



February 16, 2024

**SUBJECT:** WIC Policy Memorandum #2024-3: Implementing ABFA Requirements in WIC State Plans

**TO:** Regional Directors  
Supplemental Nutrition Division  
All Regional Offices

WIC State Agency Directors  
All WIC State Agencies

Effective with the publication of the [Special Supplemental Nutrition Program for Women, Infants, and Children \(WIC\): Implementation of the Access to Baby Formula Act of 2022 and Related Provisions - Final Rule with Request for Comment on December 14, 2023](#), as of February 12, 2024, WIC State agencies are now required to include a plan of alternate operating procedures, commonly referred to as a disaster plan, as part of their State Plan. This requirement is effective beginning with State agency fiscal year (FY) 2025 State Plan submissions, **due to USDA's Food and Nutrition Service (FNS) no later than August 15, 2024**. This transmittal outlines the minimum required elements for alternate operating procedures and is intended to help State agencies determine how they will implement this new requirement. FNS will reinforce these requirements through the FY 2025 State Plan Guidance and revise the existing guidance found in the [Guide to Coordinating WIC Service During Disasters](#) to ensure the information is up to date and available for reference. FNS recognizes not every WIC State agency currently has a plan in place and that some State agencies have more experience in disaster response than others. FNS stands ready to support State agencies in the development and refinement of their alternate operating procedures to meet the requirements of this provision.<sup>1</sup>

## Background

On May 21, 2022, the [Access to Baby Formula Act of 2022 \(ABFA, Pub. L. 117-129\)](#) was signed into law. On December 14, 2023, FNS revised WIC regulations through publication of the [Special Supplemental Nutrition Program for Women, Infants, and Children \(WIC\): Implementation of the Access to Baby Formula Act of 2022 and Related Provisions - Final Rule with Request for Comment](#) to implement the provisions of ABFA and other related changes to strengthen WIC's ability to address certain disasters, emergencies, and supply chain disruptions, particularly those impacting infant formula. The rule established a new regulatory requirement at 7 CFR 246.4(a)(30) which requires WIC State agencies to include a plan of alternate operating procedures, commonly referred to as a disaster plan, as part of

---

<sup>1</sup> 7 CFR 246.4(a)(30)

Guidance documents lack the force and effect of law, unless expressly authorized by statute or incorporated into a contract. USDA may not cite, use, or rely on any guidance that is not available through their guidance portal, except to establish historical facts.

their State Plan. This requirement will ensure WIC State agencies have plans in place to support continuity of operations in the event of a disruption of WIC services, including but not limited to disasters, emergencies, public health emergencies, supplemental food recalls, and other supply chain disruptions.

The new ABFA State Plan requirements recognize that WIC is not designed to be a disaster assistance program and is not considered a first response option for disaster survivors. As such, FNS encourages WIC State agencies to work with and use available resources from State and local emergency services offices, as well as the Federal Emergency Management Agency (FEMA), to the maximum extent practicable during an emergency period.

### **Minimum Required Elements**

Alternate operating procedures must describe the process by which the WIC State agency will minimize the negative impact of program disruptions to WIC operations and services and ensure the availability of authorized supplemental foods to the extent feasible. Alternate operating procedures must include the minimum regulatory requirements as listed in Appendix A, which include Coordination and Communication, Continuation of Benefits, Benefit Issuance and Redemption, Vendor Management, and Nutrition Services. Suggested example procedures to help meet these requirements are also provided in Appendix A, as well as considerations State agencies should keep in mind when developing alternate operating procedures. The suggested example procedures to meet these requirements are not all inclusive but are instead intended to help State agencies begin to determine how they will meet the needs of their participant populations.

### **Waivers**

ABFA established permanent waiver authority for the Secretary of Agriculture to address certain emergencies, disasters, and supply chain disruptions impacting WIC. Program requirements may be waived in the event of (1) a presidentially declared major disaster as defined under Section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act, 42 U.S.C. 5121 et seq.), (2) a presidentially declared emergency as defined under the Stafford Act, (3) a public health emergency declared by the Secretary of Health and Human Services under Section 319 of the Public Health Service Act (42 U.S.C. 247d), (4) a renewal of such a public health emergency, and (5) a supply chain disruption as declared by the Secretary of Agriculture.

State agencies should include as a part of their alternate operating procedures steps to (1) determine if any of these events exist and (2) determine if a waiver is necessary to continue WIC services. Additional guidance will be released by FNS at a later date on implementation of the regulatory provisions related to waivers allowable under ABFA's waiver authority.

