

1 10A NCAC 43D .0706 is proposed for amendment as follows:

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3 **10A NCAC 43D .0706 VENDOR PEER GROUPS**

4 Vendor applicants and authorized vendors shall be placed into peer groups in accordance with as follows:

- 5 (1) When annual WIC supplemental food sales are not yet available, vendor applicants and authorized  
6 vendors, excluding chain stores, stores under a WIC corporate agreement, military commissaries,  
7 and free-standing pharmacies, shall be placed into peer groups based on the number of cash registers  
8 in the store and the geographic location of the store until annual WIC supplemental food sales  
9 become available. ~~The following are the peer groups based on the number of cash registers in the~~  
10 ~~store:~~

11 ~~Peer Group I—zero to two cash registers;~~

12 ~~Peer Group II—three to five cash registers; and~~

13 ~~Peer Group III—six or more cash registers.~~

14 WIC sales figures of new vendors shall be reviewed six months from authorization. A vendor whose  
15 first six months of WIC sales exceed twenty five thousand dollars (\$25,000) shall be placed in a  
16 peer group ~~in accordance with the dollar thresholds of Item (2) of this Rule.~~ based on redemption.

- 17 (2) Authorized vendors for which annual WIC supplemental food sales are available, ~~excluding~~  
18 including chain stores, stores under a WIC corporate agreement, military commissaries, and free-  
19 standing pharmacies, shall be placed into peer ~~groups~~ groups, ~~as follows, except as provided in Item~~  
20 ~~(9) of this Rule:~~

21 ~~Peer Group I—two thousand dollars (\$2,000) to twenty five thousand dollars (\$25,000) annually~~  
22 ~~in WIC supplemental food sales at the store;~~

23 ~~Peer Group II—greater than twenty five thousand dollars (\$25,000) but not exceeding~~  
24 ~~seventy five thousand dollars (\$75,000) annually in WIC supplemental food sales at the~~  
25 ~~store;~~

26 ~~Peer Group III—greater than seventy five thousand dollars (\$75,000) but not exceeding~~  
27 ~~three hundred thousand dollars (\$300,000) annually in WIC supplemental food sales at the~~  
28 ~~store; and~~

29 ~~Peer Group IV—greater than three hundred thousand dollars (\$300,000) annually in WIC~~  
30 ~~supplemental food sales at the store.~~

31 as set forth in 7 CFR 246.12(g)(4) and 7 CFR 246.12(h)(3), which is adopted and incorporated by  
32 reference with subsequent changes or amendments and available free of charge at  
33 <https://www.ecfr.gov/>.

- 34 ~~(3)—Chain stores, stores under a WIC corporate agreement (20 or more authorized vendors under one~~  
35 ~~agreement), military commissaries, and free standing pharmacies, including free standing~~  
36 ~~pharmacy chain stores and free standing pharmacies participating under a WIC corporate~~  
37 ~~agreement, shall be placed into peer groups as follows:~~

1 ~~Peer Group IV—chain stores, stores under a WIC corporate agreement (20 or more~~  
2 ~~authorized vendors under one agreement), and military commissaries; and~~  
3 ~~Peer Group V—free standing pharmacies, including free standing pharmacy chain stores~~  
4 ~~and free standing pharmacies participating under a WIC corporate agreement.~~

- 5 (4)(3) "Annual WIC supplemental food sales" is the dollar amount an authorized vendor redeems in WIC  
6 ~~food instruments and cash value vouchers~~ food benefits within a 12-month period.
- 7 (5)(4) In determining a vendor's peer group designation based on annual WIC supplemental food ~~sales~~  
8 sales, under Item (2) of this Rule, the state agency shall look at the most recent 12-month period of  
9 redemption data.
- 10 (6)(5) The state agency may reassess an authorized vendor's peer group designation at any time during the  
11 vendor's agreement period and place the vendor in a different peer group if upon reassessment the  
12 state agency determines that the vendor is no longer in the appropriate peer group.
- 13 (7)(6) If the state agency determines that a vendor applicant is expected to be a predominantly WIC vendor  
14 as defined in Rule .0202 of this Subchapter, the vendor application shall be denied. The store must  
15 wait 90 days to reapply for vendor authorization. The state agency shall apply the methodology set  
16 forth in 7 CFR 246.12(g)(4)(i)(E) for determining whether a vendor applicant is expected to be a  
17 predominantly WIC vendor.
- 18 (8)(7) If at any time during a vendor's authorization the state agency determines that the vendor has become  
19 a predominantly WIC vendor as defined in Rule .0202 of this Subchapter, the vendor's WIC Vendor  
20 Agreement shall be terminated. The store must wait 90 days to reapply for vendor authorization.  
21 The state agency shall apply the methodology set forth in 7 CFR 246.12(g)(4)(i)(F) for determining  
22 whether an authorized vendor has become a predominantly WIC vendor.
- 23 (9)(8) A vendor applicant previously authorized in a peer group ~~under Item (2) of this Rule~~ based on annual  
24 WIC supplemental food sales that is being reauthorized following the nonrenewal or termination of  
25 its agreement or disqualification or withdrawal from the WIC Program shall be placed into the same  
26 peer group the vendor applicant was previously ~~in in, under Item (2) of this Rule~~, provided that no  
27 more than one year has passed since the nonrenewal, termination, disqualification or withdrawal. If  
28 more than one year has passed, the vendor applicant shall be placed into a peer group ~~in accordance~~  
29 ~~with Item (1) of this Rule~~ using criteria for new vendor applicants as set forth in Item (1) of this  
30 Rule.

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32 *History Note: Authority G.S. 130A-361; 7 C.F.R. 246; 42 U.S.C. 1786;*  
33 *Eff. July 1, 1981;*  
34 *Amended Eff. August 1, 1995; October 1, 1993; May 1, 1991; December 1, 1990;*  
35 *Temporary Amendment Eff. June 23, 2000; May 17, 2000;*  
36 *Amended Eff. April 1, 2001;*  
37 *Temporary Amendment Eff. September 1, 2002; July 1, 2002;*

1 *Amended Eff. November 1, 2005; August 1, 2004;*  
2 *Temporary Amendment Eff. July 1, 2006;*  
3 *Amended Eff. February 1, 2013; October 1, 2009; February 1, 2008; April 1, 2007;*  
4 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December*  
5 *23, 2017; ~~2017~~.*  
6 *Amended Eff. January 1, 2020.*