FF & III BF/FF A: 0 to 1 month <sup>2</sup> B: 1 through 3 months <sup>2</sup> C: 4 through 5 months	Food packages II-BF/FF & III BF/FF 6 through 11 months	Food package I-BF 0 through 5 months	Food package II-BF 6 through 11 months
Infant food meat <sup>8 10</sup>	.....	.....	.....	.....	.....	77.5 oz.

**Table 1 Footnotes:** (Abbreviations in order of appearance in table): FF = fully formula fed; BF/FF = partially breastfed (*i.e.*, the infant is breastfed but also receives formula from the WIC Program); BF = fully breastfed (*i.e.*, the infant receives no formula through the WIC program).

- <sup>1</sup> Table 4 describes the minimum requirements and specifications for the supplemental foods.
- <sup>2</sup> The powder form is the form recommended for partially breastfed infants ages 0 through 3 months in Food Package I.
- <sup>3</sup> Liquid concentrate and ready-to-feed (RTF) may be substituted at rates that provide comparable nutritive value.
- <sup>4</sup> WIC formula means infant formula, exempt infant formula, or WIC-eligible medical food. Only infant formula may be issued for infants in Food Packages I and II. Exempt infant formula may only be issued for infants in Food Package III.
- <sup>5</sup> The maximum monthly allowance is specified in reconstituted fluid ounces for liquid concentrate, RTF liquid, and powder forms of infant formula and exempt infant formula. Reconstituted fluid ounce is the form prepared for consumption as directed on the container.
- <sup>6</sup> If powder infant formula is provided, State agencies must provide at least the number of reconstituted fluid ounces as the maximum allowance for the liquid concentrate form of the same product in the same Food Package up to the maximum monthly allowance for powder. State agencies must issue whole containers that are all the same size.
- <sup>7</sup> State agencies may round up and disperse whole containers of infant formula over the food package timeframe to allow participants to receive the full authorized nutritional benefit (FNB). State agencies must use the methodology described in accordance with paragraph (h)(1) of this section.
- <sup>8</sup> State agencies may round up and disperse whole containers of infant foods (infant cereal, fruits and vegetables, and meat) over the Food Package timeframe. State agencies must use the methodology described in accordance with paragraph (h)(2) of this section.
- <sup>9</sup> Fresh banana may replace up to 16 ounces of infant food fruit at a rate of 1 pound of bananas per 8 ounces of infant food fruit.
- <sup>10</sup> In lieu of infant foods (cereal, fruit and vegetables, and meat), infants greater than 6 months of age in Food Package III may receive exempt infant formula or WIC-eligible medical foods at the same maximum monthly allowance as infants ages 4 through 5 months of age of the same feeding option.

\* \* \* \* \*

Dated: August 25, 2009.  
**Julia Paradis,**  
*Administrator, Food and Nutrition Service.*  
 [FR Doc. E9-22590 Filed 9-24-09; 8:45 am]  
 BILLING CODE 3410-30-P

**DEPARTMENT OF AGRICULTURE**

**Agricultural Marketing Service**

**7 CFR Parts 916 and 917**

[Doc. No. AMS-FV-09-0013; FV09-916/917-2 IFR]

**Nectarines and Peaches Grown in California; Decreased Assessment Rates**

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Affirmation of interim final rule as final rule.

**SUMMARY:** The Department of Agriculture (USDA) is adopting, as a final rule, without change, an interim final rule that decreased the assessment rates established for the Nectarine Administrative Committee and the Peach Commodity Committee (Committees) for the 2009-10 and subsequent fiscal periods. The Nectarine Administrative Committee (NAC) program decreased its assessment rate from \$0.06 to \$0.0175 per 25-pound

container or container equivalent of nectarines handled. The Peach Commodity Committee (PCC) program decreased its assessment rate from \$0.06 to \$0.0025 per 25-pound container or container equivalent of peaches handled. The Committees locally administer the marketing orders for nectarines and peaches grown in California (order). The interim final rule was necessary to align the Committees' expected revenue with decreases in its proposed budget for the 2009-10 fiscal period, which began March 1, 2009.

**DATES:** *Effective Date:* Effective September 26, 2009.

**FOR FURTHER INFORMATION CONTACT:** Jennifer Robinson, Marketing Specialist, or Kurt J. Kimmel, Regional Manager, California Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA; Telephone: (559) 487-5901, Fax: (559) 487-5906; or E-mail: [Jen.Robinson@ams.usda.gov](mailto:Jen.Robinson@ams.usda.gov) or [Kurt.Kimmel@ams.usda.gov](mailto:Kurt.Kimmel@ams.usda.gov).

Small businesses may obtain information on complying with this and other marketing order regulations by viewing a guide at the following Web site: <http://www.ams.usda.gov/AMSV1.0/ams.fetchTemplateData.do?template=TemplateN&page=MarketingOrdersSmallBusinessGuide>; or by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and

Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW., STOP 0237, Washington, DC 20250-0237; Telephone: (202) 720-2491, fax: (202) 720-8938, or e-mail: [Jay.Guerber@ams.usda.gov](mailto:Jay.Guerber@ams.usda.gov).

**SUPPLEMENTARY INFORMATION:** This rule is issued under Marketing Order Nos. 916 and 917, both as amended (7 CFR parts 916 and 917), regulating the handling of nectarines and peaches grown in California, respectively, hereinafter referred to as the "orders." The orders are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), hereinafter referred to as the "Act."

USDA is issuing this rule in conformance with Executive Order 12866.

Under the orders, California nectarine and peach handlers are subject to assessments, which provide funds to administer the orders. Assessment rates issued under the orders are intended to be the applicable to all assessable nectarines and peaches for the entire fiscal period, and continue indefinitely until amended, suspended, or terminated. The Committee's fiscal period begins on March 1, and ends on the last day of February.

In an interim final rule published in the **Federal Register** on June 18, 2009, and effective on June 19, 2009 (74 FR 28869, Doc. No. AMS-FV-09-0013; FV09-916/917-2 IFR), §§ 916.234 and