## MIS Considerations

In developing alternate operating procedures, State agencies should also consider whether such procedures require changes to their management information system (MIS) or EBT system. As a reminder, State agencies must consider requirements in [FNS Handbook 901](#) when making system changes.

FNS is committed to working in partnership with State agencies to develop their Plans for alternate operating procedures and ultimately to help ensure the availability of authorized supplemental foods during unexpected situations.

State agencies may direct any questions to their respective [FNS Regional Office](#).

*Sara L Olson*

SARA OLSON  
Director  
Policy Division  
Supplemental Nutrition and Safety Programs

Appendix A

Checklist	Requirement	Suggested Procedures to Meet Requirements and Other Considerations
<b>Coordination and Communication</b>		
*	A designated emergency contact within the State agency for disasters, emergencies, public health emergencies, supplemental food recalls, and other supply chain disruptions.	For example, a procedure: <ul style="list-style-type: none"> <li>• For providing contact information for key State agency staff on the State agency’s public website and to ensure that this information is kept up to date.</li> <li>• To ensure that the appropriate entities (e.g., Regional Offices, other State agencies, coordinating Programs) are aware of the State agency’s designated contact and to ensure that this information is kept up to date.</li> </ul>
	A designated emergency contact within the State agency to address the needs of participants with documented qualifying conditions receiving Food Package III.	For example, a procedure: <ul style="list-style-type: none"> <li>• For providing a participant point of contact for key State agency staff on the State agency’s public website and/or participant portals and to ensure that this information is kept up to date.</li> </ul>
*	A plan to establish a relationship with relief agencies responsible for disaster and public health emergency planning applicable to the State agency’s jurisdiction and participants to support data-informed approaches when responding to emergency periods, supplemental food recalls, and other supply chain disruptions.	For example, a procedure: <ul style="list-style-type: none"> <li>• To coordinate with FEMA, relief organizations, State/local emergency operation centers.</li> <li>• To maintain a list of relief agency contacts and to ensure that this information is kept up to date.</li> <li>• That identifies WIC State agency staff positions for full or partial redeployment (i.e., staff positions tagged for temporary reassignment to fulfill a non-WIC specific disaster related role).</li> </ul>
	A communications plan to keep FNS, State and local agency staff, authorized WIC vendors, WIC participants, and the public	For example, a procedure: <ul style="list-style-type: none"> <li>• To establish external communications with relief organizations, vendors, and FNS Regional Office staff.</li> </ul>

Guidance documents lack the force and effect of law, unless expressly authorized by statute or incorporated into a contract. USDA may not cite, use, or rely on any guidance that is not available through their guidance portal, except to establish historical facts.

Checklist	Requirement	Suggested Procedures to Meet Requirements and Other Considerations
	informed during an emergency period, supplemental food recall, or other supply chain disruption.	<ul style="list-style-type: none"> <li>To communicate WIC-related information to participants and/or the general public when program changes are put into place.</li> <li>To establish WIC State and local agency internal communications.</li> </ul>
	A plan to report to FNS on alternate operating procedures implemented during an emergency period, supplemental food recall, and other supply chain disruptions, which includes Program data and information on the impact of benefit use and delivery.	<p>For example, a procedure:</p> <ul style="list-style-type: none"> <li>To establish clinic situation reporting with Regional Office staff.</li> </ul>
<b>Continuation of Benefits</b>		
*	A plan to address alternate certification and benefit issuance.	<p>For example, a procedure:</p> <ul style="list-style-type: none"> <li>To meet requirement or implement waivers to address physical presence for participants (such as through remote certification) and/or collection of anthropometric and bloodwork data for participants.</li> <li>To collect eligibility documentation.</li> <li>To obtain signature on required documents.</li> <li>To issue electronic benefit transfer (EBT) cards for offline systems.</li> <li>To replace EBT cards and destroyed supplemental foods.</li> <li>To mail EBT cards.</li> </ul>
*	A plan to address Verification of Certification (VOC) issuance.	<p>For example, a procedure:</p> <ul style="list-style-type: none"> <li>To provide VOC documentation to WIC participants when a disaster-related evacuation is anticipated.</li> </ul>

Guidance documents lack the force and effect of law, unless expressly authorized by statute or incorporated into a contract. USDA may not cite, use, or rely on any guidance that is not available through their guidance portal, except to establish historical facts.

Checklist	Requirement	Suggested Procedures to Meet Requirements and Other Considerations
		<ul style="list-style-type: none"> <li>• To issue a VOC to certified disaster-related evacuees to help ensure continuation of benefits when they return to their home State.</li> <li>• To update public facing webpage(s) and/or participant portals with instructions for obtaining an up-to-date VOC (e.g., Contact information for a State agency designee for VOC issuance or instructions for obtaining a VOC through the participant portal.)</li> <li>• To notify neighboring State agencies of where a VOC may be obtained by displaced participants.</li> </ul> <p>Procedures should be intended to expedite the certification process and ease the transition to another State agency.</p>
<b>Benefit Issuance and Redemption</b>		
*	A plan to address access to Program records.	<p>For example, a procedure:</p> <ul style="list-style-type: none"> <li>• For a back-up filing system, computer system, and power system.</li> <li>• For MIS recovery and alternate procedures in in the event of a power or other technology outage so that a State agency can still access program records and issue benefits.</li> <li>• To train staff and test readiness of alternate operating procedures to ensure readiness.</li> </ul>
*	A plan to address benefit redemption	<p>For example, a procedure:</p> <ul style="list-style-type: none"> <li>• To address the use of EBT cards outside the State agency’s jurisdiction.</li> <li>• To monitor and publicize availability of WIC authorized vendors.</li> </ul>
	A plan to address food delivery systems	For example, a procedure:

Guidance documents lack the force and effect of law, unless expressly authorized by statute or incorporated into a contract. USDA may not cite, use, or rely on any guidance that is not available through their guidance portal, except to establish historical facts.

Checklist	Requirement	Suggested Procedures to Meet Requirements and Other Considerations
		<ul style="list-style-type: none"> <li>To provide direct distribution.</li> <li>To provide home delivery.</li> <li>To develop a WIC formula (infant formula, exempt infant formula, or WIC-eligible nutritional) distribution plan.</li> <li>If a WIC State agency already has a direct distribution or home delivery system in place, to update policy to specifically include provisions reasonable to institute during recalls and/or supplemental food shortages.</li> </ul>
<b>Vendor Management</b>		
	A plan to address vendor requirements	For example, a procedure: <ul style="list-style-type: none"> <li>To meet the annual vendor monitoring and training schedule and to expedite authorization of new vendors if needed.</li> </ul>
*	A plan to adjust State agency specific minimum requirements for the variety and quantity of supplemental foods that a vendor applicant must stock to be authorized.	For example, a procedure: <ul style="list-style-type: none"> <li>To reduce minimum stocking requirements to align with federal standards when State specific requirements are higher or implement a federal waiver. State agencies should consider variety and quantity when developing a plan to meet minimum stocking requirements.</li> </ul>
<b>Nutrition Services</b>		
*	A plan to address food package adjustments.	For example, a procedure: <ul style="list-style-type: none"> <li>To make food package substitution adjustments based on the availability of options from the approved food list found in <a href="#">Table 4</a>.</li> <li>To seek any needed food package waivers for adjustments based on the availability of items on the approved food list.</li> </ul>
	A plan to ensure continuity of WIC services and address the needs of participants with documented qualifying conditions	For example, a procedure: <ul style="list-style-type: none"> <li>To collect medical documentation. Refer to the <a href="#">Disaster Guide</a> for State Agency options.</li> </ul>

Guidance documents lack the force and effect of law, unless expressly authorized by statute or incorporated into a contract. USDA may not cite, use, or rely on any guidance that is not available through their guidance portal, except to establish historical facts.

Checklist	Requirement	Suggested Procedures to Meet Requirements and Other Considerations
	receiving Food Package III, rural areas, tribal populations, and other priority populations in the affected area, as applicable.	<ul style="list-style-type: none"> <li>• To expedite WIC benefits for displaced participants.</li> <li>• For breastfeeding support for participants.</li> <li>• To support individuals seeking WIC services receiving a full nutrition assessment and appropriate referrals.</li> <li>• For the distribution of exempt infant formula and WIC-eligible nutritionals to participants with documented qualifying conditions receiving Food Package III in partnership with health care centers or other providers.</li> </ul>
	A plan to limit the disruption of infant formula benefits in the event of an emergency period, supplemental food recall, and other supply chain disruption	<p>For example, a procedure:</p> <ul style="list-style-type: none"> <li>• For developing a WIC formula distribution plan.</li> <li>• For developing direct distribution or home delivery plans as an alternative to using the retail system.</li> <li>• If a WIC State agency already has a direct distribution or home delivery system in place, to update policy to specifically include provisions reasonable to institute during recalls and/or supplemental food shortages.</li> <li>• For implementing infant formula cost containment contract remedies during an infant formula recall, including coordination with counsel and procurement offices as applicable.</li> </ul>

\* More information can be found on these suggested procedures in the [Guide to Coordinating WIC Service During Disasters](#).